

## RESOLUTION 20-200

### A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT WITH BH103 LLC FOR BARTON HILLS FOR ADVANCED PAYMENT OF WATER SYSTEM DEVELOPMENT CHARGES

**WHEREAS**, BH103 LLC (“Developer”) desires to undertake the development of certain real property located on the west side of Cleburne Road in the City of Spring Hill, Maury County, Tennessee, known as Barton Hills (“Development”); and

**WHEREAS**, the Developer intends to attain certain development entitlements from the City to develop Cleburne Farms as a single-family residential development on a 103-acre site comprising 256 dwelling units along with associated amenities; and

**WHEREAS**, the Developer is required as a part of the entitlement and building permit application and approval process to pay certain fees and taxes to the City of Spring Hill including, but not limited to, a Water System Development Charge for each single-family residential lot located within Development that is based upon the size of the water tap requested to serve the single-family residence to be constructed upon the lot; and

**WHEREAS**, the City of Spring Hill is undertaking the design and construction of a water booster pump and meter station project with an estimated cost of \$2.1M that is anticipated to be completed in 2021 and will serve to improve water flow and pressure to the City including Development; and

**WHEREAS**, the Developer of Development has offered in support of the construction of the water booster pump to pay in advance required Water System Development Charges for each of the 256 single-family residential lots within Development; and

**WHEREAS**, the Water System Development Charge for the proposed Development containing 256 single-family residential lots utilizing a 5/8-inch water tap for each residential lot with a corresponding charge of \$1,243 per single-family residential lot will result in a total charge of \$318,208; and

**WHEREAS**, with the advance payment of Water System Development Charges by the Developer for Development the revenues received from the advance payment may be utilized for water system infrastructure improvement projects including, but not limited to, the future water distribution system booster pump and meter station project that will enhance water volume and flow and pressure to the City’s water system; and

**WHEREAS**, a Development Agreement has been prepared for consideration by the Board of Mayor and Alderman that sets forth the terms and conditions under which the Developer of Development will pay in advance all required Water System Development Charges for all 256 single-family residential lots and that the City will utilize the advance payment for water system

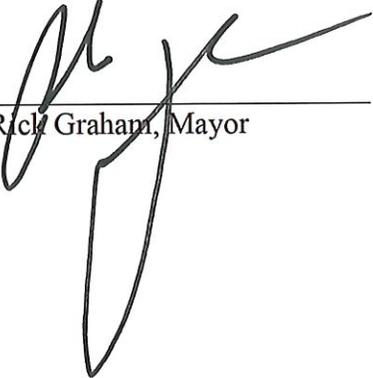
infrastructure improvement projects including, but not limited to, the future water distribution system booster pump and meter station project that will enhance water supply and flows and pressure to the City of Spring Hill.

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Spring Hill Board of Mayor and Aldermen:

1. Approve the Development Agreement and exhibits contained therein as attached hereto to this Resolution.

2. Authorize the Mayor to sign said Development Agreement with the Developer of Barton Hills for the advance payment of Water System Development Charges for each single-family residential lot contained in Barton Hills the fees received from which shall be utilized by the City of Spring Hill for the design and construction of water system capital improvement projects including, but not limited to, the water booster pump and meter station project that will improve water volumes and flow and pressure for the City of Spring Hill's water system.

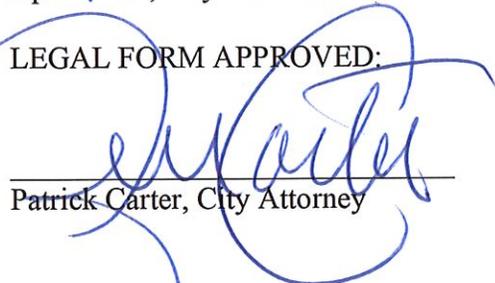
**Passed and adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on this 19th day of January, 2021.**

  
\_\_\_\_\_  
Rick Graham, Mayor

ATTEST:

  
\_\_\_\_\_  
April Goad, City Recorder

LEGAL FORM APPROVED:

  
\_\_\_\_\_  
Patrick Carter, City Attorney

## **BARTON HILLS DEVELOPMENT AGREEMENT**

THIS AGREEMENT, entered into this the 19<sup>th</sup> day of January, 2021, by and between BH103, LLC, a Tennessee limited liability company, (“Developer”), and the CITY OF SPRING HILL, TENNESSEE, a municipal corporation organized and existing under the laws of the State of Tennessee, hereinafter referred to as “City”.

