

WHEREAS, Developer plans to develop a residential subdivision on the Property consisting of approximately 290 residential or equivalent residential units, as shown on the attached drawings entitled “Webb Tract Subdivision”, prepared by Coleman Company, LLC and dated November 11, 2020¹; and

WHEREAS, the Developer desires that the City serve the Property with potable water and sanitary sewer services; and

WHEREAS, in order to serve the Property with potable water and sanitary sewer services, the City’s existing water and sanitary sewer systems will require certain additions, extensions, improvements, and/or modifications by the Developer (all additions, extensions, improvements, modifications and all related infrastructure and equipment contemplated herein are collectively referred to as the “Systems”, and all work related to the design, installation and construction of the Systems is collectively referred to as the “Project”); and

WHEREAS, Developer desires certain commitments from the City in regard to the Systems; and

WHEREAS, the City finds that the provision of potable water and sanitary sewer services to the Property is consistent with and in furtherance of the goals and purposes of the City, and is in the public interest; and

¹ The Webb Tract Subdivision drawings attached hereto are initial drawings and are subject to change upon the City’s review. Final approved drawings shall be required before construction commences.

WHEREAS, the Developer, shall be prohibited from connecting more than 40 residential units to the City water and sewer systems per 12 month period unless otherwise agreed upon by the City and the Developer;

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein made, the receipt and sufficiency of which is hereby acknowledged, the City and Developer hereby agree as follows:

SECTION 1. Obligations and additional recitals of the Parties.

The recitals listed above are essential terms to this Agreement and are hereby incorporated by reference.

1.1 General

Developer shall ensure the Project and Systems conform to City standards, specifications, and regulations.

1.2 Project Engineer

Developer shall retain a competent professional engineer registered in the State of Georgia (“the Project Engineer”) to prepare the engineering design for the Systems.

1.3 City’s Engineer

The City shall retain a competent professional engineer registered in the State of Georgia (“the City’s Engineer”) to perform the reviews and inspections described in this Agreement. The City’s Engineer shall not be an employee, partner or co-worker of the Project Engineer, nor shall he or she hold a financial interest in the firm at which the Project Engineer is employed.

1.4 Costs

All design, construction, engineering, inspection, and testing costs, and all other costs of any kind incurred in connection with the design and construction of the Systems, and all costs incurred in complying with the provisions of this Agreement shall be borne by the Developer, including the cost of the work to be performed by the City's Engineer, provided however, that the Developer reserves the right to object to charges or rates for work performed by the City's Engineer that are not commensurate with the industry standard in the Effingham and Bulloch County region.

1.5 Pre-construction Phase

Prior to commencement of construction of the Systems:

The City's Engineer shall review the plat(s), plans, and any other documents reasonably deemed necessary by the City's Engineer to confirm that the Systems as designed will meet the City's specifications, regulations, and standards. The Project Engineer shall cooperate with the City's Engineer to include providing all documents reasonably requested by the City's Engineer. Developer shall reimburse the City for the cost of the City's Engineer's review of the plat(s), plans and other documents in the amount specified in the City's Fee Schedule. If construction of the Systems commences before the City's Engineer has issued written confirmation that the Systems as designed will meet the City's specifications, regulations, and standards, the City's obligations under this Agreement shall terminate and Developer's rights under this Agreement shall be forfeited.

1.6 Construction Phase

Developer shall be responsible to provide resident inspection by the Project Engineer during construction of the Systems.

If the location, design or installation of the Systems materially deviates from the items noted on the recordable plat(s) the Developer provided to the City prior to commencement of construction, the Developer shall immediately notify the City's Engineer of the material deviation and shall submit a revised plat(s) to the City's Engineer which reflects the material deviation. Construction of any material deviation shall not proceed until the City's Engineer has issued written confirmation that design of the Systems as modified will meet the City's specifications, regulations, and standards. Developer shall reimburse the City for the cost of the City's Engineer's review of the revised plat(s) described in this paragraph in the amount specified in the City's Fee Schedule.

1.7 Upon completion of construction

After construction of the Systems is complete, Developer shall provide to the City a statement from the Project Engineer certifying that the materials and workmanship of the Systems constructed, including without limitation pipes, bedding, thrust blocks, valves, fire hydrants, manholes, lift station equipment and other related materials and work has been constructed in accordance with the plans that were approved by the City's Engineer during the Pre-Construction Phase (or, if applicable, approved by the City's Engineer during the Construction Phase). Upon request of the City or City's Engineer, Final Project Approval shall be contingent

upon the Project Engineer's substantiation by material affidavits from suppliers and by applicable test results for inflow/infiltration, exfiltration, deflection, pressure, leaks, bacteria, compaction and any other tests reasonably required by the City or City's Engineer if and when these are requested.

