

# CUNNINGHAM UTILITY DISTRICT

## DEVELOPER AGREEMENT

FOR EXTENSION AND/ OR UPGRADE OF EXISTING  
WATER DISTRIBUTION LINES

**THIS AGREEMENT**, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between \_\_\_\_\_ (hereinafter the **“Developer”**) and the Cunningham Utility **District** of Montgomery County, Tennessee, (hereinafter the **“District”**):

**WITNESSETH:**

**WHEREAS,** the **Developer** desires the extension and / or upgrade of the existing water distribution lines, hereinafter called the “**development**”, of the water distribution system of the **District** to or within property owned by the **Developer**, or to be developed by the **Developer**;

**WHEREAS**, the property which is to be served by said **development** is generally described as follows:

[illegible]

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** as follows:

- 12% of the Engineer's Opinion of Probable Cost
- Impact Fee of \$1,000.00 per lot or tract
- Designated Capacity Fee of \$1,200.00 per lot or tract

*These costs and fees will be due and payable in full at the signing of the **Developer Agreement***

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 TN. 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 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 the 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 contractor's general liability and worker's compensation insurance policy. The **Developer**

shall furnish a copy of the contractor's 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 / vaults.

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 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 the 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 and electronic reading devices 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 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 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-judgement 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 regards 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 Engineers 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**.

#### AMENDMENT TO EXSITING POLICY

**Amendment # 1:** Executed by the Board of Commissioners on May 15, 2025 with an effective date of June 1, 2025.

- Paragraph 1 amended to include the Designated Capacity Fee as part of the Developer Agreement.

*(EXECUTION ON THE FOLLOWING PAGES)*

THE CUNNINGHAM UTILITY DISTRICT  
OF MONTGOMERY COUNTY, TENNESSEE

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

General Manager or Authorized Representative

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

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 at my office on this the \_\_\_\_\_ day of \_\_\_\_\_,  
20 \_\_\_\_.

\_\_\_\_\_  
Notary Public

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

**DEVELOPER:**

D/B/A \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Printed Name: \_\_\_\_\_

Authorized representative of above name company D/B/A

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**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 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 at my office on this the \_\_\_\_\_ day of \_\_\_\_\_,

20 \_\_\_\_ .

\_\_\_\_\_

Notary Public

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

**DEVELOPER CONTACT INFORMATION:**

Authorized company representatives:

Name: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Ext: \_\_\_\_\_

Name: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Ext: \_\_\_\_\_

Name: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Ext: \_\_\_\_\_

Name: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Ext: \_\_\_\_\_

Name: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Ext: \_\_\_\_\_