

## SUBDIVISION DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, by and between THE TOWN OF WHITE BLUFF, OF DICKSON COUNTY, TENNESSEE, A MUNICIPALITY incorporated under the laws of the State of Tennessee, with its office and principal place of business in DICKSON County, Tennessee (hereinafter called the "TOWN"), and the DEVELOPER (hereinafter called the "DEVELOPER") named on the Addendum to this Agreement attached hereto and by this reference made a part hereof (hereinafter called the "ADDENDUM").

### WITNESSETH:

WHEREAS, the DEVELOPER desires to develop the property described on the ADDENDUM (hereinafter called the "PROJECT"); and

WHEREAS, the plat of the PROJECT has preliminary approval of the White Bluff Municipal Planning Commission (hereinafter called the Planning Commission) on the \_\_\_\_ day of \_\_\_\_\_, pursuant to Tennessee Code Annotated, Sec. 13-4-301, et seq., and the Subdivision Regulations of White Bluff, Tennessee, (the Subdivision Regulations); and,

WHEREAS, the DEVELOPER is the owner of the PROJECT and has authority to engage in such development; and,

WHEREAS, the DEVELOPER desires to develop and improve said PROJECT; and,

WHEREAS, in order to provide for the health, safety and welfare of future residents of the PROJECT, it will be necessary for certain improvements to the TOWN'S utility systems and public infrastructure to be constructed within and to serve the PROJECT. Said public infrastructure shall include, but not be limited to, roads, bridges, sidewalks, storm water conveyance and detention systems, street signs, markings signals and the like; and

WHEREAS, in order for said improvements to be fully integrated with the utility systems and public infrastructure of the TOWN and to function in a satisfactory manner, the DEVELOPER has agreed to construct in accordance with the Subdivision Regulations and other rules, regulations and ordinances of the TOWN public improvements in said project and extend utilities to the project at his own cost; and,

WHEREAS, the TOWN is willing to accept the dedication of the streets, utilities and other improvements subject to the applicant's compliance with all requirements in this agreement and applicable existing laws of the TOWN of White Bluff and the State of Tennessee.

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

### I. GENERAL CONDITIONS

#### A. Construction Costs

The DEVELOPER shall pay for all material and labor necessary to install and complete the roads, sidewalks, sewers and other facilities in accordance with this agreement.

B. Surety

At the time of execution of this agreement, the DEVELOPER shall give the TOWN either an Irrevocable Letter-of-Credit, on a bank licensed to do business in Tennessee and insured by the FDIC irrevocable without conditions and callable upon a bank doing business in Dickson County, Tennessee, or a county contiguous to Dickson County, Tennessee, or a performance bond issued by an agent licensed to do business in Tennessee and located in Dickson County, Tennessee, or a county contiguous to Dickson County, Tennessee in the amount of (\$ ) for improvements, including roads, sidewalks, drainage, and other improvements specified by the plans and plats of the development approved by the TOWN and the Planning Commission. This Letter-of-Credit or performance bond shall secure performance of all obligations of the DEVELOPER under this agreement pursuant to Planning Commission approved plans and filings. The Letter-of-Credit or performance bond shall meet all requirements established in Article IV of the Subdivision Regulations and secure full compliance with all terms and conditions of this agreement, including payment of all amounts payable by the DEVELOPER of DEVELOPER'S obligations hereunder, and its obligations under the warranty and indemnification provisions hereof. The Letter-of-Credit or bond may be called for failure to comply with the provisions of this agreement in whole or in part according to the terms of the Letter-of-Credit or bond. The Letter-of-Credit or bond will not be released, except and until there has been full compliance with this agreement and upon certification of a licensed engineer that the development has been completed in full compliance with the approved plat and construction plans.

C. Inspection

The TOWN shall have a continuous right to inspect the work and facilities to assure that the facilities are constructed in accordance with the Subdivision Regulations and approved construction plans.

D. Right of Entry

The TOWN shall have the right, in case a bond or Letter-of Credit is called for noncompliance, to enter upon any property of the DEVELOPER and take all necessary actions to complete the work and obligations not completed.

