



Industrial Development Board
Regular Meeting Agenda
Thursday, October 23, 2025, 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** - September 25, 2025
- IV. PUBLIC DISCUSSION:
- V. REPORTS OF OFFICERS AND COMMITTEES:
 1. President's Report
- VI. UNFINISHED BUSINESS:
- VII. NEW BUSINESS:
 1. **Resolution** - approving draw request 23 in connection with the tax increment financing for Ashmont Developer, LLC.
 2. **Discussion and Possible Action** - regarding City Owned lots and Central Business Improvement District (CBIDs).
- VIII. ANNOUNCEMENTS:
- IX. ADJOURNMENT:

CITY OF
LAKE LAND
TENNESSEE

Industrial Development Board
Regular Meeting Minutes
Thursday, September 25, 2025, 5:30 PM
City Hall, Lakeland, Tennessee 38002

I. CALL TO ORDER:

The meeting was called to order by Chair Steve Laster 5:30 p.m. on Thursday, September 25, 2025.

II. ROLL CALL:

Richard Gonzales	Present
Shaun Brannen	Present
Brian Sullivan	Present
Richard Justin	Present
Alan Johnson	Present
Steve Laster	Present
Jeff Roman	Present
Commissioner Johnston	Present

Staff personnel in attendance were Chief Planning Officer Paul Luker, Chief Parks and Recreation Officer Andrew Fisher and City Recorder Cheyenne Carter.

III. APPROVAL OF MINUTES OF PREVIOUS MEETING:

1. **Annual Meeting Minutes** - August 28, 2025

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

Discussion ensued.

When the question was called the meeting minutes passed as presented, voice vote, 7 in favor 0 against 0 abstain (7-0-0).

IV. PUBLIC DISCUSSION:

None.

V. REPORTS OF OFFICERS AND COMMITTEES:

None.

VI. UNFINISHED BUSINESS:

None.

VII. NEW BUSINESS:

1. **Resolution** - approving draw request 22 in connection with the tax increment financing for Ashmont Developer, LLC.

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

Discussion ensued.

When the question was called the resolution passed as presented, roll call vote, 7 in favor 0 against 0 abstain (7-0-0).

2. **Resolution** - approving draw request 3 in connection with the Tax Increment Financing for the Lakeland Safety TIF - added from floor

Steve Laster motioned to add new business item number 2 to the agenda, seconded by Richard Gonzales. No objections were heard.

When the question was called the motion passed as presented, voice vote, 7 in favor 0 against 0 abstain (7-0-0).

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

Discussion ensued.

When the question was called the resolution passed as presented, voice vote, 7 in favor 0 against 0 abstain (7-0-0).

3. **Discussion and Possible Action** - regarding incentives *Sponsored by Mayor Roman* - added from the floor

Steve Laster motioned to add new business item number 3 to the agenda, seconded by Richard Justin. No objections were heard.

When the question was called the motion passed as presented, voice vote, 7 in favor 0 against 0 abstain (7-0-0).

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

Mayor Roman presented this item.

Discussion ensued.

VIII. ANNOUNCEMENTS:

None.

IX. ADJOURNMENT:

There being no other business on which to act, the meeting was adjourned without objection at 5:56pm on Thursday, September 25, 2025.

These minutes were approved on October 23, 2025.

Richard Justin
Secretary

ATTEST:

Cheyenne Carter
City Recorder

DRAFT



Industrial Development Board

Meeting Cycle: Thursday, October 23, 2025

Subject: President's Report

Staff Contact:

STAFF RECOMMENDATION

BUDGET IMPACT

DISCUSSION

Meeting Cycle: Thursday, October 23, 2025

Subject: **Resolution** - approving draw request 23 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-108-2025.

BUDGET IMPACT

Eligible infrastructure costs of Ashmont Developer, LLC submitted with this request total \$61,086.03 and represent potential reimbursement to the developer from the TIF Loan through the IDB.

DISCUSSION

A summarized rollforward of the project balance will be provided Thursday evening.

RESOLUTION R-108-2025

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING DRAW REQUEST 23 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 planned 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 23, a copy of which is attached hereto as **Exhibit A**, to use for certain TIF Eligible Costs.

RESOLUTION R-108-2025

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, APPROVING DRAW REQUEST 23 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: October 23, 2025

Steve Laster, *Chair*

Attest:

Richard Justin, *Secretary*

RESOLUTION R-108-2025

A RESOLUTION OF THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF
LAKELAND, TENNESSEE, APPROVING DRAW REQUEST 23 IN CONNECTION WITH
THE TAX INCREMENT FINANCING FOR ASHMONT DEVELOPER, LLC

Exhibit A

Draw

Request(s)

See

Attached

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 _____, 2023, 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
\$ 567,358.54 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 Oct 14, 2025.

Signatures on the following page.

DEVELOPER:

Ashmont Developer, LLC

By: [Signature]

Name: Bart Thomas

Title: Member

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

[CONSTRUCTION CONSULTANT]

By: [Signature] - A2H, Inc.

Title: Director of Construction Admin.

Date: 10/21/2025

BORROWING CERTIFICATE

DISBURSEMENT REQUEST

To: First Citizens National Bank
 P.O. Box 370
 Dyersburg, Tennessee 38025
 Attn: Nelson Williams,
 Regional President

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

Re: Loan evidenced by The Industrial Development Board of the City of Lakeland, Tennessee Tax Increment Revenue Note (Lakeland Gateway Ashmont Project) in the principal amount not to exceed \$13,000,000 dated December __, 2023 (the "Loan"), made pursuant to a Loan Agreement, dated as of December __, 2023 (the "Loan Agreement"), between The Industrial Development Board of the City of Lakeland, Tennessee (the "Board") and First Citizens National Bank ("Lender")

You are hereby authorized and requested to disburse pursuant to Article VI of the Loan Agreement the sum of \$ 567,358.54 from the Tax Increment 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 Developer 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 Oct 14, 2023. ⁵ (BT)

ASHMONT DEVELOPER, LLC

By: Bart Thomas
 Name: Bart Thomas
 Title: Member

APPROVED BY:

FIRST CITIZENS NATIONAL BANK

By: _____
 Title: _____



ENGINEERS · ARCHITECTS · PLANNERS

October 21, 2025

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

RE: **Lakeland Ashmont Planned Development TIF Draw #24 Approval Request
A2H # 24166**

Dear Mr. Walker,

We have reviewed the Payment Request submitted by Ashmont Developer, LLC, for Draw No. 24 dated October 14, 2025, 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 \$567,358.54.

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

Sincerely,

A handwritten signature in blue ink that reads "Robert C. Watson".

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



9967 Bentwood Creek Cv Collierville, Tn 38017
 901.493.6996 corybrady@gmail.com

Invoice

Date	Invoice #
10/10/2025	2025-041

Bill To
Ashmont Developers, LLC Bart Thomas PO Box 772808 Memphis, TN 38177

Terms	Project #
Due on receipt	25-002_AShmont IL

Description	Quantity	Rate	Amount
Land Planning/Consulting Services - Site Plan Review/Representation - Coordination with Shapiro - MPC: September 11, 2025 (Approval) - DRC: October 10, 2025 (Approval)	8	150.00	1,200.00
Reimbursable Expenses - ARC Printing & Mounting_10-10-25		180.87	180.87
<div style="border: 1px solid red; padding: 5px; display: inline-block;">Invoice attached below</div>			

Integrated Land Solutions, PLLC EIN# 27-1521402	Total	\$1,380.87
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ARC DOCUMENT SOLUTIONS LLC
 5701-5703 QUINCE ROAD
 MEMPHIS TN 38119
 (901)683-8292

DATE 10/8/2025	INVOICE 33GCI9122347
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BILL TO:

INTEGRATED LAND SOLUTIONS, PLLC

CORY BRADY
 9967 BRENTWOOD CREEK CV
 COLLIERVILLE, TN 38017
 P: (901) 493-6996

SHIP TO:

INTEGRATED LAND SOLUTIONS, PLLC

CORY BRADY
 9967 Bentwood Creek Cv
 Collierville, TN 38017-9074
 P: (901) 493-6996

Purchase Order #		Customer ID 3019641		Shipping Method WILL CALL		Payment Terms COD		Order Due Date		Order 33GC09084636	
Ordered By CORY BRADY				Project Number				Project Name Ashmont			
Quantity Ordered	Quantity Shipped	Quantity BO	UOM	Item Number	Description	Price	Extended Price				
12.00	12.00	0.00	SQFT	2225.01	Print 3/16" White Foamboard	\$10.00	\$120.00	1 set of 2 (24.00x36.00)			
4.00	4.00	0.00	SQFT	2225.01	Print 3/16" White Foamboard	\$10.00	\$40.00	1 set of 1 (27.50x16.50)			

Bill:	mfukuda	Subtotal	\$160.00
		CC Surcharge	\$5.27
		Tax	\$15.60
		Freight	\$0.00
		Trade Discount	\$0.00
		Total	\$180.87
		Amount Received	\$180.87
		Total Due	\$0.00

CUSTOMER NO	INVOICE	DOC DATE	AMOUNT DUE	PAYMENT RECEIPT	
3019641	33GCI9122347	10/8/2025	\$0.00		

THANK YOU FOR YOUR PAYMENT
 We impose a surcharge of 3% on any transaction paid by credit card. We do accept Visa, Mastercard, Discover and American Express card brands. Please note the 3% surcharge is not greater than our cost of credit card acceptance that we incur. We accept debit cards, checks, and ACH payments without any surcharges.

Amount Received \$180.87
 CC Surcharge \$5.27
 Card Type VISA-R3
 Card Number XXXXXXXXXXXX1335
 Auth Code 027700
 Check Number

SOUTHERN LANDSCAPE SERVICES OF TN, LLC

7917 Woodleaf Dr
Germantown, TN US

INVOICE

BILL TO
City Development

SHIP TO
City Development

INVOICE # 14502
DATE 10/10/2025
DUE DATE 10/20/2025
TERMS NET 10

ACTIVITY	QTY	RATE	AMOUNT
Landscape Services IRRIGATION INSTALLATION - Draw 1 of 2	1	12,125.00	12,125.00

Irrigation Install

SUBTOTAL	12,125.00
TAX	0.00
TOTAL	12,125.00
BALANCE DUE	\$12,125.00

Pay invoice

**RESIDENTIAL SUBDIVISION
DEVELOPMENT CONTRACT**

INTRODUCTION

THIS RESIDENTIAL SUBDIVISION DEVELOPMENT CONTRACT (“Contract”) is made and entered into this the 5th day of June, 2025, 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 tract¹ of land zoned C2 with PD Overlay which contains approximately 52.45 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 51-lot subdivision to be known as **Ashmont Planned Development Areas 1, 4, & 7B** (“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.