### **WITNESSETH:**

**WHEREAS**, the Developer desires to undertake the development of certain real property located on Cleburne Road in the City of Spring Hill, Maury County, Tennessee, known as Barton Hills (“Development”); and

**WHEREAS**, the Developer will attain certain development entitlements from the City to develop Development located on 103 acres located on Cleburne Road and containing two hundred fifty-six (256) single family residential lots as illustrated and described in Exhibit A attached hereto; and

**WHEREAS**, the Developer desires to pay in advance the required Water System Development Charges more specifically described in Exhibit B attached hereto for the entire 256 residential lots located with the Development in consideration of the City utilizing said fees toward the construction of infrastructure improvements that include, but are not limited to, the construction of a water booster and meter station project to improve water flow and volumes between the City and Columbia Power and Water System (CPWS); and

**WHEREAS**, for the purpose of calculating the Water System Development Charge it is assumed that a 5/8-inch M25 water tap will be provided to each residential lot that has a corresponding fee of \$1,243.00 per single-family residential lot.

**NOW, THEREFORE**, in consideration of the mutual covenants and assurances set forth herein, the Developer and City do hereby agree as follows:

**1. Recitals**

The foregoing Recitals are incorporated into this Agreement and are made a part hereof.

**2. Developer Responsibility - Water System Development Charge**

The Developer shall pay or cause to be paid in advance the lump sum amount of Three hundred eighteen thousand two hundred eight dollars (\$318,208) calculated as the Water System Development Charge for the anticipated two hundred fifty-six (256) single-family residential lots (or the total amount due based upon the total number of single-family residential lots as approved on the Preliminary Plat and Construction Plans by the Spring Hill Planning Commission) approved within said Development as calculated in Exhibit A attached hereto. The Developer agrees to pay within forty-five (45) days the required Water System Development Charge in advance for the anticipated two hundred fifty-six (256) single-family residential lots as one lump sum payment

payable to the City. The advanced payment of the Water System Development Charge shall be received by the City following approval by the Spring Hill Planning Commission of the first or initial Preliminary Plat and Construction Plans for said Development.

In the event the total number of entitled residential lots permitted in the Development is less than the anticipated two hundred fifty-six (256) single family lots to which the advance payment of Water System Development Charge is based upon and payment in the amount of \$318,208 has been received by the City, the Developer shall be provided a refund by the City in an amount equivalent to \$1,243 per single-family residential lot. In the event the total number of entitled residential lots permitted in the Development is more than the anticipated two hundred fifty-six (256) single family lots to which advance payment of Water System Development Charge is based upon and payment in the amount of \$318,208 has been received by the City, the Developer shall pay or cause to be paid the additional amount owed for each residential lot in the amount of \$1,243 per single-family residential lot the payment of which shall be remitted to the City within forty-five (45) days of entitlements for the additional lots having been granted by the City.

In the event a larger water tap is utilized by a homebuilder upon a single-family residential lot located with the Development, the homebuilder will be responsible for paying the difference between the 5/8-inch tap and the corresponding Water System Development Charge for actual tap size selected. Should a homebuilder or owner of the residential lot desire to install a separate irrigation system utilizing a separate connection to the City water distribution system, the homebuilder or owner of the residential lot shall be responsible for paying a separate Water System Development Charge and all other required fees and charges as required by the City.

### **3. City Responsibilities**

The City shall deposit said advance payment of the Water System Development Charge into the appropriate capital account managed by the City for the purpose of utilizing the fees received toward the design, construction, and other associated costs of public infrastructure improvement projects for the City's water system, including but not limited to, the water booster and meter station project between the City and CPWS that will improve water flow and volumes to the City including the Development.