Further, after construction of the Systems is complete, Developer shall provide to the City recordable plat(s) in recordable form in a format agreeable to the City showing the location of all Systems within the public easements and/or rights-of-way owned or to be owned by the City. Developer shall provide separate recordable plats for each Phase. Should the Developer fail to provide the plat(s), the City shall not authorize a building permit or water meter to any property to be served by the Systems, nor will the City accept dedication of the Systems.

1.8 Dedication for acceptance by the City.

Upon:

(a) Developer's completion of construction of the Systems and all related facilities;

(b) Developer's payment of all fees related to the City's Engineer's review and inspections, as well as all other applicable fees;

(c) Developer's provision of the bond/security referenced in Sec. 2 of this Agreement;

(d) Developer's provision of "asbuilt" drawings per City specifications.

(e) if any portion of the Systems to be dedicated to the City are located in property or rights-of-way not owned by the City, Developer's provision to the

City of easements adequate to enable the City to operate and maintain the Systems in perpetuity;

(f) if any portion of the Systems are located in property or rights of way owned by a government entity other than the City, Developer's provision to the City of written confirmation approved and executed by the governing body of that government entity that the City shall be the owner of the Systems if the City accepts dedication thereof;

(g) Developer's submission to the City of a written request that it accept dedication of the Systems; and

(h) the Projects Engineer's certification:

- i). that the Systems have been constructed in accordance with the plans(s) that were approved by the City's Engineer during the Pre-Construction Phase (or, if applicable, during the Construction Phase);
- ii). that the Systems are adequately designed, and conform to the City's standards, specifications, and regulations;
- iii). that all documents Developer or the Project Engineer were required to submit under this Agreement have been submitted; and
- iv.) that the easements are adequate to enable the City to operate and maintain all portions of the Systems to be dedicated to the City,

the Mayor and Council shall, subject to approval of the City Staff and City's Engineer, vote to enter into a Utility Systems Dedication Agreement with the Developer to accept title to, and assume responsibility for maintenance and operation of, those portions of the Systems that are located within public easements and rights-of-way. The City will only accept dedication of those portions of the Systems that are located within public easements and rights-of way for which the City has an express, recorded right of access and maintenance, which acceptance shall include all rights, title and interest that the Developer has in the Systems serving the Property and also all easements and/or rights-of-way required for the purpose of operation and maintenance thereof. Nothing in this Agreement shall prohibit the City from accepting dedication of the Systems in phases.

SECTION 2. Bond/Security.

For all of the Systems that Developer seeks to dedicate to the City, it shall provide a bond. The bond shall be available for a one year period from the date on which the City Council votes to accept title to the Systems. In the event any portion(s) of the Systems accepted by the City fail or malfunction in any way within one year of the City's acceptance of dedication of the same, the City shall have the right to reimbursement of all costs to repair the same through the bond if the failure or malfunction is attributable to the action(s) or inaction(s) of the Developer or its agents, employees, contractors, or subcontractors.

SECTION 3. Term.

The City shall have no further obligations under this Agreement, and Developer shall forfeit all of its rights under this Agreement if:

(a) construction of the Systems has not begun within one year of execution of this Agreement;

(b) there is a one (1) year period in which no construction of the Systems occurs;

or

(c) Developer defaults on its obligations under this Agreement and fails to cure the same within thirty calendar days after written notice thereof.

SECTION 4. Fees.

As development proceeds under the terms of this Agreement, and at the time of issuance of each meter, and as a condition precedent to issuance of the same, Developer shall be charged and shall pay:

(a) a sanitary sewer capital cost recovery fee for each residential or equivalent residential unit (\$5,500.00);

(b) a water capital cost recovery fee for each residential or equivalent residential unit (\$2,500.00); and

(c) a water meter installation fee paid for each residential or equivalent residential unit based on those fees in effect at the time of the water and/or sewer connection.

A monthly water and sewer user fee will then apply according to usage and current rates. No water meter will be issued or installed until all applicable fees are paid.

After five years from the date of this Agreement, the City of Springfield shall have the right to adjust all fees related to water and sewer services, provided however that the capital cost recovery fees shall not increase to an amount that exceeds the amount charged to properties located within the corporate boundaries of the City of Springfield.