City of Lakeland

Developer

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.



City of Lakeland

Developer

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.



City of Lakeland

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Developer

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 **Three Hundred Fifty-Two Thousand Three Hundred Ninety-Nine Dollars and Eighty Cents (\$352,399.80)** 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,



City of Lakeland

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Developer

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.



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- (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



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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.



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(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



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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 Fifty-Eight Thousand One Hundred Dollars (\$158,100.00)**, 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 **Thirteen Thousand Six Hundred Twelve Dollars and 50 Cents (\$13,612.50)**, 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.



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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 **Ten Thousand Nine Hundred Ninety Dollars (\$10,990.00)**, (\$500 + \$200 per Acre), 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 **Sixteen Thousand Three Hundred Dollars (\$16,300.00)**, (\$1000 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 **Five Thousand Two Hundred Dollars (\$5,200.00)**, (\$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 **Fourteen Thousand One Hundred Twelve Dollars and 50 Cents (\$14,112.50)**, (\$1000 plus \$250 per acre), 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 **One Thousand Four Hundred Eighty-Six Dollars and Twenty-Five Cents (\$1,486.25)** (\$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 **Five Thousand One Hundred Dollars (\$5,100.00)**, (\$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 **Five Thousand Two Hundred Forty-Five Dollars (\$5,245.00)**, (\$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 Five Hundred Fifty Dollars (\$2,550.00)**, (\$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 **One Thousand Four Hundred Forty-Nine Dollars (1,449.00)**, (\$400 plus \$20 per acre) which represents the Parkland Review/Development Fee as required by Ordinance 07-105.

MISCELLANEOUS CONDITIONS

56. Easements. 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


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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 subcontractors 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.



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64. Developer agrees to pay a “Payment in-Lieu-of or Dedication for Parkland” in the amount of **Twenty-One Thousand Nine Hundred Twenty-One Dollars and Twenty Three Cents (\$21,921.23)** 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 statutes, 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:



City of Lakeland

- (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
5851 RIDGE BEND RD
MEMPHIS, TN 38120
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	\$158,100.00
(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)	\$13,612.50
(6)	Drainage Control Fee (w/o Basin)	N/A
(7)	Engineering Review Fee	\$10,990.00
(8)	Construction Inspection Fee	\$16,300.00
(9)	Administrative Review Fee	\$5,200.00
(10)	Geographical Information Systems Fee	\$14,112.50
(11)	Natural Resources Inventory & Analysis Fee	\$1486.25
(12)	Parkland Improvement Fee	\$5,100.00
(13)	Tree Removal Fee	\$5,245.00
(14)	Warning Siren Fee	\$2,550.00
(15)	Parkland Review Fee	\$1,449.20
(16)	Parkland Dedication Fee	\$21,921.23
	Total	\$256,066.48

IN WITNESS WHEREOF, the parties hereto have affixed their hands and seals at Lakeland, Tennessee, this 5th day of June, 2025.

DEVELOPER:
ASHMONT DEVELOPER, LLC



CITY OF LAKELAND:

By: 

Date: 6/5/25

ATTEST: 

APPROVED AS TO FORM:

By: _____


DATE APPROVED BY BOARD OF COMMISSIONERS: 04/18/2024

DATE APPROVED BY BOARD OF SEWERAGE COMMISSIONERS: 02/01/2024

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 5th day of June, 2025.



Notary Public

My Commission Expires: 12/23/2028



EXHIBIT "A"

Subdivision Development Fees Worksheet

Ashmont Area 7B (C2 Regional Commercial District)

51 Lots 52.45 Acres

	Per Lot Fee	
Sewer Development Fee (Dev Charge see Ord 08-119)	\$3,100.00	\$158,100.00
Sewer Lift Station Maintenance Fee (per lift station)	\$110,000.00	
Sewer Connection Fee (per connection)		N/A
Drainage Control Fee w/basin (\$500 + \$250 per acre)	\$500+250/acre	\$13,612.50
Drainage Control Fee wo/basin (per lot)	\$1,000.00	N/A
Engineering Review Fee (\$500 + \$200 per acre)	\$500+200/acre	\$10,990.00
Construction Inspection Fee (\$1,000 + 300 per ERU)	\$300.00	\$16,300.00
Administrative Fee (\$200 for 1st lot and \$100 per lot thereafter)	Varies	\$5,200.00
Natural Resources Inventory Fee (\$200 1st acre + \$25 per acre thereafter)	Varies	\$1,486.25
Street Light Fee	100% of Cost	N/A
Road Cut Fees (\$35/300LF)	\$35.00	
Warning Siren (\$50 per lot)	\$50.00	\$2,550.00
Tree Removal Fee (\$100 per acre or fraction of disturbed area - maximum \$10,000)	\$100.00	\$5,245.00
GIS Fee (\$1,000 1st acre + \$250/Acre)	Varies	\$14,112.50
Parkland Improvement Fee (\$100 per lot)	\$100.00	\$5,100.00
Parkland Review Fee	\$400+\$20/acre	\$1,449.00
	Total =	\$234,145.25

Acres/Lot = 1.028431373

Park Land Formula (D=LxAxPxM)

L=Number of Lots (D.U.)

A=Avg. Family Size - use 2.94

P=Parkland Ratio use 0.010 (10 acres per 1000)

M=Density Multiplier from Table 2 of Sub. Regs

L = 51

A = 2.94

P = 0.010

M = 1

D=Dedication in acres

Land Appraisal Value (per acre)

D = 1.4994 Acres

\$14,620.00 **Payment in lieu of**

Total Dollar Value Required in Lieu of Dedication

= **\$21,921.23**

Total Amount Due

\$256,066.48



City of Lakeland

Developer

ASHMONT DEVELOPER, LLC

P.O. BOX 772808
MEMPHIS, TN 38177

1161

87-363/843

DATE 09/17/25



PAY TO THE ORDER OF

City of Lakeland

\$ 2,000.00

two thousand and 00/100 —

DOLLARS



Photo Safe Deposit
Details on back



FOR App Fee

Bob Thomas

⑈001161⑈ ⑆084303639⑆ 00 60 063 3⑈

CHECK BOX FOR MOBILE/REMOTE DEPOSIT

WRITE NAME OF FINANCIAL INSTITUTION ON LINE ABOVE

004181

084.303639

00600633

ASHMONT DEVELOPER

Security Features exceed industry standards and include:

- ImageMatch[®]: Matching account and check number on back (MICR No. 9.230.000)
- MobileMark[®]: Mobile Deposit check mark to indicate check has been deposited via mobile device
- The Security Weave[®] pattern on back designed to deter fraud
- Microprint (MP) lines printed on front and back
- The words "ORIGINAL DOCUMENT" across the back
- Photo Safe Deposit[®] icon visible on front and back

Do not cash if:

- Any of the features listed above are missing or appear altered
- Fugitive Ink on back looks pink or has disappeared
- Brown stains or colored spots appear on both front and back, and in Chemical Wash Detection Box


 Photo
Safe
Deposit[®]

From: [Barton Thomas](#)
To: [Patricia Clark-Towater](#)
Subject: FW: Lakeland Grocery App Fee
Date: Wednesday, September 17, 2025 11:37:13 AM

PCT,

Need this from Ashmont.

Thanks,
Bart

-----Original Message-----

From: vince smith <kakivs@gmail.com>
Sent: Wednesday, September 17, 2025 10:51 AM
To: Barton Thomas <bthomas@cityllc.com>
Cc: Cory Brady <corybrady@gmail.com>
Subject: Lakeland Grocery App Fee

Bart,

Can you bring a check for \$2,000.00 made to City of Lakeland, tomorrow at the 10am meeting. Cory will deliver with application.

Thanks,

Vince

Bob Watson

From: Barton Thomas <bthomas@cityllc.com>
Sent: Tuesday, October 14, 2025 4:26 PM
To: Bob Watson; Williams, Nelson
Cc: Nicholas Byrd; Michael Walker; Patricia Clark-Towater; Vincent Smith (kakivs@bellsouth.net)
Subject: Ashmont TIF Draw Request
Attachments: Lakeland Ashmont TIF Funding Report 10-14-25.xlsx; Ashmont Stream Credits.pdf; ARC Printing&Mounting_10-10-25.pdf; Inv#25-041_Ashmont IL_10-10-25.pdf; Invoice_14502_from_SOUTHERN_LANDSCAPE_SERVICES_OF_TN_LLC.pdf; City Signatures, Ashmont PD Dev Contract Areas 1,4,7B.pdf; NRS25.008 Permit + Cover Letter 10062025.pdf; 67682.pdf; 75207.pdf; Ashmont Invoice 2025-09-19.pdf; Ashmont Developer City of Lakeland 2025-09-17.pdf; Ashmont TIF Borr Cert & Payment Request 10-14-25.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Nelson & Bob,

Hope you both are doing well. Please see the attached draw request for October totaling \$567,358.54. **We don't have an invoice for the \$2,000.00 fee paid to the City of Lakeland for the application fee, but attached is a copy of the check. This was the application payment for Lot 1 in Area 6 that went before PC this month.** Please review and let us know if you have any questions or concerns.