E. Acceptance of Facilities

Upon notice by the TOWN of acceptance of all or part of the facilities, then those facilities specified in the acceptance shall become the property of the TOWN free from all claims from any person or entity without the necessity of any further writing, agreement, or deed. The parties intend that this agreement shall operate as a conveyance of the facilities when the facilities are accepted. The DEVELOPER further agrees that any facilities placed within a public or platted right-of-way or dedicated public easement are irrevocably dedicated to the public use without any right of reimbursement or compensation of any kind.

F. Failure to Install

In the event the DEVELOPER fails to install the facilities in accordance with the terms of this agreement, the TOWN may, in its sole discretion, elect to accept all or a

portion of the facilities installed. Should the TOWN choose to accept all or a portion of these facilities, the TOWN shall become the sole owner of these facilities. The TOWN may give notice of acceptance by writing delivered to the DEVELOPER or recorded in the Register's Office, of Dickson County, Tennessee. No further writing or deed shall be required. The TOWN'S election to accept such facilities shall not be construed as an assumption of any obligation related to these facilities such as the obligation to maintain the facilities or to pay for any part of the cost of installing the facilities.

G. Fees Not Refundable

If the DEVELOPER fails to install the facilities in accordance with the terms of this Agreement, no portion of the review fees or other amounts paid to the TOWN shall be refundable to the DEVELOPER.

H. Liability Insurance

The DEVELOPER shall purchase an Owner's and Contractor's Liability Policy and Public Liability Insurance Policy in the amount of one million dollars (\$1,000,000.00) and name the TOWN as an additional insured party. DEVELOPER further agrees to hold and name the TOWN harmless from the claim of any person and further agrees to defend any action brought in any court against the TOWN and to pay any judgments rendered against the TOWN.

I. Legal Expense in Case of Default

In the event the DEVELOPER or its sureties breach this agreement, they shall bear all costs of the TOWN'S reasonable expenses, including attorney's fees and other expenses incurred in enforcing this agreement or completing this agreement whether incurred by negotiation, litigation or otherwise.

J. Town Ordinances, Rules and Regulations

All TOWN ordinances, rules and regulations and the Subdivision Regulations adopted by the Planning Commission are made a part of this agreement. In the event of a conflict between the terms of this agreement and a TOWN ordinance, the ordinance shall prevail. In the event of a conflict between the terms of this agreement and the Subdivision Regulations, the Subdivision Regulations shall prevail. All work done under this agreement is to be performed in accordance with plans, and specifications approved by the Town and made a part, hereof.

K. Agreement Not Assignable

No third party shall obtain any benefits or rights under this agreement nor shall the rights or duties be assigned by either party.

L. Revocation and Interpretation

This agreement shall bind DEVELOPER when executed by DEVELOPER and may not be revoked by DEVELOPER without permission of the TOWN, even if the agreement has not been executed by the TOWN, or does not bind TOWN, for other reasons. This agreement shall be interpreted in accordance with Tennessee law and may only be enforced in the Chancery Court or Circuit Court or Court of competent

jurisdiction of Dickson County, Tennessee, and Tennessee Appellate Courts.

M. No Oral Agreement

This agreement may not be orally amended and supersedes all prior negotiations, commitments or understandings. Any written modification to this agreement must be approved by the White Bluff Municipal Planning Commission.

N. Severability

If any portion of this agreement is held to be unenforceable, the TOWN shall have the right to determine whether the remainder of the agreement shall remain in effect or whether the agreement shall be void and all rights of the DEVELOPER pursuant to this agreement terminated.