### **4. Agents for City and Developer**

The agent of the City for the purposes of this Agreement is the City Administrator of Spring Hill, Tennessee, or his/her designee. The agent for the Developer is Joel A. Smith.

### **5. Further Assurances**

The Parties each hereby agree to execute and deliver all of the agreements and documents required to be executed and delivered by them in this Agreement and the instruments attached hereto, and to execute and deliver such additional instruments and documents and to take such additional actions as may be reasonably required from time to time in order to effectuate the transactions contemplated by this Agreement and the instruments attached hereto.

**6. Notices and Communication**

All notices or other communications hereunder shall be deemed sufficiently given and shall be deemed given when delivered by hand delivery or mailed by first class, postage prepaid, registered or certified mail or overnight couriers service such as Federal Express or UPS and addressed as follows:

Office of City Administrator  
ATTN: Victor Lay  
199 Town Center Parkway  
Spring Hill, TN 37174

The mailing address of the Developer for the purposes of notification requirements of this Agreement shall be:

BH103, LLC c/o Joel A. Smith  
1804 Williamson Ct  
Suite 101  
Brentwood, TN 37027

Either party may change it address for notification by delivering notice thereof in accordance with this Paragraph 6.

**7. Non-Waiver**

None of the terms, covenants or conditions of this Agreement shall be deemed waived by any act of either Party unless same is specified in writing executed by all Parties hereto.

**8. Liability**

The City shall have no liability except as specifically provided in this Agreement.

**9. Governing Law**

This Agreement shall be construed under and enforced pursuant to the laws of the State of Tennessee.

**10. Venue and Jurisdiction**

Exclusive venue and jurisdiction for any litigation brought pursuant to or with regard to this Agreement shall be in the Circuit Court for Maury County, Tennessee.

**11. Severance**

Should any provision of this Agreement be declared invalid, illegal or unenforceable by a court of competent jurisdiction, the invalidity, illegality or unenforceability shall not affect other provisions of this Agreement, which shall remain in full force and effect.

**12. Captions**

Captions of the sections of this Agreement are for convenience and reference only and shall in no way be held to explain, modify, amplify or aid in the interpretations, construction, or meaning of the provisions of this Agreement

**13. Amendment**

This Agreement shall be amended only in writing executed by all Parties hereto.

**14. Assignment**

This Agreement shall not be assigned by the Developer to a third party without prior written consent of the City, which shall not be unreasonably withheld.

**15. Time is of the Essence**

All Parties hereto acknowledge that time is of the essence, and each will commit to the completion of the project herein on an expedited basis.

**16. Binding Effect**

This Agreement shall be binding upon each of the parties hereto, their successors, heirs and assigns and that there are no understandings or agreements between them except as contained in this Agreement.

**17. Entire Agreement**

This writing constitutes the entire agreement between the Parties and supersedes all previous agreements, if any. No Party to this Agreement makes any representation to the other Party, except as expressly set forth in this Agreement.

**18. Execution**

This Agreement may be executed in one or more identical counterparts, each of which shall be deemed to be an original for all purposes, and all of which taken together shall constitute a single instrument.

Approved by the City of Spring Hill Board of Mayor and Alderman on January 19, 2021.

SO AGREED by the undersigned Parties as of the date first given.