Thank you,
Bart

Bart Thomas
City Construction & Development, LLC
Member & General Manager
6245 Greenlee, Suite 101
Arlington, TN 38002
901.229.2543 (cell)
bthomas@cityllc.com



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 67682
 Date 02/28/2025

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	16.88	4,650.00	5,062.50	412.50
Total	30,000.00	16.88	4,650.00	5,062.50	412.50

Construction Administration (Hourly Not To Exceed)

Hourly Professional Fees

Engineer II

Bob Watson

Construction Administration (Hourly Not To Exceed) subtotal

Hours	Rate	Billed Amount
2.75	150.00	412.50
		412.50

Invoice total **412.50**
LEM

Aging Summary

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
67608	01/31/2025	450.00		450.00			
67682	02/28/2025	412.50	412.50				
	Total	862.50	412.50	450.00	0.00	0.00	0.00

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

Invoice number 75207
Date 09/30/2025

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	29.38	8,100.00	8,812.50	712.50
Total	30,000.00	29.38	8,100.00	8,812.50	712.50

Construction Administration (Hourly Not To Exceed)

Hourly Professional Fees

Engineer II

Bob Watson

Construction Administration (Hourly Not To Exceed) subtotal

Hours	Rate	Billed Amount
4.75	150.00	712.50
		712.50

Invoice total **712.50**
LEM

Aging Summary

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
67682	02/28/2025	412.50					412.50
70484	08/31/2025	750.00		750.00			
75207	09/30/2025	712.50	712.50				
	Total	1,875.00	712.50	750.00	0.00	0.00	412.50

COMPENSATORY MITIGATION CREDITS AGREEMENT

This Compensatory Mitigation Credits Agreement (this "Agreement") is dated July 14, 2025 (the "Effective Date") between The Pictsweet Company ("Pictsweet") and Ashmont Developer, LLC ("Purchaser").

A. Pictsweet is the "Bank Sponsor" under that certain mitigation banking instrument entitled "Mitigation Banking Instrument (MBI) for the Rossville Farm Mitigation Bank in Rossville, Fayette County, Tennessee," (the "MBI") by and between the Bank Sponsor and the Memphis District of the U.S. Army Corps of Engineers ("USACE"), Region 4 of the U.S. Environmental Protection Agency ("EPA"), the U.S. Fish and Wildlife Service ("USFWS"), the Tennessee Department of Environment and Conservation, ("TDEC") and the Tennessee Wildlife Resources Agency ("TWRA") (such agencies are jointly referred to as the "IRT"), that sets forth the requirements for the development of that certain mitigation bank known as the "Rossville Farm Mitigation Bank" (the "Mitigation Bank").

B. Pictsweet is offering for sale from the Mitigation Bank certain compensatory mitigation credits as compensation for unavoidable adverse impacts to, or for the loss of, among other things, jurisdictional waters of the United States, including wetlands and streams, and other natural habitats and ecosystems, located within the Service Area.

C. Purchaser seeks permits from USACE, TDEC requiring compensatory mitigation credits as compensation for unavoidable adverse impacts to, or for the loss of, among other things, jurisdictional waters of the United States, including wetlands and streams, and other natural habitats and ecosystems (the "Permits), for a construction project (the "Project"), and Purchaser needs compensatory mitigation credits to mitigate unavoidable adverse impacts to, or for the loss of, among other things, jurisdictional waters of the United States, including wetlands and streams and other natural habitats and ecosystems.

D. Purchaser desires to reserve for purchase from the Mitigation Bank compensatory mitigation credits pursuant to the terms and conditions of this Agreement (the "Credits").

E. Pictsweet desires to make available for sale to Purchaser from the Mitigation Bank, Credits pursuant to the terms and conditions of this Agreement.

F. Any capitalized terms that are not defined in this Agreement will have the definitions given to them in the MBI.

Therefore, the parties agree as follows:

1. Credits Reservation. Purchaser hereby reserves for purchase and Pictsweet hereby accepts Purchaser's reservation for purchase, 67 SQT Stream Credits at the rate of \$3,500.00 USD per Credit, for a total purchase price of \$234,500.00 USD (the "Purchase Price Amount").

2. Credits Reservation Confirmation. In order to confirm reservation of the Credits, Purchaser shall pay Pictsweet within five days of the Effective Date, a non-refundable down payment in cash or other immediately available funds, in an amount equal to 15% of the Purchase Price Amount (\$35,175.00 USD) (the "Down Payment Amount"). The Down Payment Amount shall be credited to the Purchase Price Amount upon Purchaser's purchase of the Credits as provided in Section 3 below.
3. Credits Purchase. In order to finalize purchase of such Credits, Purchaser shall pay Pictsweet the balance of the Purchase Price Amount (\$199,325.00 USD) (the "Final Payment Amount") in cash or other immediately available funds upon the earlier of, (i) one hundred twenty (120) days following the Effective Date; or (ii) five (5) days following Purchaser's receipt of the Permits, prompt notice, including the applicable permit number(s), of which shall be given to Pictsweet in accordance with Section 11 of this Agreement.
4. Credits Transfer. Upon Pictsweet's receipt of the Final Payment Amount, Pictsweet shall provide written notice to the USACE of the Credits sale to Purchaser in accordance with the MBI, a copy of which shall be provided to Purchaser.
5. Agreement Termination. In the event Purchaser fails to pay Pictsweet the Final Payment Amount as provided in Section 3 above, (i) this Agreement shall terminate; (ii) Purchaser shall forfeit the Down Payment Amount to Pictsweet; and (iii) the parties shall have no further obligations to each other.
6. No Property Interest or Special Relationship. The parties do not intend for the sale of the Credits to transfer to Purchaser any real estate interest in the real estate containing the Mitigation Bank. The relationships between the parties are ordinary commercial relationships; the parties do not intend to create any other kind of relationship, such as principal and agent, a partnership, a joint venture or any other special relationship.
7. Mitigation Bank Maintenance; Credits Use and Transfer. Notwithstanding the sale of the Credits to Purchaser, Pictsweet shall perform all of the obligations of Bank Sponsor under the MBI, including any maintenance, monitoring and reporting obligations. Purchaser shall make all required applications and seek all required permits and authorizations from the IRT, the USACE or any other governmental entity, as applicable, regarding its use and transfer of the Credits.
8. Indemnity and Release.
 - 8.1 Purchaser will indemnify, defend, release and hold Pictsweet, and all of its respective affiliates, contractors and agents, together with all those persons acting on behalf of any and all such parties, harmless from and against all claims, causes of action, loss, reasonable attorney's fees, court costs and other expenses arising out of the activities of Purchaser associated with the Project and the Permits, except to the extent

attributable to the negligence, gross negligence or willful misconduct of Pictsweet or persons acting on its behalf.

- 8.2 Pictsweet will indemnify, defend, release and hold Purchaser, and all of its respective affiliates, contractors and agents, together with all those persons acting on behalf of any and all such parties, harmless from and against all claims, causes of action, loss, reasonable attorney's fees, court costs and other expenses arising out of Pictsweet's breach of the MBI or this Agreement, except to the extent attributable to the negligence, gross negligence or willful misconduct of Purchaser, its respective affiliates, contractors or agents, or any persons acting on behalf of any and all such parties.

9. Representations and Covenants.

9.1 Pictsweet represents to Purchaser:

- A. Pictsweet is a Delaware corporation duly organized, validly existing, and in good standing under the laws of the state of Delaware with good title to the Credits and authority to sell the Credits to Purchaser. Pictsweet has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Pictsweet pursuant hereto, and all required action and approvals therefor have been fully taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Pictsweet is and shall be duly authorized to sign the same on Pictsweet's behalf and to bind Pictsweet thereto.
- B. There is no litigation pending or, to Pictsweet's actual knowledge, without further inquiry, threatened against Pictsweet that might affect the Mitigation Bank, the Credits or Pictsweet's ability to perform its obligations under this Agreement.
- C. Pictsweet has not received notice of any material violation of any law, ordinance, regulation or requirements affecting the Mitigation Bank, the Credits or Pictsweet's ability to perform its obligations under the Agreement.
- D. Pictsweet has not received notice of any condemnation or land-use proceedings or any governmental inquiries or notices affecting the Mitigation Bank.
- E. The Credits are free and clear of all liens and encumbrances.

9.2 Purchaser represents to Pictsweet:

- A. Purchaser is validly existing, and in good standing under the laws of the State of its incorporation or formation. Purchaser has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Purchaser pursuant hereto, and all required action and approvals therefor have been fully taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Purchaser are and shall be duly authorized to sign the same on Purchaser's behalf and to bind Purchaser thereto.
 - B. Purchaser is not in the business of marketing, selling or re-selling Credits and agrees to use all of the Credits purchased pursuant to this Agreement solely and exclusively as compensation for unavoidable adverse impacts to, or losses within, the Service Area to which the Credits may be applied, as determined by the USACE, and then only to the extent such impacts and losses are caused by Purchaser's own business activities in such Service Area. Notwithstanding the foregoing, the parties acknowledge that Purchaser shall be permitted to assign or transfer the Credits, or this Agreement to any of its affiliates, joint partners, tenants, or any successor owners of title in the Project (collectively, "Permitted Assignees") without the approval or consent of Pictsweet.
10. No Brokers. Pictsweet and Purchaser each represents to the other that it has not had any dealings with any brokers, finders or agents, and no commissions or fees are payable, in connection with this Agreement. Each party shall indemnify the other party, and those persons acting on behalf of such other party, harmless from and against all claims, causes of action, loss, reasonable attorneys' fees, court costs and other expenses arising out of any claim by any person or entity claiming by, through or under the indemnifying party for any other broker's or finder's fee or commission arising under this Agreement. The obligations of the parties under this provision will survive termination of this Agreement and the closing of the sale.
11. Notice. For a notice or demand under this Agreement to be validly given, it must be in writing and delivered by hand delivery, national overnight courier service, or by electronic transmission (including electronic mail or facsimile), addressed as follows:

To Ashmont: Ashmont Developer, LLC
5851 Ridge Bend Road
Memphis, TN 38120
Attn: Jamie Carpenter
Email: jcarpenter@moss Carpenter.com

To Pictsweet: The Pictsweet Company
Ten Pictsweet Drive
Bells, TN 38006
Attn: SVP, Food Service Sales and Marketing
Email: Lynn.Luedecke@pictsweet.com

12. Restrictions on Assignment. Neither party shall assign this Agreement without the prior written consent of the other party; provided, however, that Purchaser shall be permitted to assign this Agreement to any Permitted Assignee without the consent of Pictsweet. Any attempted assignment (other than to a Permitted Assignee) without such consent will be void.
13. Miscellaneous.
 - 13.1 The section headings in this Agreement are for convenience of reference only and are not intended, to any extent and for any purposes, to limit or define text of any section of subsection thereof. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will remain in full force and effect.
 - 13.2 Tennessee law, without regard to its choice of law rules, governs this Agreement.
 - 13.3 If the parties sign this Agreement in several counterparts, each will be deemed an original but all counterparts together will constitute one instrument. The parties may execute this Agreement electronically such as by delivering a signed PDF or using an electronic signature service such as DocuSign.
 - 13.4 This Agreement is binding upon and will inure to the benefit of the parties' respective successors, successors-in-title and assigns. There are no third-party beneficiaries of this Agreement.
 - 13.5 Each party shall be responsible for its own attorneys' fees in connection with the subject matter of this Agreement. The rule of construction that ambiguities in a document will be construed against the drafting party will not be applied in interpreting this Agreement. If either party retains an attorney to enforce this Agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other costs.
 - 13.6 Each party agrees that it will, at any time and from time to time after the execution of this Agreement, upon request of the other party, do, execute, acknowledge and deliver, or will cause to be done, executed, acknowledged or delivered, all such further acts, deeds, assignments, conveyances and assurances as may reasonably be required to carry out the intended purposes of this Agreement.