SECTION 6. No right to reimbursement.

Developer acknowledges and agrees that to the extent any of the Systems constitute extensions of City water or sewer infrastructure, such extensions will only serve the Property. Therefore, Developer acknowledges and agrees that it shall have no right to reimbursement of its expenditures from the City or from any funds or accounts owned or maintained by the City.

SECTION 7. Compliance with Laws.

Developer shall comply with all existing and future City requirements relating to the connection to and use of the City's water and sewer systems. Subject to the provisions of Section 4 of this Agreement, all provisions of law now or hereafter in effect relating to water and sewer service by the City of Springfield shall be applicable to this Agreement.

SECTION 8. Governing Law; Forum Selection.

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Georgia. Any action arising from this Agreement shall be filed in the Superior Court of Effingham County.

SECTION 9. Entire Agreement.

Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not embodied in this Agreement, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding.

SECTION 10. Modification of Agreement.

Any modification or amendment to this Agreement shall be binding only if reduced to writing and approved and executed by the Parties to this Agreement.

SECTION 11. No Waiver.

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

SECTION 12. Effect of Partial Invalidity.

If any one or more of the provisions contained herein is held by any court of competent jurisdiction to be invalid, illegal or unenforceable in any respect for any reason, such invalidity, illegality, or unenforceability will not affect any other provision hereof, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein unless the intent of this Agreement cannot be carried out in the absence of such provision. In this regard, the

provisions of Section 6, titled “No right to reimbursement” is a material provision for which the intent of this Agreement cannot be carried out in its absence.

SECTION 13. Paragraph Headings.

The headings and subheadings within this Agreement are solely for the convenience of the parties and shall not be construed to modify, explain, or aid in the interpretation of this Agreement.

SECTION 14. Notices.

Any notice provided for or concerning this Agreement shall be in writing and shall be deemed sufficiently given upon receipt by certified or registered mail or hand delivery as follows:

If to the CITY:	City of Springfield c/o City Manager Matt Morris 130 S. Laurel Street Springfield, Georgia 31329
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If to DEVELOPER:	MUNGO HOMES OF GEORGIA c/o RYAN STRICKLAND 138 CANAL STREET, SUITE 203 POOLER GEORGIA 31322
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SECTION 15. Indemnity

Developer acknowledges and agrees that the work it performs under this Agreement is performed by it and those it retains for its sole benefit. Developer therefore covenants not to sue and agrees to hold the City harmless for any claims and damages allegedly incurred as a result of the work contemplated hereunder, including without limitation work associated with the tie-in to existing City water systems and sanitary sewer systems. Developer further covenants and agrees that

the City shall not be liable to Developer for any damages, whether general, special, or consequential, and whether for economic losses, diminution in value, or in any other form.

SECTION 15. Assignment.

This Agreement may not be assigned or transferred in whole or in part by the Developer without the prior written approval of the City, which approval shall not be unreasonably withheld, conditioned, or delayed. Failure to obtain the City's approval of any assignment of this Agreement shall terminate the City's obligations and shall forfeit the Developer's rights hereunder. This Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns.

SECTION 16. Construction of Agreement.

The Parties acknowledge that each party has participated in the negotiation and preparation of this Agreement. This Agreement therefore shall be construed without regard to any presumption or other statute or rule of law requiring construction against the party causing the Agreement to be drafted.

IN WITNESS WHEREOF the Developer has executed these presents under seal, and the City has caused these presents to be executed by its proper officer under seal, affixed, this 13 day of April, 2021.



THE CITY OF SPRINGFIELD

BY:

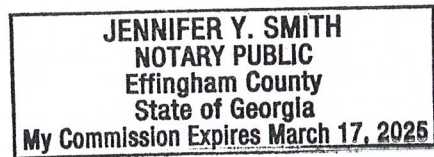
Barton D. Alderman

Barton Alderman

Mayor, City of Springfield

Sworn to and subscribed before me this

13 day of April, 2021.



Jennifer Y. Smith
NOTARY PUBLIC

ATTEST: Jennifer Y. Smith

Jennifer Y. Smith, Clerk of Council, City of Springfield



DEVELOPER: MUNGO HOMES OF
GEORGIA

BY: _____

Ryan Strickland, PE
Its: Land Development Manager

Sworn to and subscribed before me this

23rd day of April, 2021.