O. Transferability

The DEVELOPER and/or Owner agrees that he will not transfer the property on which this proposed subdivision is to be located without first providing the TOWN with notice of when the transfer is to occur and who the proposed transferee is, along with appropriate address and telephone numbers. If it is the transferee's intention to develop this subdivision in accordance with the agreement, the DEVELOPER agrees to provide the TOWN an Assumption Agreement whereby the transferee agrees to perform the improvements required under this agreement and to provide the security needed to assure such performance. Said agreement will be subject to the approval of the TOWN Attorney. The DEVELOPER and/or Owner understand that if he transfers said property without providing the notice of transfer and Assumption Agreement as required herein, he will be in breach of this agreement and in violation of the subdivision regulations. The DEVELOPER further agrees that he shall remain liable under the terms of this agreement though a subsequent sale of all or part of said property occurs, unless an Assumption Agreement is entered into between the new owners and the TOWN and a new agreement and Performance Bond is issued naming the new owners as principal.

P. Covenants, Conditions and Restrictions to Be Filed

The DEVELOPER will submit a Declaration of Covenants, Conditions and Restrictions to be filed with and recorded with the final plat if such plat is part of a planned unit development or for developments that include common open space or drainage features such as detention or retention ponds when such areas will not be maintained by the Town. The Declaration of Covenants, Conditions and Restrictions shall contain all provisions required by the Zoning Ordinances, of the TOWN and shall include provisions for a Home Owners' Association to maintain any detention or retention ponds, large common drainage ditches and any and all common areas when such areas will not be maintained by the Town. The Declaration of Covenants, Conditions and Restrictions shall contain provisions for the TOWN, to have the right, but not the obligation, to enforce any restrictions dealing with health, safety, and welfare which could be, otherwise, enforced by any land owner of record in the development. The Declaration of Covenants, Conditions and Restrictions shall also contain provisions for assessments of property for maintenance of common areas and provisions for enforcement of the assessments by liens, removal of voting rights, and enforcement at law and equity. The Declaration of Covenants, Conditions and Restrictions shall make adequate and sufficient provisions for the maintenance of any

commonly owned detention ponds or drainage areas to include an amortizing of maintenance costs to be provided to the Home Owners' Association by the DEVELOPER at the time of the establishment of the Home Owners' Association. The Declaration of Covenants, Conditions and Restrictions shall run with the land and must be approved by the Planning Commission, prior to recordation, as a part of the final plat.

Q. Time Period for Construction

In consideration of the promise by the TOWN to accept for maintenance the streets, utilities and other infrastructure covered by this agreement, the DEVELOPER agrees to be bound to complete within two (2) years, all improvements shown on the plat and plans and all things required by this agreement. The DEVELOPER further agrees that if due to unforeseen circumstances, he is unable to complete all work included in this agreement within the time specified above, but desires to complete said agreement to the satisfaction of the TOWN, he will submit a written request for extension of the agreement period to the TOWN at least sixty (60) days prior to the expiration of the existing agreement period, specifying the reason for his failure to complete the work as agreed and a prospective date for such completion. The DEVELOPER further agrees that if the performance bond or Letter-of-Credit executed to secure the value of the work to be performed under this agreement and said performance bond or Letter-of-Credit due to inflation and/or rising costs, is inadequate to secure the cost of said improvements at the time an extension is sought, he will provide the additional security to bring the bond amount in line with current cost projections as made by the TOWN. The TOWN agrees that it will not unreasonably withhold approval of extensions where the DEVELOPER has complied with the requirements of notice to the TOWN and provided the required additional security, if any be needed. The DEVELOPER understands that his failure to follow this extension procedure constitutes a breach of this agreement and places him in violation of the Subdivision Regulations. The DEVELOPER further understands that should he fail to complete any part of the work outlined in this agreement in a good and workmanlike manner as approved the TOWN shall reserve the right to withhold and withdraw all building permits and/or sewer service within the subdivision until all items of this Agreement have been fulfilled by the DEVELOPER.

II. DESIGN AND APPROVAL

A. Contents of Plans

The DEVELOPER shall cause to be prepared and submitted to the TOWN, plans (the "Plans") describing in reasonable detail all utility systems, all storm water management systems, and all street system improvements necessary to provide adequate services to the Project (hereinafter called the "IMPROVEMENTS"). The plans shall include all information required by the Subdivision Regulations and any other details as requested by the TOWN. It is recognized that the IMPROVEMENTS may be constructed in phases as the Project is developed. The DEVELOPER shall submit the Plans as provided herein for each phase and execute a separate DEVELOPEMENT AGREEMENT for each phase.