- 13.7 This Agreement constitutes the entire agreement concerning the sale of the Credits to Purchaser. There are no oral representations, warranties, agreements or promises pertaining to such sale not incorporated in writing in this Agreement.
- 13.8 This Agreement may be amended only by an instrument in writing signed by the Parties. No term or condition of this Agreement will be deemed to have been waived or amended unless expressed in writing, and the waiver of any condition or the breach of any term will not be a waiver of any subsequent breach of the same or any other term or condition.
- 13.9 The obligations of this Agreement that cannot be performed before termination of this Agreement or before closing of the sale of the Credits will survive termination of this Agreement or such closing, and the legal doctrine of merger will not apply to these matters.
- 13.10 Time is of the essence of this Agreement and each provision hereof. If the last day upon which performance (including payment of monetary obligations herein) would otherwise be required or permitted is a Saturday, Sunday or holiday, then the time for performance shall be extended to the next day which is not a Saturday, Sunday or holiday. The term "holiday" shall mean all and only mandatory federal holidays including which standard deliveries by the United States Postal Services are suspended.

In Witness Whereof, the parties hereto enter into this Agreement as of the Effective Date.

THE PICTSWEET COMPANY

By: 

Lynn Luedecke
SVP, Food Service Sales and Marketing

Ashmont Developer, LLC

By: 

Vince Smith
Manager



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Division of Water Resources
Davy Crockett Tower
500 James Robertson Parkway, 9th Floor
Nashville, Tennessee 37243

October 6, 2025

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

Subject: §401 Water Quality Certification - Aquatic Resource Alteration Permit (ARAP)
NRS25.008; Ashmont Planned Development, Shelby County

Dear Mr. Smith:

The Division has reviewed and approved your Aquatic Resource Alteration Permit application for the construction of a retaining wall and 104 linear feet of stream fill associated with a mixed-use development. Upstream drainage will be captured in a pipe and flow back into the channel at the base of the wall. Mitigation for loss of resource value will be provided through purchase of 67 functional feet credits from Rossville Farm Mitigation Bank, and stream will be monitored for two years.

The enclosed Aquatic Resource Alteration Permit authorizes the work you proposed in your application. The work must be performed in conformance with the accepted plans and information submitted in support of application NRS25.008 and the limitations and conditions set forth in the enclosed permit.

The activity was reviewed, and the Division has reasonable assurance that the activity as proposed and in accordance with all permit conditions herein will not violate applicable water quality standards. Subject to conformance with the accepted plans, specifications, and other information submitted in support of the referenced application, the state of Tennessee hereby issues certification for the proposed activity. The enclosed permit authorizes the activity pursuant to *The Tennessee Water Quality Control Act of 1977* (T.C.A. §69-3-101 et seq.) and may serve as a §401 water quality certification (pursuant to 40 C.F.R. §121.2).

For federal agency employees and permit holders, the 401 Water Quality Certification Justifications and Citations related to the procedural requirements of §121.7(d) can be found at <https://www.tn.gov/environment/permit-permits/water-permits1/aquatic-resource->

[alteration-permit--arap.html](#). A paper copy of the certifications and justifications can also be obtained by contacting ARAP.permits@tn.gov or calling (615) 532-0359.

The state of Tennessee may modify, suspend or revoke this authorization or seek modification or revocation should the state determine that the activity results in more than an insignificant violation of applicable water quality standards or violation of the TWQCA. Failure to comply with permit terms may result in penalty in accordance with T.C.A. §69-3-115.

It is the responsibility of the permittee to read and understand all permit conditions before the project begins. If you need any additional information or clarification, please contact me at 615-804-2409 or by e-mail at Alicia.Griffith@tn.gov.

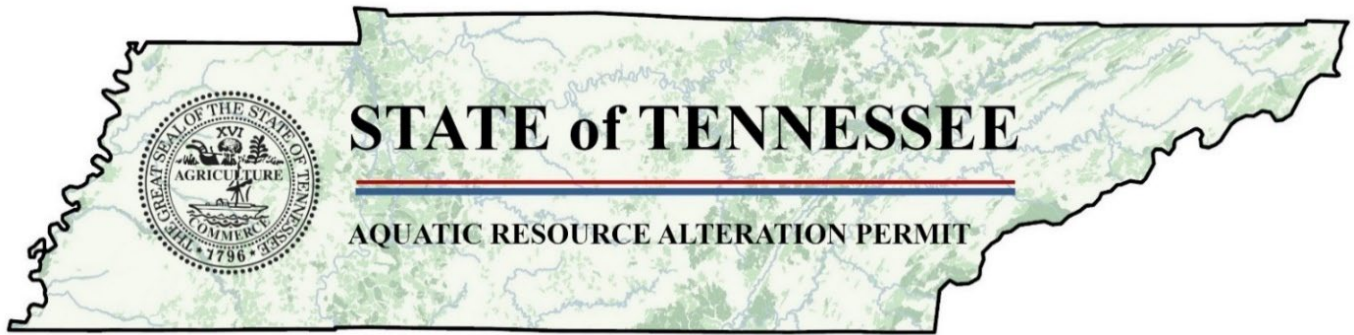
Sincerely,

A handwritten signature in blue ink that reads "Alicia Griffith".

Alicia Griffith
Natural Resources Unit

Enclosure

cc: Kyle Mabry, Memphis EFO Kyle.Mabry@tn.gov
USACE – Memphis District CEMVMRegulatory@usace.army.mil
William Gray, Ensafe wdgray@ensafe.com
Chris Masin, Shelby County MS4 chris.masin@shelbycountyttn.gov



Aquatic Resource Alteration Permit

NRS25.008

§401 Water Quality Certification

Issued by

**Department of Environment and Conservation
Division of Water Resources
Davy Crockett Tower, 9th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243**

Pursuant to the Tennessee Water Quality Control Act (TNWQA) of 1977 (T.C.A. §§ 69-3-101 et seq.) and supporting regulations, a permit is required to alter the properties of waters of the state. Also, pursuant to §401 of the Clean Water Act (33 U.S.C. 1341), an applicant for a Federal license of permit which may result in a discharge into the waters of the U.S., shall provide the federal licensing or permitting agency a certification from the State in which the discharge will originate.

Subject to conformance with accepted plans, specifications, and other information submitted in support of the application, the State of Tennessee hereby authorizes the activity described below, pursuant to T.C.A. § 69-3-108(b):

Permittee: Ashmont Developer, LLC

Authorized Work: Construction of a retaining wall and 104 linear feet of stream fill associated with a mixed-use development. Upstream drainage will be captured in a pipe and flow back into the channel at the base of the wall. Mitigation for loss of resource value will be provided through purchase of 67 functional feet credits from Rossville Farm Mitigation Bank, and stream will be monitored for two years.

Location: Davies Plantation Road and Canada Road
Lakeland, Shelby County, Tennessee
Latitude: 35.22697 Longitude: -89.74303

Effective Date: October 6, 2025

Expiration Date: October 5, 2030

A handwritten signature in black ink, appearing to read 'April Grippo'.

for April Grippo
Director, Division of Water Resources

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PART 1

This permit is issued to authorize alterations to waters of the State of Tennessee pursuant to the Tennessee Water Quality Control Act of 1977 (T.C.A. §§ 69-3-101 et seq.) and pursuant to § 401 of the Clean Water Act (33 U.S.C 1341). The activity authorized by this permit complies with Tennessee's water quality standards and public notice procedures.

1. PERMIT CONDITIONS

1.1. AUTHORIZED ALTERATIONS

This permit authorizes the permittee to perform the following alterations:

Stream 2 (STR-2):

Latitude 35.22697, Longitude: -89.74303

Existing Conditions:

- 104 feet of stream

Proposed Conditions:

- Installation of a retaining wall and fill of 104 feet of stream
- Upstream drainage captured and directed into a pipe to outfall near the base of the wall into the existing channel to retain hydrology
- Tier 6 mitigation required = 67 functional foot stream credits from Rossville Farm Mitigation Bank

1.2. SPECIAL CONDITIONS

1.2.1. Stream Channel Fill

1. If the remaining stream channel fails to meet the assessment criteria to be classified as a stream, corrective action or additional mitigation will be required.
2. Only clean rock that is free of fines, soils or other wastes, or contaminants shall be used in the areas where streams are to be filled with rock. The rock shall also be washed so that fines and limestone dust are not introduced into the stream and result in a significant color contrast.
3. Clearing, grubbing, and other disturbance to riparian vegetation shall be kept at the minimum necessary for the retaining wall construction and equipment operations. Unnecessary riparian vegetation removal, including trees, is prohibited.

