

RESOLUTION 22-192

**A RESOLUTION TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SPRING HILL AND JOHN MAHER BUILDERS, INC. FOR PRE-PAYMENT OF IMPACT FEES FOR THE CONSTRUCTION OF THE COUNTESS ROUNDABOUT**

**WHEREAS**, the City of Spring Hill Board of Mayor and Aldermen committed to the installation of a roundabout at the intersection of Port Royal Road, Commonwealth Drive and Countess Lane ("Project") in Resolution 18-75, Adopting the City of Spring Hill Capital Improvement Plan, to improve increased traffic flow and approved budgeted funds for construction in the FY 22-23 budget; and

**WHEREAS**, the City and John Maher Builders, Inc., the Developer of Southaven II located to the northwest side of the Project, propose to enter into a Joint Development Agreement in which the Developer will pre-pay the Impact Fees associated with Southaven II in advance to be used towards the construction costs of the roundabout; and

**WHEREAS**, the Developer's Impact Fees are for 108 residential units at a fee of \$2,606/unit for a total prepayment of \$281,448; and

**WHEREAS**, the Developer will receive a credit on building permits associated with Southaven II for the prepayment of the Impact Fees at the time building permits are applied for.

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

1. Approve the Joint Development Agreement between the City of Spring Hill and Barlow Builders for pre-payment of the Impact Fees associated with Southaven II in the amount of \$281,448 to be used towards the construction costs of the installation of a roundabout at the intersection of Port Royal Road, Commonwealth Drive and Countess Lane, attached herein.
2. Authorize the Mayor to sign the Joint Development Agreement.

Passed and Adopted by the Board of Mayor and Aldermen of the City of Spring Hill, Tennessee on the 6th day of September, 2022.

  
\_\_\_\_\_  
Jim Hagaman, Mayor

ATTEST:

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

LEGAL FORM APPROVED:

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



**REQUEST:** *Approval of Resolution 22-192*  
**SUBMITTED BY:** Missy Stahl, CIP Manager  
**DATE:** September 6, 2022  
**RE:** To approve a joint development agreement between the City and John Mayer Builders for Countess Roundabout construction  
**ATTACHMENTS:** Joint development agreement

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**PURPOSE:**

To approve a joint development agreement between the City and John Maher Builders for pre-payment of impact fees for the construction of Countess Roundabout.

**BACKGROUND:**

The City of Spring Hill committed to road improvements at the intersection of Port Royal Road, Commonwealth Drive and Countess Lane in Resolution 18-75, Adopting the City of Spring Hill Capital Improvement Plan. The City has contracted with The Corradino Group for design plans and the surrounding developers at this intersection have verbally committed to pre-payment of impact fees to be applied towards the construction of a roundabout. The fees paid would be:

John Maher Builders – Southaven I - \$661,956 (already paid)

John Maher Builders – Southaven II - \$281,448

Barlow Builders – Alaina Park - \$575,926

Legacy Hills, LLC - South Pointe Square - \$864,384

**FINANCIAL IMPACT:**

The estimated cost of full construction is \$4,300,000. With the developer's impact fees applied to the cost, the City cost would be \$2,000,000.

**STAFF RECOMMENDATION:**

Staff recommends approval of Resolution 22-192 to approve a joint development agreement between the City and Legacy Hills, LLC for Countess Roundabout construction.

**COUNTESS ROUNDABOUT JOINT DEVELOPMENT AND REIMBURSEMENT  
AGREEMENT BETWEEN THE CITY OF SPRING HILL, TN AND JOHN MAHER  
BUILDERS, INC.**

THIS AGREEMENT, entered into this the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between JOHN MAHER BUILDERS, INC., the Developer of Southaven II, hereinafter referred to as the “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 City of Spring Hill is committed to installing a roundabout at the intersection of Port Royal Road, Commonwealth Drive and Countess Lane (“Project”), as included in Resolution 18-75, to improve increased traffic flow resulting from development in this area; and

**WHEREAS**, the Developer has attained certain development entitlements from the City to develop a new subdivision named “Southaven II” which is located to the northwest side of the Project; and

**WHEREAS**, the Developer has agreed to pay Impact Fees in advance prior to development to be applied to construction of the Project and in return would receive credit per developable lot when the Developer, and/or Developer’s successors and assigns, applies for and is granted building permits relative to said lots.