B. Preparation of Plans

The Plans shall be prepared by an engineer licensed by the State of Tennessee to design all systems and shall bear the seal, signature and license number of the

engineer preparing the Plans

C. Design Criteria

The design of water and sewer improvements shall follow the State of Tennessee design criteria. Storm water management and road improvements shall be designed according to the Subdivision Regulations, all other applicable municipal specifications and ordinances and sound engineering judgment. In all cases, the specifications and design details for the Improvements shall be those of the TOWN and those as approved by the State of Tennessee Department of Environment and Conservation. In the event of a disagreement as to compliance with or interpretation of the Plans and the TOWN'S specifications, the decision of the TOWN shall be final and binding on the DEVELOPER. Four (4) sets of blueline prints of the Plans shall be submitted by the DEVELOPER to the TOWN. The TOWN agrees to review the Drawings and Plans so submitted in a timely manner. DEVELOPER agrees to make all revisions to the Plans as required by the TOWN. Following review and approval of the Plans, or following review and approval of revised Plans if revisions have been required, a representative of the TOWN will sign the Plans. The DEVELOPER must then submit the Plans, as approved by the TOWN Engineer, to the Tennessee Department of Environment and Conservation for approval. The TOWN will require a copy of the State approval letter for sewer and water, along with four (4) copies of the State approved (stamped) Plans before the DEVELOPER may commence work.

III. COMMENCEMENT OF CONSTRUCTION

Construction of Improvements may not begin until the following events have occurred:

- A. The Plans are approved by the TOWN, and all necessary facets of platting and construction plan approval, through the Planning Commission, have been completed.
- B. The Tennessee Department of Environment and Conservation has approved the applicable portions of the Plans and has confirmed its approval to the TOWN and/or DEVELOPER in writing.
- C. If required, the review fee described in Paragraph XIV (FEES), hereof, has been paid in full.
- D. The TOWN has received four (4) copies of the State-Approved Plans.
- E. The TOWN has approved the DEVELOPER'S choice of a contractor.
- F. The TOWN shall have received an appropriately executed Development Agreement accompanied by the Surety Bond described in Paragraph B, of Section I, hereof.
- G. The pre-construction conference described in Paragraph IV, hereof, has been held.
- F. The DEVELOPER shall give the TOWN notice of commencement of construction, in writing at least five (5) days prior to commencement.

#### IV. CONTRACTOR

The improvements shall be installed in accordance with the Plans, approved as provided above, by a CONTRACTOR licensed by the State of Tennessee and acceptable to the TOWN. Prior to the beginning of construction, the DEVELOPER shall submit to TOWN the DEVELOPER'S choice of CONTRACTOR(S), and the TOWN will, upon verification of license and work performance, either approve or disapprove DEVELOPER'S CONTRACTOR, in writing. Approval or disapproval shall be at the total and absolute discretion of the TOWN. If approval is withheld, the DEVELOPER must choose another CONTRACTOR and the process of approval shall begin again and shall continue until the TOWN approves a CONTRACTOR. After the TOWN has approved the CONTRACTOR, the DEVELOPER shall convene a pre-construction meeting at the TOWN offices at a time mutually acceptable to the parties.

#### V. CONSTRUCTION

##### A. General

The design of water and sewer improvements shall follow the State of Tennessee design criteria. Storm water management and road improvements shall be designed according to the Subdivision Regulations, all other applicable municipal specifications and ordinances and sound engineering judgment. In all cases, the specifications and design details for the Improvements shall be those of the TOWN and those as approved by the State of Tennessee Department of Environment and Conservation. In the event of a disagreement as to compliance with or interpretation of the Plans and the TOWN'S specifications, the decision of the TOWN shall be final and binding on the DEVELOPER. Four (4) sets of blueline prints of the Plans shall be submitted by the DEVELOPER to the TOWN. The TOWN agrees to review the drawings and Plans so submitted in a timely manner. DEVELOPER agrees to make all revisions to the Plans as required by the TOWN. Following review and approval of the Plans, or following review and approval of revised Plans if revisions have been required, a representative of the TOWN will sign the Plans. The DEVELOPER must then submit the Plans, as approved by the TOWN Engineer, to the Tennessee Department of Environment and Conservation for approval. The TOWN will require a copy of the State approval letter for sewer and water, along with four (4) copies of the State approved (stamped) Plans before the DEVELOPER may commence work.