1.2.2. EPSC

4. Wetlands and streams outside of the permitted impact area shall be clearly marked with signs, high visibility fencing, or similar structures so that all work performed by the contractor is solely within the permitted impact area.
5. The completed activities may not disrupt or impound stream flow. The permittee is responsible for any permanent reduction or loss of instream flow or wetland hydrology resulting from authorized activities.
6. To minimize wildlife entanglement and plastic debris pollution, temporary EPSC products that either do not contain netting, or that contain netting manufactured from 100 percent biodegradable non-plastic materials such as jute, sisal, or coir fiber shall be specified. Netting used in these products should have a loose-weave wildlife-safe design with movable joints between the horizontal and vertical twines, allowing the twines to move independently. Degradable, photo-degradable, UV-degradable, oxo-degradable, or oxo-biodegradable plastic netting (including polypropylene, nylon, polyethylene, and polyester) are not allowable alternatives.
7. All dewatering activities shall be conducted in such a manner as to prevent the discharge of sediment-laden water into waters of the state.
8. All riprap areas shall be placed as to mimic the existing/proposed contours of the stream channel. Riprap shall be countersunk and placed at the grade with the existing stream substrate. Riprap shall not be placed in a manner that would permanently disrupt the movement of fish and aquatic life.
9. Voids within the riprap shall be filled with suitable substrate to prevent loss of stream within the riprap areas. Do not over-excavate for placement of riprap. Grouting of riprap is prohibited.
10. Streambeds shall not be used as transportation routes for construction equipment. Temporary stream crossings shall be limited to one point in the construction area and EPSC measures shall be utilized where stream banks are disturbed.
11. The authorized alterations shall not cause measurable degradation to resource values and classified uses of hydrologically connected wetlands or other waters of the state, including disruption of sustaining surface or groundwater hydrology. Adjacent wetlands or streams determined likely to be measurably degraded by

such hydrological alteration, or by partial fill, must be included in the cumulative impact calculation, even if not filled or otherwise directly altered physically.

1.2.3. Reporting Requirements

12. The permittee shall notify this office of project completion and supply as-constructed or record drawings and photographs of the final structure within 45 days of completion.

1.3. GENERAL CONDITIONS

1. All activities must be accomplished in conformance with the approved plans, specifications, data, and other information submitted in support of the ARAP application (form CN-1091 and all supplemental materials) and the limitations, requirements, and conditions set forth herein. Changes to the authorized activity relative to plans and designs reviewed to date by TDEC will require application for and receipt of a permit modification prior to start of work. Failure to comply with the terms and conditions of this permit is a violation of the Tennessee Water Quality Control Act.
2. It is the responsibility of the permittee to convey all terms and conditions of this permit to all contractors. A copy of this permit, approved plans, and any other documentation pertinent to the activities authorized by this permit shall be maintained on site at all times during periods of construction activity.
3. The permittee must provide written notification of the commencement of authorized work to the Memphis Environmental Field Office prior to beginning work, or within 24 hours after initiation.
4. Work shall not commence until the permittee has obtained all necessary authorizations pursuant to applicable provisions of Section 10 of The Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act, Section 26a of The Tennessee Valley Authority Act, Section 402 of the Clean Water Act, or any other federal, state, or local laws.
5. The permittee is responsible for obtaining coverage under the National Pollutant Discharge Elimination System (NPDES) *General Permit for Stormwater Discharges Associated with Construction Activity* (CGP) where clearing, grading, or excavation results in an area of disturbance of one or more acres, or activities that result in the disturbance of less than one acre if it is part of a larger common plan of

development or sale. Work shall not commence until required permits are obtained.

6. All work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in [Rule 0400-40-03](#) of the Rules of the Tennessee Department of Environment and Conservation. This includes, but is not limited to, the prevention of any discharge that causes a condition in which visible solids, bottom deposits, or turbidity impairs the uses of waters of the state as designated by [Rule 0400-40-04](#). Uses include fish and aquatic life, livestock watering and wildlife, recreation, irrigation, industrial water supply, domestic water supply, and navigation.
7. The authorized alterations shall not cause measurable degradation to resource values and classified uses of hydrologically connected wetlands or other waters of the state, including disruption of sustaining surface or groundwater hydrology. Adjacent wetlands or streams determined likely to be measurably degraded by such hydrological alteration, or by partial fill, must be included in the cumulative impact calculation, even if not filled or otherwise directly altered physically.
8. Impacts to waters of the state other than those specifically addressed in the plans and this permit are prohibited. All streams, springs, and wetlands shall be fully protected prior to, during, and after construction until the area is stabilized. Any questions, problems, or concerns that arise regarding any stream, spring, or wetland either before or during construction shall be addressed to the Division of Water Resources at the Memphis Environmental Field Office by phone at 1-888-891-8332. Alternatively, contact the permit writer Alicia Douglas at Alicia.Douglas@tn.gov, or direct questions to the Division's Natural Resources Unit at ARAP.Permits@tn.gov.
9. This permit does not authorize the removal of riparian trees or shrubs along the banks of the stream or wetland vegetation beyond the approved scope of work. Coverage under this permit does not serve to waive any local riparian buffer protection requirement, and permittees are responsible for obtaining any necessary local approval.
10. Sediment shall be prevented from entering waters of the state. Erosion prevention and sediment control (EPSC) measures shall be designed according to the size and slope of disturbed or drainage areas to detain runoff and trap sediment and shall be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. Moreover, EPSC measures must be in place and functional before earth moving operations begin and shall be designed according to the Department's [EPSC Handbook](#).

11. Where practicable, all activities shall be accomplished in the dry or during drier times of year. All surface water flowing towards or from the construction activity shall be diverted using cofferdams and/or berms constructed of sandbags, clean rock (containing no fines or soils), steel sheeting, or other non-erodible, non-toxic material. All such diversion materials shall be located outside of the wetlands and/or streams and removed upon completion of the work. If approved after Division review, activities may be conducted in flowing water if working in the dry will likely cause additional degradation. If work is conducted in the water, it must be of a short duration and with minimal impact and conform to Division-approved methodology.
12. Work within the waters of the state by heavy equipment shall be kept to a minimum. Equipment shall be free of noticeable leaks of fluids and oils; e.g., hydraulic, transmission, crankcase, and engine coolant, fluids, and oils.
13. Equipment staging and maintenance areas shall be developed a sufficient distance from any surface water or wetland to ensure that oil, gas, or other petroleum products, or other hazardous materials do not enter waters of the state.
14. Clearing, grubbing, and other disturbance to riparian and/or wetland vegetation shall be kept to the minimum necessary for construction and equipment operations.
15. Blasting within 50 feet of a jurisdictional stream or wetland is prohibited.
16. Excavated material may not be placed in a location or manner so as to impair surface water flow into or out of any wetland area. Excavated material may not be placed in an area that is likely to discharge into waters of the state for the purposes of dewatering or otherwise.
17. Best Management Practices (BMPs) shall be implemented throughout the construction period to prevent sediments, oils, or other project-related pollutants from being discharged into waters of the state. All spills must be reported to the Memphis Environmental Field Office and appropriate emergency management agency, and measures shall be taken immediately to prevent the pollution of waters of the state, including groundwater, should a spill occur.
18. Temporary or permanent soil stabilization shall be accomplished within 14 days after final grading or other earth work. Permanent stabilization with perennial vegetation or other permanently stable, non-eroding surface shall replace any

temporary measures as soon as practicable. Vegetative species must be on an approved native species planting list, including but not limited to, [Landscaping with Native Plants](#). The permittee must request written approval from the Division prior to using an alternate native species planting list. Note that native grasses take longer to germinate and mature than invasive exotics such as fescue. Non-native, non-invasive annuals may be used as temporary cover crops until native species can be established.

19. Erosion prevention and sediment control (EPSC) measures such as silt fences shall be removed following completion of the project.
20. Adverse impact to formally listed state or federal threatened or endangered species or their critical habitat is prohibited. Activities occurring in known or likely habitat of state or federally listed threatened, endangered, deemed in need of management, or species of special concern may not be authorized without prior coordination with the Tennessee Wildlife Resources Agency (TWRA) and TDEC Division of Natural Areas (DNA) to determine if any special conditions are required to avoid and/or minimize harm to the listed species or their habitat. The permittee is responsible for obtaining prior authorization from the United States Fish and Wildlife Service (USFWS) as required by Section 7 or Section 10 under the Endangered Species Act.
21. This permit does not authorize adverse impacts to cultural, historical, or archeological features or sites.
22. This permit shall not be used incrementally to combine with other activities resulting in an appreciable permanent loss of water resource values.
23. This permit does not authorize access to public or private property. Arrangements concerning the use of public or private property shall be made with the landowner. The permittee is responsible for obtaining any additional permitting or maintenance agreements with other government or public agencies or lands.

PART 2

1. MITIGATION, MONITORING, AND REPORTING REQUIREMENTS

Compensatory mitigation activities shall be carried out utilizing best professional efforts to comply with approved plans and the conditions of this permit.

The goal of this permit and its mitigation success criteria is to ensure there is no net loss of resource value due to the impacts of the permitted activity. In accordance with adaptive management, the Division incorporates safety factors into compensatory mitigation requirements. Therefore, once successful mitigation has been achieved, the Division reserves the right to revise performance standards and mitigation criteria to account for any changes documented in the compensatory mitigation project. While final mitigation activities may not result in a net loss of resource value, they may be revised to reflect approved changes from the original mitigation proposal and the success criteria in the permit. Upon acceptance of closure of the project, the Division shall record any such revisions of the mitigation plan or success criteria through formal modification of the permit conditions with public notice.

1.1.1. Monitoring and Reporting Requirements and Procedures

1. Site monitoring shall occur for a minimum of two years post-construction. The permittee shall submit the required monitoring information on an annual basis for a term of two years by April 30th of each year.
2. The Stream Quantification Tool Workbook, or an alternative defensible, scientific methodology to track hydrology, hydraulics and geomorphology parameters, shall be provided with the annual reports.
3. A narrative description and photos should accurately depict the physical condition of the stream, bank stability, in-stream habitat, substrate, and observed aquatic life and riparian habitat.
4. At the minimum, the report shall be organized to contain the following sections: project narrative; site description; monitoring methodology; results and data summary; site maps and photos; and analysis and recommendations. Additional forms and supplemental materials should be attached.

5. Following receipt of the final report, the agency will contact the applicant (or agent) as soon as possible to confirm the completion of the site. An on-site inspection by regulatory staff may be required before the project will be considered complete.

The permittee shall submit annual project reports by April 30th of each year.

