



WHEREAS, the District is willing to enter into a contract for the **development**, at the expense of the **Developer**, provided said system will be owned by the **District** upon completion;

NOW, THEREFORE, in consideration of the promises and mutual agreements and conditions hereafter set forth, it is agreed between the **District** and the **Developer** as follows:

1. The **Developer** shall pay the **District** a sum equal to 12% of the Engineer's estimated cost of construction and \$1,000.00 per lot or tract as an impact fee.
2. The **District's** Engineer will prepare the necessary plans and specifications for the **development**, to or within the above described property, and submit the necessary plans and specifications to the Tennessee Dept. of Environment and Conservation for approval.
3. The **Developer** shall provide the **District** with a bond and/or an irrevocable letter of credit equal to the amount of the Engineer's estimated cost of construction prior to the commencement of any construction, which shall be run until the date that the **District** inspects and accepts the water lines and appurtenances to serve the **development**. Once the **District** inspects and accepts the water lines and appurtenances to serve the **development**, the bond and/or irrevocable letter of credit may be released.
4. The **Developer** may select the contractor to perform the work in accordance with the plans and specifications as provided by the **District** Engineer. Once the **Developer** has selected his contractor, he will submit the contractor's name to the **District** for approval. The **District** shall, in all cases, have the right to reasonably disapprove a contractor suggested by the **Developer**. The disapproval of any contractor shall be with cause and will be at the sole discretion of the **District**. The contractor shall be appropriately licensed and bonded for the work being performed. The **Developer** shall require that the contractor's bond include the District as an intended beneficiary. The **Developer** shall furnish a copy of the contractor's license and bond to the **District** prior to the commencement of any construction. The **Developer** shall require that the contractor obtain general liability insurance as well as worker's compensation insurance with regard to the **development**, prior to the commencement of construction, and run through any applicable statute of repose. The **Developer** shall require that the contractor include the **District** as an additional insured on the contractors' general liability and worker's compensation insurance policy. The **Developer** shall furnish a copy of the contractor's contractors' general liability and worker's compensation insurance policy to the **District** prior to the commencement of construction. The **Developer** is to furnish and install all water mains and appurtenances including service taps and service lines up to and including the meter setters and boxes.

5. The **District** will obtain the approval of the Tennessee Department of Environment and Conservation (TDEC), Division of Water Supply, and other regulatory bodies, if any, exercising jurisdiction over said system with respect to the proposed location, size of proposed lines, and appurtenances thereto. Construction shall not commence until such plans are approved by the Division of Water Supply.
6. Prior to the commencement of performance of any work by the contractor, the **District** shall first give a written Notice of Commencement of Construction letter to the contractor.
7. If in the determination of the **District** the existing water line distribution system up to or within the above described **development** requires expansion, upsizing or upgrading in order to accommodate providing water service to the property, **Developer** agrees to expand, upsize, or upgrade the existing water line distribution system according to the **District's** specifications and plans at the **Developer's** expense.
8. The **District** will inspect the installation of the lines and appurtenances in accordance with the **development** plans and specifications. The **Developer** shall insure that all new installation shall be visually inspected and approved by the **District**, or their designee, prior to any backfilling.
9. The **Developer** will obtain, or grant to the **District**, free and unencumbered easements of sufficient size and in a form acceptable to the **District**, within the **District's** sole discretion, for the extension of said system to or within the **development** wherein the system is to be located. The subdivision or development plat is to show the **District's** easement parallel and adjoining both sides of road rights-of-way. The **Developer** will also grant or obtain such temporary construction easements, and right-of-way permits, which the **District** determines, at its reasonable discretion, are necessary for the construction of water utilities to or within the **development** wherein the system is to be located.
10. Water meters will be installed by the **District** upon receipt of its regular water meter connection fee from and upon application by the proposed user.
11. Upon completion of the extension of said system, the **Developer** shall provide to the **District** a cost of the water system installed. All water distribution lines, appurtenances, and meters shall be and shall remain together with the easements relative thereto, the property of the **District**.
12. **Developer** is responsible to repair any damage to the **District's** utilities, private utilities, or property, caused by construction, regardless of whether on or off site, with regards to the