##### B. Utilities

DEVELOPER agrees to pay the cost of a State approved sewage system complete with necessary stations and force mains and with manholes, outside the boundary of the subdivision as approved by the TOWN. The DEVELOPER further agrees to pay the cost of sewer mains, manhole, and sewer service laterals from the sewer main to the front property line of each lot within the subdivision as approved by the TOWN upon the subdivision plans and specifications. The DEVELOPER further agrees to pay the cost of all engineering, inspection and laboratory testing costs incidental to the sewer service in or to the subdivision. The DEVELOPER shall be responsible for the cost of any and all relocation, adjustment, modification, installation and/or removal of utilities brought about as a result of the development of the project, both on and off site. As a part of constructing the Improvements, the DEVELOPER shall install, in accordance with the Plans and TOWN specifications, all water service taps, fire lines, sewer service, and all facilities, equipment and accessories relating, thereto, necessary to provide utility service to the Project.

C. Storm Water Management Systems

The DEVELOPER shall be responsible for all storm water management work, including ditch paving, bank protection, and fencing adjacent to open ditches made necessary by the development of this subdivision.

1. The DEVELOPER shall provide and deliver the formal written opinion of a licensed and bonded professional engineer certifying that he has reviewed the entire water shed wherein the subdivision is located and that upon full development at the greatest allowable use density under existing zoning of all land within that watershed, the proposed subdivision will not increase, alter or affect the flow of surface waters, nor contribute to same, so as to damage, flood or adversely affect any property. Further, the DEVELOPER agrees to hold harmless and defend the TOWN from any claim, cause of action or liability, alleged and/or proven, to have arisen directly or indirectly from alteration to the surface water by reason of the DEVELOPER'S design, construction, installation or the development itself, in whole or part.
2. To properly manage storm water runoff during the construction process the DEVELOPER shall provide necessary erosion control in accordance with the storm water management plan for the development as approved by the TOWN in conformance with the published design standards and specifications of the TOWN. All freshly excavated and embankment areas not covered with satisfactory vegetation shall be fertilized, mulched and seeded and/or sodded as required by the TOWN to prevent erosion. In the event the TOWN determines that necessary erosion control is not being provided by the DEVELOPER, the proper governing authority shall officially notify the DEVELOPER of the problem. If the DEVELOPER has not begun to provide satisfactory erosion control within fifteen (15) days after the notice, then the proper governing authority shall make the necessary improvements to eliminate the erosion problems, documenting all expenses incurred performing the work. Prior to releasing any securities covering this subdivision, all expenses incurred by the governing authority shall be paid in full by the DEVELOPER.
3. Any and all unenclosed water courses lying partially or wholly within the bounds of this subdivision shall be constructed to adequate cross section to provide design flow without threat of erosion or flooding of any property within this subdivision, or of any adjoining property.
4. All storm water management structures necessitated by the infrastructure plans for this development that affect any watercourse lying partially or wholly within this subdivision are to be provided by the DEVELOPER.
5. It is understood and agreed that the TOWN in its proprietary function is not and could not be expected to oversee, supervise, and/or direct the construction of all drainage improvements, and the excavation incident thereto. Neither is the TOWN vested with the original design responsibility nor the means to formally survey elevations or the locations of improvements at every stage of the construction process. The TOWN is vested with the right of periodic inspections, stop work order and final approval as a measure



of secondary or subsequent enforcement. The DEVELOPER has and shall retain the responsibility to properly anticipate, survey, design and construct the subdivision storm water improvements and give full assurance that same shall not adversely affect the flow or quality of surface water from or upon any property. In providing technical assistance, plan and design review, the TOWN does not and shall not relieve or accept any liability from the DEVELOPER.