Required for all projects: An as-constructed report must be submitted to the Division within 45 days of the project's completion. All reports must be submitted in report form to the Division of Water Resources, Natural Resources Unit via email at ARAP.Permits@tn.gov, or to the permit writer Alicia Douglas at Alicia.Douglas@tn.gov. Reports and all correspondence should include the permit number. Electronic submittals are encouraged. Alternatively, if electronic reporting is unavailable, reports may be submitted to:

*Natural Resources Unit
Division of Water Resources
Davy Crockett Tower, 9th Floor
500 James Robertson Parkway
Nashville, TN 37243*

1.1.2. Site Performance Standards

1. Hydrology:
 - a. The State's Hydrologic Determination procedure shall be part of the monitoring requirements for Stream 2. The hydrologic assessments can be conducted any time from February 1- April 15th during year 1 and 2. Failure for this water feature to rank as a jurisdictional stream at the end of the monitoring period will require corrective action and/or mitigation on the part of the permittee.
 - b. Monitoring reports shall include quantitative and qualitative data to demonstrate the remaining channel maintains or improves hydrology. Appropriate stream hydrographs may be included to demonstrate baseflow discharge.
 - c. A bankfull event must be documented in a minimum of 1 of the 2-year monitoring period. Visual observations of the bankfull events can be included.

2. Visual Inspection:

- a. A brief narrative of the results of annual visual assessments shall be included in the annual monitoring report. Monitoring reports should also list any potential problems onsite and potential actions to address such problems.
- b. Repairs shall be required when stream stability or hydrology issues are identified that continue to worsen, pose a threat to other portions of the stream (headcuts, etc.), or are symptomatic of more serious issues with the design and/or construction of the project. If problems continue to persist, repairs may be discontinued, and additional mitigation may be required.

1.2. THIRD-PARTY MITIGATION

To offset permanent impacts to 134 linear feet of stream (104 feet of impact authorized by this permit and 30 feet of previously authorized impacts for riprap), the permittee is required to compensate for 67 functional foot debits (calculated using the TN Stream Quantification Tool) through a purchase of 67 stream functional foot credits. The permittee has reserved 67 mitigation credits from the Rossville Farm Mitigation Bank managed by The Pictsweet Company, whose secondary service area encompasses the impact site. The permittee submitted documentation of the reservation to the Division on July 15, 2025. With the purchase of the stream mitigation credits, legal responsibility for completion of the stream mitigation is legally transferred to The Pictsweet Company.

Please be advised that the impacts associated with this mitigation are not authorized to proceed until all of the specified mitigation credits have been fully purchased. Payment must be made within 60 days of invoice, or on an alternate schedule as approved by the Division. Proof of the completed credit purchase shall be submitted to this office within 30 days of payment.

PART 3

2. GENERAL PERMIT REQUIREMENTS

2.1. DUTY TO COMPLY

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

2.2. DUTY TO REAPPLY

The permittee is not authorized to discharge or conduct an activity that alters the properties of waters of the state after the expiration date of this permit.

If any portion of the permitted activities, including the authorized impacts to water resources, compensatory mitigation requirements, or post-project monitoring is not completed before the expiration date of this permit **the permittee must apply for permit extension or re-issuance**. The permittee shall submit such information and forms as are required to the Director of the Division of Water Resources at least ninety (90) days prior to its expiration date. Such applications must be properly signed and certified.

2.3. DUTY TO PROVIDE INFORMATION

The permittee shall furnish to the Director, upon request, copies of records required to be kept by this permit.

2.4. PROPERTY RIGHTS

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

2.5. RIGHT OF ENTRY

The permittee shall allow the Director, the Regional Administrator of the U.S. Environmental Protection Agency, or their authorized representatives, upon the presentation of credentials, to:

- a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records shall be kept under the conditions of this permit;
- b) Have access to and copy, at reasonable times, any records that shall be kept under the conditions of this permit;
- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d) Sample or monitor at reasonable times for the purposes of assuring permit compliance or as otherwise authorized by the Director.

2.6. WATER RIGHTS

The waters of Tennessee are the property of the state and are held in public trust for the use of the people of the state. This permit does not grant or convey any prescriptive rights, appropriation, or allocation of water, nor does it authorize any injury to the riparian rights of others.

2.7. OTHER PERMITS

This permit does not preclude requirements of other federal, state, or local laws. This permit serves as both a section 401 certification and as a state of Tennessee Aquatic Resource Alteration Permit (ARAP) pursuant to the Tennessee Water Quality Control Act of 1977 (T.C.A. §69-3-101 to -148).

2.8. OTHER INFORMATION

If the permittee becomes aware that it failed to submit any relevant facts in a permit application or submitted incorrect information in a permit application or in any report to the Director, then it shall promptly submit such facts or information.

2.9. RECORDS RETENTION

All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration or maintenance of instrumentation, shall be retained for a minimum of five (5) years, or longer, if requested by the Division.

2.10. CHANGES AFFECTING THE PERMIT

2.10.1. Permit Transfer/Change of Ownership

This permit may be transferred to another party, provided:

1. There are no activity or project modifications, no pending enforcement actions, or any other changes which might affect the permit conditions contained in the permit.
2. The permittee notifies the Director of the proposed transfer at least 30 days in advance of the proposed transfer date.
 - a) The notice must consist of a written agreement between the existing and new permittees containing a specified date for transfer of permit responsibility, coverage, and contractual liability between them; and
 - b) The Director does not, within 30 days, notify the current permittee and the new permittee of his or her intent to modify, revoke, reissue, or terminate the permit, or require that a new application be filed rather than agreeing to the transfer of the permit.
3. The permittee must provide the following information to the Division in its formal notice of intent to transfer ownership:
 - a) The permit number of the subject permit,
 - b) The effective date of the proposed transfer,
 - c) The name and address of the transferor,
 - d) The name and address of the transferee,
 - e) The names of the responsible parties for both the transferor and transferee,
 - f) A statement that the transferee assumes responsibility for the subject permit,
 - g) A statement that the transferor relinquishes responsibility for the subject permit,
 - h) The signatures of the responsible parties for both the transferor and transferee, and
 - i) A statement regarding any proposed modifications to the permitted activities or project, its operations, or any other changes which might affect the permit conditions contained in the permit.

2.10.2. Change of Mailing Address

The permittee shall promptly provide to the Director written notice of any change of mailing address. In the absence of such notice, the original address of the permittee will be assumed to be correct.

2.11. NONCOMPLIANCE

2.11.1. Effect of Noncompliance

All discharges shall be consistent with the terms and conditions of this permit. Any permit noncompliance constitutes a violation of applicable state and federal laws and is grounds for enforcement action, permit termination, permit modification, or denial of permit reissuance.

2.11.2. Reporting of Noncompliance

24-hour Reporting:

In the case of any noncompliance which could cause a threat to public drinking supplies, or any other discharge which could constitute a threat to human health or the environment, the required notice of non-compliance shall be provided to the Division of Water Resources at the Memphis Environmental Field Office within 24-hours from the time the permittee becomes aware of the circumstances. The EFO should be contacted for names and phone numbers of the Environmental Response Team.

A subsequent written submission must be provided within five days of the time the permittee becomes aware of the circumstances unless this requirement is waived by the Director on a case-by-case basis. The permittee shall provide the Director with the following information:

1. A description of the discharge and cause of noncompliance;
2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
3. The steps being taken to reduce, eliminate, and prevent recurrence of the non-complying discharge.

Scheduled Reporting:

For instances of noncompliance which are not reported under conditions described above, the permittee shall report the noncompliance by contacting the permit coordinator. The permittee shall provide all information concerning

the steps taken or planned to reduce, eliminate, and prevent recurrence of the violation and the anticipated time the violation is expected to continue.

2.12. ADVERSE IMPACT

The permittee shall take all reasonable steps to minimize any adverse impact to the waters of Tennessee resulting from noncompliance with this permit, including but not limited to, accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance. It shall not be a defense for the permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2.13. FALSIFYING RESULTS AND/OR REPORTS

Knowingly making any false statement on any report required by this permit or falsifying any result may result in the imposition of criminal penalties as provided for in Section 309 of the Federal Clean Water Act, as amended, and in Section 69-3-115 of the Tennessee Water Quality Control Act.

2.14. LIABILITIES

2.14.1. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Notwithstanding this permit, the permittee shall remain liable for any damages sustained by the State of Tennessee, including, but not limited to, fish kills and losses of aquatic life and/or wildlife as a result of the discharge of pollutants to any surface or subsurface waters. Additionally, notwithstanding this permit, it shall be the responsibility of the permittee to conduct its discharge activities in a manner such that public or private nuisances or health hazards will not be created.

2.14.2. Liability Under State Law

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or the Federal Clean Water Act, as amended.

This permit does not preclude requirements of other federal, state, or local laws. This permit also serves as a State of Tennessee Aquatic Resource Alteration Permit (ARAP) pursuant to the Tennessee Water Quality Control Act of 1977 (T.C.A. §69-3-101 et seq.)

2.15. REOPENER CLAUSE

This permit may be modified, suspended, or revoked for cause, including:

1. Violation of any of the terms or conditions of this permit or of T.C.A. §§ 69-3-101 to -148,
2. Obtaining the permit by misrepresentation or failing to disclose fully all relevant facts, or
3. A change in any condition that requires either a temporary or permanent change in the conditions of this permit.

2.16. APPEAL

An appeal of this action may be made as provided in T.C.A. § 69-3-105(i) and Rule 0400-40-07-.04(9) by submitting a petition for appeal in accordance with the following conditions:

1. The petition must be filed within 30 days after notification of the issuance of the permit.
2. The petition must specify the basis for the appeal and state a claim for relief based on an alleged violation of the Tennessee Water Quality Control Act or the rules promulgated thereunder. Third parties shall specify facts sufficient to establish that they have satisfied the statutory and regulatory preconditions and otherwise have standing to appeal.
3. The petition should be submitted electronically to TDEC.Appeals@tn.gov. Alternatively, an appeal may be submitted to the technical secretary of the Tennessee Board of Water Quality, Oil and Gas at the following address: April Grippo, Director, Division of Water Resources, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, TN 37243. Any hearing would be in accordance with T.C.A. §§ 69-3-110 and 4-5-301 et seq.

PART 4 - DEFINITIONS

The following definitions are as provided in [Rule 0400-40-07-.03](#):

Act means The Tennessee Water Quality Control Act of 1977, as amended, T.C.A. §§ 69-3-101 et seq.

Activity means any and all work or acts associated with the performance, or carrying out of a project or a plan, or construction of a structure.

Appreciable permanent loss of resource values means a reduction in resource values that is expected to continue without fundamental change and is large enough to be observed and measured as resulting in more than minimal adverse effects.