**BH103, LLC**

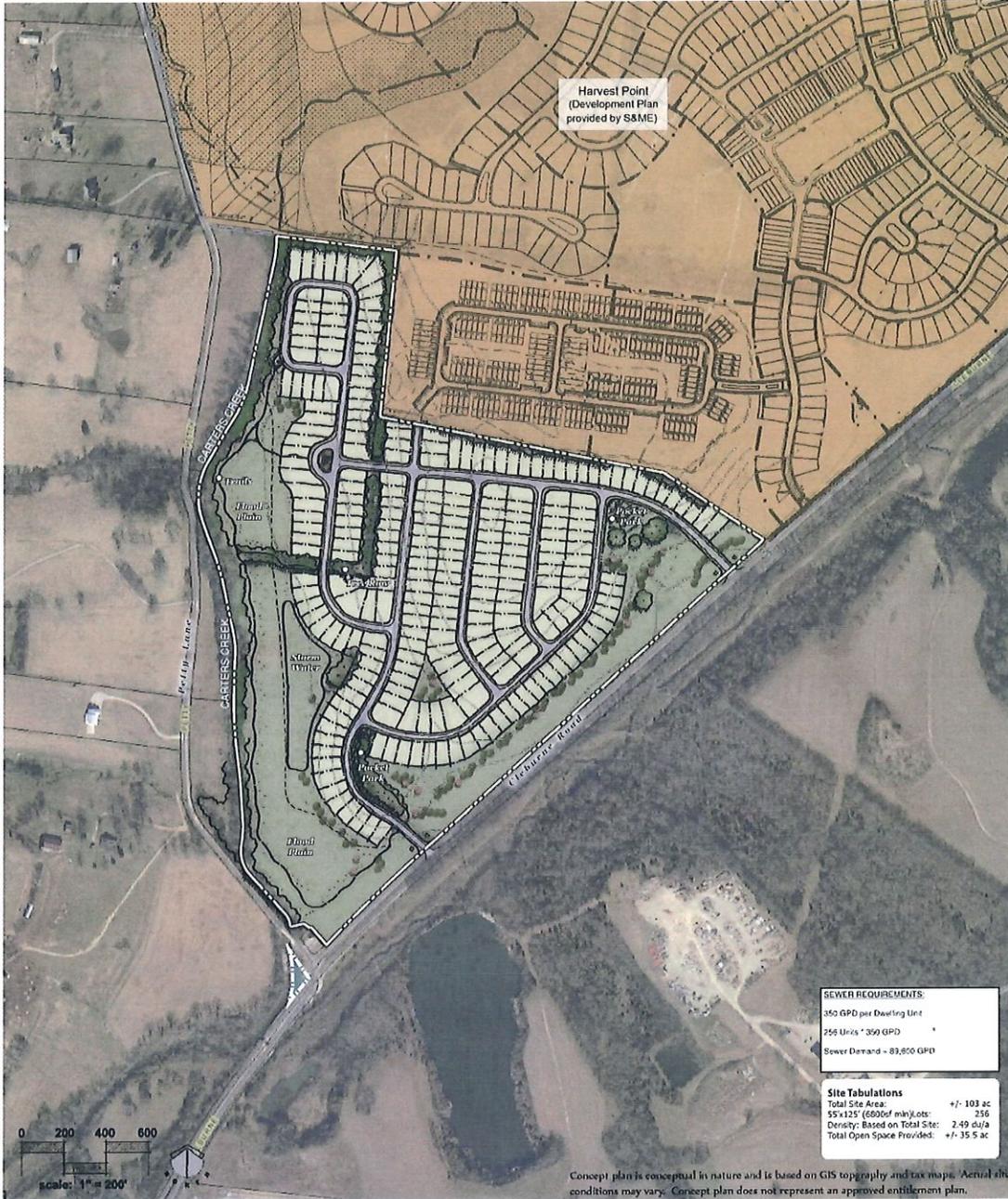
By: Joel A. Smith  
Joel A. Smith

**CITY OF SPRING HILL, TENNESSEE**

By: Rick Graham  
RICK GRAHAM, Mayor

# EXHIBIT A

## Development Plan for Barton Hills



DesignStudio #18025  
04.10.19  
1"=200'

## Cleburne Road Tract REZONING EXHIBIT

**EXHIBIT B**

**CALCULATION OF WATER SYSTEM DEVELOPMENT CHARGE FOR  
BARTON HILLS**

<b>Barton Hills Residential Development - Water System Development Charge</b>			
<b># Dwelling Units</b>	<b>Size of Water Tap</b>	<b>Water System Development Charge (Based on size of Tap) [1]</b>	<b>Total System Development Charge</b>
256	5/8" M25	\$1,243.00	<b>\$318,208.00</b>

[1] Water System Development Charge - Effective Date 1-1-2021 per City Code