D. Street Construction

The DEVELOPER, hereby, agrees to construct and improve the streets shown on the Plans to comply with the construction standards of the TOWN and to the satisfaction and approval of the TOWN Engineer by grading, draining, subgrade preparation, base preparation, curb and gutter, signage, striping, signalization sidewalk installation and paving with the required amount of material the full required width. The DEVELOPER further agrees to pay the cost of all engineering, inspection and laboratory cost incidental to the construction of subdivision streets including but not limited to material and density testing.

1. It is agreed and understood that all grading within the street right-of-way and public easements shall be completed before the utilities are installed.
2. The DEVELOPER further agrees to furnish and install asphalt base and a final asphalt surface course (wearing surface) in accordance with the Subdivision Regulations. The final surface shall be placed at least one (1) year (twelve (12) consecutive months) after acceptance of the streets, but not more than two (2) years (twenty-four (24) consecutive months) unless a time extension is requested, and approved by the TOWN. The DEVELOPER may request to install final surface within the first twelve months of acceptance if building activity is seventy-five (75) percent complete or otherwise specifically approved by the TOWN.
3. The DEVELOPER further agrees to install permanent street signposts and markers at all intersections in said subdivision. The plans and specifications for said street signpost and lettering may be obtained from the TOWN. Location of street signs to be installed will be at the direction of the Director of Public Works. The Director of Public Works shall approve variance from standard street sign type. Temporary signs, at a minimum, shall have been installed prior to issuance of any permits for construction of buildings within the development. Permanent signs shall be installed prior to the issuance of any permanent certificate of occupancy.
4. The DEVELOPER further agrees to make all necessary adjustments to manholes and valve boxes to meet finished surface grade and to repair subsurface or base material, as required, in areas recommended by TOWN, prior to application of final surface. It is further agreed and understood that if it is not necessary to change the existing grade or disturb the pavement of an existing street or road, the DEVELOPER shall only be required to construct drainage, grade and gravel to match the existing pavement and construct sidewalks and curb and gutter as required. If the existing grade is changed, the DEVELOPER shall be required to grade and gravel the full width of said street.

E. Site Grading

1. The DEVELOPER, hereby, agrees to construct all site grading as shown on the Development plans to comply with the approved drawings, including the approved Erosion Control Plan for the development and to comply with the Subdivision Regulations and other rules, regulations and ordinances of the TOWN.
2. The DEVELOPER, hereby, agrees to provide and place compacted fill so that such fill is suitable for its intended use. The Town may require that a geotechnical report be submitted to the TOWN for review and approval and shall become a part of the infrastructure construction documents for the Development. Such geotechnical report shall be required when deemed necessary by the Planning Commission, Town engineer, building official, or road superintendent. When required, the geotechnical report shall include the following information:
  - a. Specifications for the preparation of the site prior to placing of compacted fill material.
  - b. Specifications for material to be used as compacted fill.
  - c. Test methods to be used to determine the maximum dry density and optimum moisture content of the material to be utilized as compacted fill.
  - d. Maximum allowable thickness of each lift of compacted fill material.
  - e. Field test method for determining the in-place dry density of the bearing capacity of the compacted fill.
  - f. Minimum acceptable in-place dry density expressed as a percentage of the maximum dry density determined in accordance with Item iii.
  - g. Number and frequency of field tests required to determine compliance with Item d.
3. The DEVELOPER, hereby, agrees to allow the Town to monitor the placing of compacted fill material and/or test areas by such methods as may be necessary to insure that all compacted fill is suitable for its intended use. Should the services of a geotechnical engineering firm be required by the TOWN, said cost shall be born by the DEVELOPER.

VI. OFF-SITE IMPROVEMENTS (UTILITIES)

The DEVELOPER shall construct any and all off-site facilities that may be required to serve the Project, not including any additions, improvements and upgrades. Unless specifically noted in the Plans and made a part of this agreement, the TOWN shall not be required to reimburse the DEVELOPER for construction of off-site Improvements if additional customers should later use the off-site facilities financed by the DEVELOPER.