Aquatic Resource Alteration Permit or **ARAP** means a permit issued pursuant to T.C.A. § 69-3-108 of the Act, which authorizes the alteration of properties of waters of the state that result from activities other than discharges of wastewater through a pipe, ditch, or other conveyance.

Best management practices or **BMPs** means a schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs include methods, measures, practices, and design and performance standards.

Certification means an Aquatic Resource Alteration Permit under the Act, when required by § 401 of the federal Water Pollution Control Act, which certifies, either unconditionally or through imposition of terms under which the activity must be carried out, that the activity will comply with applicable provisions of §§ 301, 302, 303, 306, and 307 of the federal Water Pollution Control Act and Chapter 0400-40-01 of the rules of the Board of Water Quality, Oil and Gas and the Department of Environment and Conservation and the Act.

Channelization means the alteration of stream channels including but not limited to straightening, widening, or enlarging.

Constructed wetland means a wetland intentionally designed, built and operated on previously non-wetland sites for the primary purpose of wastewater treatment or stormwater retention; such wetlands are not created to provide mitigation for adverse impacts or other wetlands.

Cumulative impacts means the impact on resource values which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.

Debris means woody materials, trash, flotsam, dislodged vegetation, and other potentially mobile materials which may, when located within a stream channel, contribute to flow blockage. This does not include gravel, sand, soil or its constituents such as silt, clay, or other sediments.

Ditch means a man-made excavation for the purpose of conveying water. Ditches do not include streams, modified streams, or canals.

Division means the Division of Water Resources within the Tennessee Department of Environment and Conservation.

Dredging (sand and gravel dredging) means the removal of sand, gravel, and similar sediments or deposits from a stream, river, or lakebed or wetland by any method.

Emergency means a situation where life, public health, the environment, or substantive improvements to real property is in immediate danger.

Erosion means the process by which the land surface is worn away by the action of water, wind, gravity, chemicals, or a combination thereof.

Existing conditions means the biological, chemical, bacteriological, radiological, and physical conditions of a stream or wetland at the time the project is proposed as measured by a quantitative assessment tool or other defensible scientific method as approved or determined by the Division.

General Permit means a permit issued under the Act and this rule authorizing an alteration to state waters within the state for a specified category of activities that are substantially similar in nature.

Ground water means water beneath the surface of the ground within the zone of saturation, whether or not flowing through known and definite channels.

HUC means the hydrologic unit code assigned by the United States Geological Survey.

Individual Permit means a permit issued by the Division to a specified person to conduct specified activities at a specified location. This type of permit does not authorize an activity by a class of persons or the public in general.

In the dry means in such a manner that no equipment or dredged material is in contact with the stream or wetland and that the soil water boundary is not disturbed by equipment or that no infiltration is pumped to the stream from the dredge site.

Minimal impacts means an activity for which the scope is very limited in area, the impact is very short in duration, and that has no appreciable impact to waters just downstream of the location of the activity.

Mitigation means the restoration, creation, enhancement, and/or preservation of aquatic resources to compensate for unavoidable impacts as provided by paragraph (7) of Rule 0400-40-07-.04.

Practicable alternative is an alternative that is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Resource values are the physical, chemical, and biological properties of the water resource that help maintain classified uses. These properties may include, but are not limited to, the ability of the water resource to:

- a) Filter, settle, and/or eliminate pollutants;
- b) Prevent the entry of pollutants into downstream waters;
- c) Assist in flood prevention;
- d) Provide habitat for fish, aquatic life, and wildlife;
- e) Provide drinking water for wildlife and livestock;
- f) Provide and support recreational and navigational uses; and
- g) Provide both safe quality and adequate quantity of water for domestic water supply and other applicable classified uses.

Sediment means soil or its constituents that has been deposited in water, is in suspension in water, is being transported, or has otherwise been removed or disturbed from its site of origin.

Sedimentation or ***Siltation*** mean the process by which sediment is deposited in or by the waters of the state.

Stabilize means the proper placing, grading, and/or covering of soil, rock, or earth to ensure their resistance to erosion, sliding, or other movement.

Stream means a surface water that is not a wet weather conveyance. For purposes of this chapter, and permits issued pursuant to this chapter, a wetland is not a stream. See definition of wetland.

Structure means any building, pier, wharf, dolphin, weir, boom, breakwater, bulkhead, revetment, riprap, jetty, mooring structure, moored floating vessel, piling, aid to navigation, bridge, culvert, or any other obstacle or obstruction.

Wetland means an area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wet weather conveyances are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality, whose channels are at all times above the groundwater table, that are not suitable for drinking water supplies, and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow there is not sufficient water to support fish, or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two months.

PART 5 – RESOURCES, HYPERLINKS, AND WEB PAGES

Division of Water Resources Aquatic Resource Alteration Permit (ARAP) Webpage

<https://www.tn.gov/environment/permit-permits/water-permits1/aquatic-resource-alteration-permit--arap-.html>

Division of Water Resources ARAP General Permits

<https://www.tn.gov/environment/permit-permits/water-permits1/aquatic-resource-alteration-permit--arap-/permit-water-aquatic-resource-alteration-list-of-general-permits.html>

Division of Water Resources Data & Map Viewers

<https://www.tn.gov/environment/program-areas/wr-water-resources/water-quality/water-resources-data-map-viewers.html>

Landscaping with Native Plants

https://www.tnipc.org/wp-content/uploads/2017/10/landscaping_2016_forweb.pdf

Rules of the TN Department of Environment and Conservation, Chapter 0400-40

<https://publications.tnsosfiles.com/rules/0400/0400-40/0400-40.htm>

TDEC Division of Natural Areas (DNA)

<https://www.tn.gov/environment/program-areas/na-natural-areas.html>

TDEC Water Quality Rules, Reports, and Publications

<https://www.tn.gov/environment/program-areas/wr-water-resources/water-quality/water-quality-reports---publications.html>

Tennessee Erosion & Sediment Control (TN EPSC) Handbook

<https://tnepsc.org/handbook.asp>

Tennessee Wildlife Resources Agency (TWRA)

<https://www.tn.gov/twra.html>

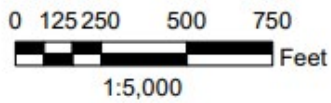
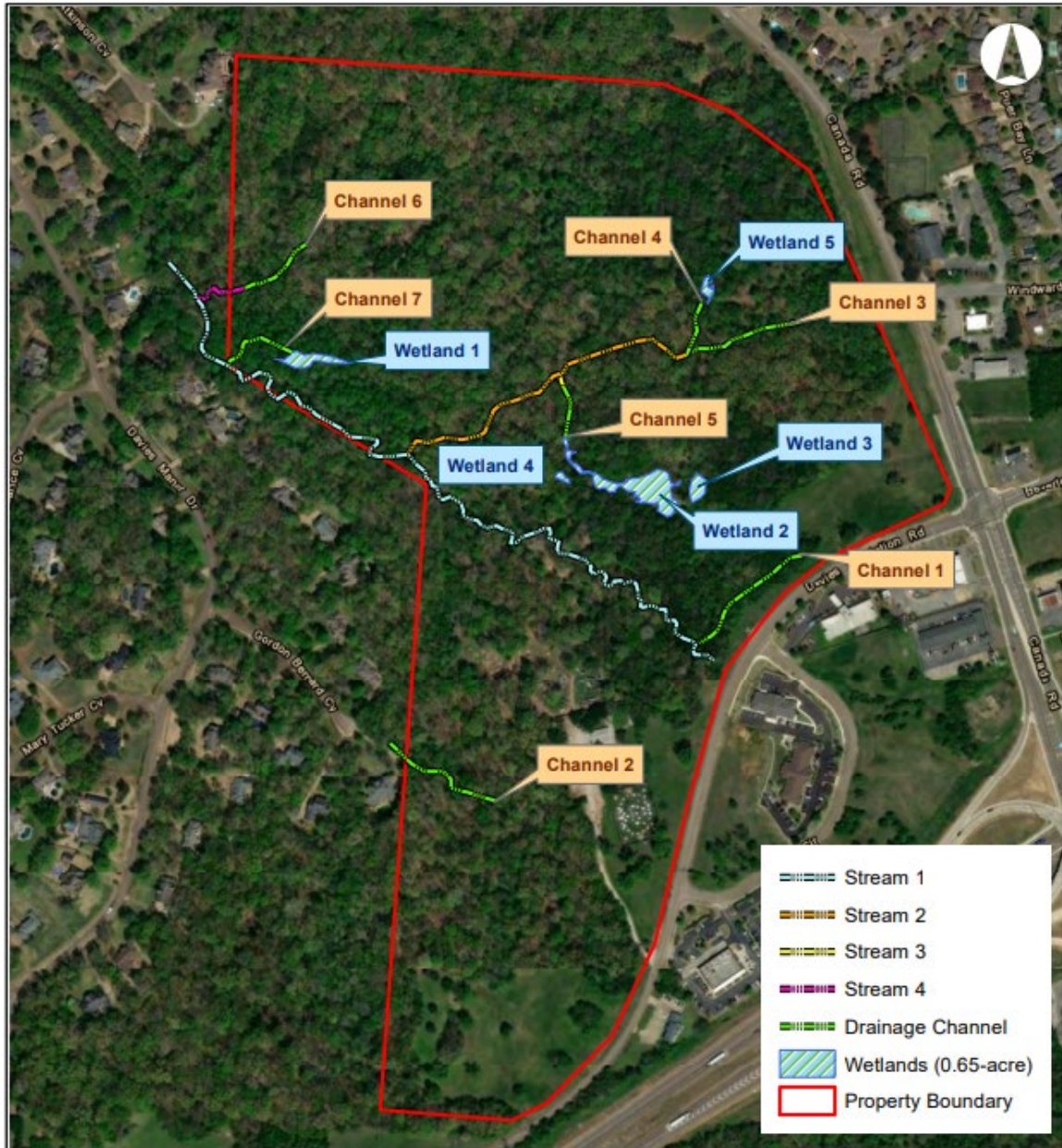
U.S. EPA Overview of CWA Section 412 Certification

<https://www.epa.gov/cwa-401/overview-cwa-section-401-certification>

U.S. Fish & Wildlife Service Tennessee Ecological Services Field Office (TFO)