**development.**

13. For a period of one (1) year, hereinafter referred to as the "Warranty Period", from the date that the **District** inspects and accepts the water lines and appurtenances to serve the **development**, the **Developer** shall warrant that all water utilities and appurtenances thereto installed, in regards to the **development**, are constructed in accordance with the **District's** approved plans and specifications within the boundaries of the easements conveyed to the **District** for water service to the **development** and shall be free of defects. The **Developer** has the duty to require that the contractor include a similar warranty referenced herein that names the **District** as an intended beneficiary of said warranty. In the event the water utilities or appurtenances thereto are not so constructed or free of defects within the "Warranty Period", the **Developer** shall be required to promptly repair the same to the satisfaction of the **District** within the **District's** sole discretion and pay the **District** for any costs the **District** incurs as a result of the breach of the warranty. At its discretion, in the event of an emergency, the **District**, may make such repairs and invoice the **Developer** for all costs incurred by the **District**.
14. This agreement is further subject to the Rules and Regulations of the **District**, as now adopted, or hereafter amended from time to time, to the extent the same are not in conflict herewith.
15. **Developer** shall incorporate this Agreement by reference into any agreement that the **Developer** shall enter into with any contractor that performs any work associated with this Agreement. Contractor shall incorporate this agreement into any agreement that contractor may enter into this any of contractor's subcontractors. The **District** shall have all rights and remedies available to it under the Agreement, or otherwise, against the contractor and contractor's subcontractors, which the **District** has against the **Developer**. This provision is to be interpreted broadly in favor of the **District**.
16. In the event of any breach of this Agreement by the **Developer**, **Developer's** contractor, and/or **Developer's** contractor's subcontractors and/or legal action is initiated with regard to this Agreement, and in addition to any other remedies to which the **District** is entitled, the **District** shall be entitled to recover all damages and costs incurred, including, but not limited to damages incurred, water loss, consequential damages, pre-judgment interest, attorney fees, expert and consultant's fees, and court costs. **Developer** shall indemnify the **District** with regard to any claims initiated by any third parties, including, but not limited to damages incurred, water loss, consequential damages, pre-judgment interest, attorney fees, expert and consultant's fees, and court costs. **DEVELOPER AND DISTRICT KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHTS TO A JURY TRIAL** with regard to any matters

related to this Agreement. **Developer** waives any and all rights, remedies, and warranties, implied or otherwise, including the right to recover consequential damages, against the **District**, and **Developer's** sole and exclusive remedy against the **District** is to recover the sum equal to 12% of the Engineer's estimated cost of construction, as detailed in Paragraph 1 herein, but the **Developer** may only recover the sum equal to 12% of the Engineer's estimated cost of construction if the **Developer** has already paid the sum equal to 12% of the Engineer's estimated cost of construction to the **District**.

(EXECUTION ON FOLLOWING PAGE)

THE CUNNINGHAM UTILITY  
DISTRICT OF MONTGOMERY  
COUNTY, TENNESSEE

By: \_\_\_\_\_  
General Manager or  
Authorized Representative

STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Before me, the undersigned, a Notary Public within and for the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that they are the \_\_\_\_\_ of The Cunningham Utility District of Montgomery County, Tennessee, and being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of The Cunningham Utility District of Montgomery County, Tennessee self as such.

WITNESS MY HAND and official seal at my office on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: \_\_\_\_\_

DEVELOPER:

\_\_\_\_\_

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

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TENNESSEE  
COUNTY OF MONTGOMERY

Before me, the undersigned, a Notary Public within and for the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged that they are the \_\_\_\_\_ of \_\_\_\_\_, the within Developer, and being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of \_\_\_\_\_ by \_\_\_\_\_ as such self.

WITNESS MY HAND and official seal at my office on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

NOTARY PUBLIC

My commission expires: \_\_\_\_\_