**VII. INSPECTION AND COMPLIANCE**

After construction begins, the TOWN shall provide on-site construction inspection as the TOWN deems necessary to insure that all work is performed and completed in accordance with the Plans, the Town's specifications and the contents of this agreement. In the event of a disagreement as to compliance with or interpretation of the Plans and the TOWN'S specifications, the decision of the TOWN shall be final and binding on the DEVELOPER. If the DEVELOPER fails to construct in accordance with the approved Plans or to comply with the TOWN'S specifications, the TOWN may issue a stop-work order and DEVELOPER, hereby, agrees to be bound by such order.

**VIII. TESTING**

The DEVELOPER agrees to pay the cost of all engineering, inspection and laboratory cost incidental to construction of the streets, sidewalks, sewers, compacted fill material and other facilities included within this agreement. Such testing includes, but is not limited to, material and density testing.

**IX. SCRAP REMOVAL**

The DEVELOPER agrees that he will haul all cut trees, scrap building materials, debris, rubbish, and other degradable materials to an authorized landfill or other appropriate site and not bury such materials within the limits of the subdivision. The Town may permit burning of such materials, but a written permit must be obtained prior to the burn and that the DEVELOPER must comply with all conditions of the permit.

**X. ACCEPTANCE (ROADS AND UTILITIES)**

At such time as the improvements have been constructed and installed, in accordance with the Plans and specifications, required testing has been accomplished and the test results found satisfactory, and all clean-up and cover-up has been done to the satisfaction of an authorized representative of the TOWN a letter of tentative acceptance of construction will be provided the DEVELOPER. Formal acceptance shall follow the procedure established in the Subdivision Regulations. Prior to acceptance of the project by the TOWN, the DEVELOPER shall deliver to the TOWN a certificate stating that all subcontractors and material suppliers furnishing labor and/or material for the improvements required under this agreement have been paid in full.

The DEVELOPER agrees he shall have no claim, direct or implied, in the title or ownership of the improvements specified in this agreement when the approved phases are completed and thereafter accepted by the TOWN. The TOWN, upon final approval and acceptance, will take full title to the improvements and will provide maintenance thereafter, except that the DEVELOPER will be responsible for construction failures and defects in the subdivision for one (1) year after the date of final acceptance of the subdivision construction. During this period, it shall remain the responsibility of the DEVELOPER to correct and cure these defects and failures.

**XI. WARRANTY**

The DEVELOPER warrants that all installed facilities are free from defects in design, materials or workmanship for a period of one (1) year from the date of written acceptance by the TOWN. Further, the DEVELOPER shall immediately repair, at its own costs, all defects of any type whatsoever which occur within one (1) year from the date the facilities are

accepted in writing by the TOWN. The TOWN shall have the right to make repairs or have others make the repairs at the expense of the DEVELOPER, if the TOWN deems it necessary. The DEVELOPER shall pay for all work, labor, materials and all other expenses of the facilities in a timely manner and this shall include any amounts that exceed the performance bond or Letter-of-Credit. If the DEVELOPER does not pay in a timely manner, the DEVELOPER hereby authorizes the TOWN to call payable its performance bond or Letter-of-Credit, without any formal or further action, and to make the payments that are due for the facilities whether the debts are secured by a valid lien.

The DEVELOPER further agrees to execute a maintenance bond or Letter-of-Credit with good security to be approved by the Board of Commissioners and Town Attorney in the amount of twenty-five (25) percent of the construction cost of the facilities being offered for dedication. Ten (10) months after final acceptance of the facilities included in the offer of dedication, an inspection will be made by the TOWN to determine and list any defects or failures of improvements within the subdivision. All failures or defects, if any, shall be repaired within thirty (30) days after which the bond will be released and cancelled by TOWN.