<https://www.fws.gov/office/tennessee-ecological-services>

APPENDIX 1 – SITE MAP AND DESIGN DRAWINGS



 **BROPHY – HEINEKE & ASSOCIATES, INC.**
WETLAND AND ENVIRONMENTAL CONSULTANTS
2978 SHELBY STREET, BARTLETT TN 38134

PERMIT RATIONALE

ARAP Permit No. NRS25.008
Ashmont Developer, LLC
Ashmont Planned Development
Loosahatchie Watershed
Lakeland, Shelby County, Tennessee

1. Permit Summary

Permittee:	Ashmont Developer, LLC
Contact:	Vincent Smith PO Box 772808 Memphis, TN 38177 (901) 937-4212
Activity Location:	East Davies Plantation Road and Canada Road
Authorized Alterations:	Construction of a retaining wall and 104 linear feet of stream fill associated with a mixed-use development. Upstream drainage will be captured in a pipe and flow back into the channel at the base of the wall. Mitigation for loss of resource value will be provided through purchase of 67 functional feet credits from Rossville Farm Mitigation Bank, and stream will be monitored for two years.
Permit Writer:	Alicia Douglas, <i>Alicia.Douglas@tn.gov</i>

Effective Date:	October 6, 2025
Expiration Date:	October 5, 2030
Application Received:	7/15/2025
Application Complete:	7/30/2025

2. Status of Affected Waters – Streams

Stream 2 (STR-2): (Tributary to) Oliver Creek; TN08010209002_0400					
Designated Use	Fully	Not	Not	Causes	Sources
	Supporting	Assessed	Assessed		
Fish and Aquatic Life	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	nutrients, sedimentation/ siltation	municipal, site clearance
Recreation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	e. coli	municipal
Livestock Watering & Wildlife	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Irrigation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Assessment Date: 6/14/20					

The affected waters have Unavailable parameters for habitat alteration.
 The affected waters are not known Exceptional Tennessee Waters.

3. Authorized Alterations

Construction of a retaining wall and 104 linear feet of stream fill associated with a mixed-use development. Upstream drainage will be captured in a pipe and flow back into the channel at the base of the wall. Mitigation for loss of resource value will be provided through purchase of 67 functional feet credits from Rossville Farm Mitigation Bank, and stream will be monitored for two years.

4. Alternatives Analysis and Selection of Least Impactful Practicable Alternative

The stated goal and purpose of the proposed activity is to develop a mixed-use land development including a residential subdivision and commercial components fronting Canada Road to meet the local demand for housing, commercial growth, and community development in Shelby County, Tennessee. The permittee has submitted an analysis of potentially practicable alternatives to the authorized activity and provided the following discussion of those alternatives:

"No Action Alternative

By leaving the site undeveloped, the project would fail to address the current need for both housing and commercial development in Lakeland, TN. As part of the greater Memphis metro area, Lakeland continues to see significant population growth, with recent estimates showing an increase of around 15% from 2020 to 2023. This growth is driven by families, professionals, and businesses seeking locations that offer affordable housing and accessible commercial opportunities outside of the metro area. Not pursuing the development would contribute to the housing supply gap, making it harder for the city to accommodate future growth and meet community needs. As a result, this alternative fails to address the city's residential and commercial development goals and was consequently rejected.

Alternative 2: Reduced Impact Design

Modifying the current design plans to reduce impacts would significantly reduce the developable acreage, impacting the project's ability to deliver the housing and commercial space needed in Lakeland. The city's rapid growth necessitates developments that offer both residential units and commercial amenities to support a growing population. Additionally, this design currently proposes a 97.3% avoidance of all streams within the project area (104 Lf of impact out of 3,475 Lf of total streams). Redesigning the project area to achieve avoidance beyond the current minimization percentage of 97.3% would present significant challenges, as it would likely compromise the project's feasibility and ability to meet both housing and commercial development needs while adhering to regulatory constraints. Furthermore, town regulations, such as roadway designs for emergency access and general TDOT may

limit the flexibility of this alternative. Thus, this alternative was rejected due to its inability to meet housing demand and regulatory requirements.

Alternative 3: Off-Site Development

While developing an area comprised of upland would eliminate the need to impact aquatic resources, Lakeland's geographic and real estate market constraints make it difficult to find alternative sites that meet the necessary size, location, and infrastructure needs for this type of mixed-use land development. Relocating would also likely result in higher costs, which could drive up housing prices, further exacerbating affordability issues in the area. Additionally, developing outside of Lakeland may not directly address the specific residential and economic development needs of this community. Therefore, this alternative was rejected due to the unavailability of suitable off-site locations and the need to address local housing shortages.

The project has undergone multiple iterations during the site planning and engineering phases. The current configuration represents the least impactful, practicable alternative that satisfies regulatory, engineering, and community development goals. As proposed, the development avoids 97.3% of all jurisdictional streams on-site—impacting only 104 linear feet out of a total 3,475 linear feet.

To assist in evaluating alternatives, we have included preliminary grading and drainage plans from earlier stages of project design. These prior layouts included a large retention basin and associated grading that would have resulted in the loss of several hundred feet of jurisdictional stream—segments which are now being preserved under the current plan. Additionally, earlier designs featured broader disturbance areas and multiple stream crossings, all of which would have increased both the extent and severity of aquatic impacts.

In each case, proposed changes to stormwater infrastructure, access routes, and lot configurations were evaluated but ultimately proved either environmentally unfavorable or inconsistent with project feasibility, municipal requirements, and long-term utility planning.

As the design evolved, adjustments were made to minimize impacts through refined grading, realignment of infrastructure, and a consolidated drainage layout. These efforts culminated in the current plan, which preserves stream function and continuity to the maximum extent practicable while allowing for the development needed to support Lakeland's housing and economic goals.

Avoiding any impacts to Stream 2 were not deemed feasible. The area in question, AREA 7 LOT 6, is designated for a \$30 million hotel development and is part of Lakeland's Gateway TIF District, which is critical to the city's tax increment financing plan. This district was established to facilitate economic development by replacing underutilized or blighted properties with high-value commercial and recreational projects.

The hotel planned for AREA 7 LOT 6 represents the minimum required acreage for such a development. Any reduction in lot size would jeopardize the financial viability of the project and reduce the assessed tax value that has already been pledged to financing institutions for infrastructure improvements."

Based on the available information, the Division has made a determination that the proposed activities represent the least impactful practicable alternative to accomplish the project's purpose and goals.

5. Existing Conditions/Loss of Resource Values

Streams:

Stream 2 begins at a head cut from an upgradient wet weather conveyance and runs for approximately 60 feet before converging with Stream 1.

Proposed is a retaining wall to be constructed on Stream 2 and fill of 104 feet of stream. The upstream drainage will be directed into a pipe and flow back into the natural contours of the existing channel from the base of the constructed headwall.

significant degradation in a waterbody with unavailable parameters for habitat because the applicant proposes mitigation to offset any appreciable permanent loss of resource values.

For more information, please refer to Tennessee's Antidegradation Statement which is found in Chapter 0400-40-03 of the [Rules of the Tennessee Department of Environment and Conservation](#).



Vince Smith
Barton Thomas

Invoice number 24036-7
Date 09/19/2025

Project **24036 ASHMONT, LAKELAND**

All payments are due upon receipt. Remit to: 435 Madison, Ste. 200, Memphis, TN 38103

Services rendered per agreement dated August 18, 2024:

Description	Contract Amount	Percent Complete	Prior Billed	Current Billed
Schematic Design				
Architecture / Interior Design	120,000.00	100.00	120,000.00	0.00
Structural Engineering	25,000.00	100.00	25,000.00	0.00
Mechanical, Plumbing & Fire Protection	8,000.00	100.00	8,000.00	0.00
Electrical Engineering	8,025.00	100.00	8,025.00	0.00
Accessibility Consultant	5,000.00	100.00	5,000.00	0.00
Subtotal	166,025.00	100.00	166,025.00	0.00
Design Development				
Architecture / Interior Design	190,000.00	100.00	190,000.00	0.00
Structural Engineering	60,000.00	100.00	60,000.00	0.00
Mechanical, Plumbing & Fire Protection	34,000.00	100.00	34,000.00	0.00
Electrical Engineering	24,075.00	100.00	24,075.00	0.00
Accessibility Consultant	6,000.00	100.00	6,000.00	0.00
Moisture Consultant	6,000.00	100.00	6,000.00	0.00
Subtotal	320,075.00	100.00	320,075.00	0.00
Construction Documents				
Architecture / Interior Design	250,000.00	75.00	150,000.00	37,500.00
Structural Engineering	80,000.00	75.00	48,000.00	12,000.00
Mechanical, Plumbing & Fire Protection	34,000.00	75.00	20,400.00	5,100.00
Electrical Engineering	16,050.00	75.00	9,630.00	2,407.50
Accessibility Consultant	9,000.00	75.00	5,400.00	1,350.00
Moisture Consultant	6,000.00	75.00	3,600.00	900.00
Subtotal	395,050.00	75.00	237,030.00	59,257.50
Construction Services (for 18 months)				
Architecture / Interior Design	100,000.00	0.00	0.00	0.00
Structural Engineering	15,000.00	0.00	0.00	0.00
Mechanical, Plumbing & Fire Protection	10,500.00	0.00	0.00	0.00
Electrical Engineering	5,350.00	0.00	0.00	0.00
Accessibility Consultant	20,000.00	0.00	0.00	0.00
Moisture Consultant	7,500.00	0.00	0.00	0.00
Subtotal	158,350.00	0.00	0.00	0.00

Description	Contract Amount	Percent Complete	Prior Billed	Current Billed
Additional Services				
Architectural	0.00	0.00	0.00	0.00
Subtotal	0.00	0.00	0.00	0.00
Reimbursable Expenses				
Printing	0.00	0.00	2,104.43	903.69
Subtotal	0.00	0.00	2,104.43	903.69
Total	1,039,500.00	75.56	725,234.43	60,161.19

Invoice total **60,161.19**



Industrial Development Board

Meeting Cycle: Thursday, October 23, 2025

Subject: **Discussion and Possible Action** - regarding City Owned lots and Central Business Improvement District (CBIDs).

Staff Contact:

STAFF RECOMMENDATION

BUDGET IMPACT

DISCUSSION