**XII. EASEMENTS**

The DEVELOPER shall obtain and dedicate to the TOWN or cause to be dedicated to the TOWN, either by dedication on the plat or by easement deed, in either case in a form acceptable to the TOWN, permanent easements of such widths as required by the TOWN and noted on the Plans. The DEVELOPER or the Owner further agrees that he will grant the necessary easement and rights-of-way across his properties without expense to the TOWN and waive any claim for damages.

**XIII. AS-BUILT DRAWINGS AND POST-COMPLETION ITEMS**

The DEVELOPER agrees to furnish to the TOWN as-built plans, on a reproducible, stable media, of the sanitary sewer, storm water management, water mains and service system and streets within the subdivision before the TOWN shall accept the subdivision.

**XIV. FEES**

Review fees established by the TOWN shall be paid prior to any review of the Plans. No construction or grading of any sort shall be begun prior to approval of such plans.

**XV. INDEMNITY**

The DEVELOPER shall indemnify and hold the TOWN harmless from all loss, costs, expenses, liability, money damages, penalties or claims arising out of any work covered by this agreement, including any attorney fees incurred by the TOWN in connection therewith. Inspection of the Improvements by an authorized representative of the TOWN shall not constitute a waiver by the TOWN of any defect or of any of the DEVELOPER's obligations hereunder.

**XVI. REMEDIES**

In the event of a default in the performance by either party of its obligation hereunder, the other party, in addition to any and all remedies set forth herein, shall be entitled to all remedies provided by law or in equity, including the remedy of specific performance or injunction.

**XVII. BINDING EFFECT**

The covenants and agreements herein contained shall bind and endure to the benefit of the parties hereto, their respective heirs, personal representatives, successors and assigns, as appropriate.

**XVIII. ATTORNEY'S FEES AND OTHER COSTS**

The DEVELOPER shall pay all costs and expenses, including the TOWN'S attorneys' fees, of any legal proceedings brought by the TOWN against the DEVELOPER seeking remedies for the DEVELOPER's failure to perform any of its obligations hereunder, whether or not any proceedings are prosecuted to judgment.

**XIX. ENTIRE AGREEMENT**

This document contains the entire agreement between the parties, and there are no collateral understandings or agreements between them, and no variations or alterations of the terms of this agreement shall be binding upon either of the parties, unless the same be reduced to writing and made an amendment to this agreement.

**XX. HEADINGS**

Paragraph titles and headings contained herein are inserted for convenience only and shall no be deemed a part of the Agreement and in no way shall define, limit, extend or describe the scope or intent of any provision, hereof.

**XXI. NOTICES**

Any notice or other communication required to be given hereunder shall be in writing and delivered personally or sent by United States Certified Mail, return receipt requested, or sent by Federal Express Delivery Service, addressed to the TOWN at Town Hall and addressed to the DEVELOPER at the address set forth on the Addendum, or such other address as either party may hereafter give the other.

**XXII. TRAFFIC CONTROL**

The DEVELOPER, hereby, agrees to prepare a traffic control/detour plan where required and shall submit said plan to the TOWN for review and approval. All traffic control and safety devices, including signs, lane markings, and barriers necessitated by construction activity undertaken pursuant to this agreement shall be installed and maintained by the DEVELOPER. All traffic control devices shall meet the standards and be installed in accordance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, published by the United States Department of Transportation.

**XXIII. TEMPORARY FACILITIES**

The DEVELOPER shall provide all temporary facilities, including but not limited to utilities and roadways, that are determined by the TOWN to be required in connection with and/or as a result of interruption of service or access that occurs as a consequence of construction activity associated with the work covered by this agreement. Such temporary services shall in all regards and at all points in time be adequate to assure emergency access and adequate fire flows.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in multiple originals by persons properly authorized so to do on or as of the day and year first given.

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
DEVELOPER

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
TITLE

ATTEST:  
  
\_\_\_\_\_

ATTEST:  
  
\_\_\_\_\_

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
TITLE

TOWN OF WHITE BLUFF  
(COUNTY OF DICKSON), TENNESSEE

BY: \_\_\_\_\_  
MAYOR (OR DESIGNEE)

\_\_\_\_\_  
DATE

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
TOWN ATTORNEY

\_\_\_\_\_  
DATE