**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. Scope of Work/Cost Estimate**

The City shall cause the construction and installation of the Countess Roundabout improvements. All improvements shall meet City road standards.

**3. Developer Contribution**

Within thirty (30) days upon full execution of this Agreement, the Developer shall deposit with the City \$281,448 (the “Developer Facility Fee Amount”) to be used by the City to make road improvements by installing a roundabout at the Project location. In the alternative, the Developer may deliver to the City an irrevocable letter of credit in the amount of the Developer Facility Fee Amount, issued by a bank or institution acceptable to the City (the “LOC”) within thirty (30) days of notice from the City of Project commencement. The financial institution must be chartered by the State of Tennessee with an office or branch authorized to accept a demand or “call” on the securing document within fifty (5) miles of Spring Hill, TN.

The amount of the Developer’s contribution is based on the number of units x the Impact Fee amount per unit. The fee for Southaven II is calculated as follows:

108 units x \$2,606/unit = \$281,448

**4. Reimbursement Due to the Developer**

In consideration of the Developer's up-front deposit of Impact Fees for 108 units to be developed in Southaven II, the Developer shall be due and receive a credit of \$2,606 upon application for each unit (12 unit building = \$31,272 and 24 unit building = \$62,544) relative to said development. The credit due to the Developer upon building permit application is transferable by the Developer and shall benefit any subsequent owner of a building who makes the initial application for a building permit.

**5. 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 her designee. The agent for the Developer is John Maher, or his designee.

**6. Overages of Impact Fees**

The City agrees and acknowledges that the Developer Facility Fee amount paid by the Developer is to cover all expected Impact Fees for their development and Developer shall not be responsible for any Impact Fees which exceed the Developer Facility Fee Amount caused by change of the cost of materials, delay in the City completing all road infrastructure work, or any other reason. Furthermore, the City will not seek reimbursement of Impact Fees from owners of property adjacent to or near the Project in the event that Impact Fees exceed the Developer Facility Fee amount for any reason.

**7. 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.

**8. 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 and addressed as follows:

Office of City Administrator of Spring Hill, Tn.  
ATTN: Pamela S. Caskie  
199 Town Center Parkway  
Spring Hill, TN 37174

With a copy to:

Patrick Carter, City Attorney  
809 South Main Street  
Columbia, TN 38401

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

John Maher Builders, Inc.  
ATTN: John Maher  
P.O. Box 681727  
Franklin, TN 37068-1727

**9. 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.

**10. Liability**

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

**11. Governing Law**

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

**12. 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.

**13. 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.

**14. 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

**15. Amendment**

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

**16. 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, except that the Developer may assign this Agreement without the consent of the City to any person or entity that is controlled by or under common control with the Developer or to a third party which purchases the entire development.

**17. 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.

**18. 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.

**19. Execution**

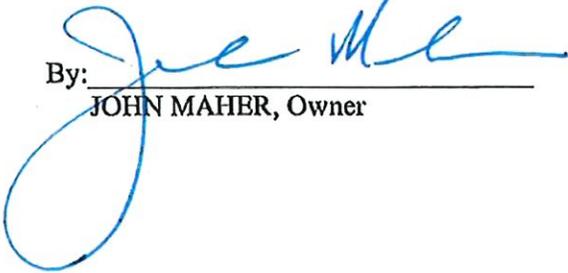
This Agreement may be executed in one or more identical counterparts, each of which shall be deemed to be an original for all purposes, and all of which taken together shall constitute a single instrument.

Approved by the City of Spring Hill Board of Mayor and Alderman on Sept 6, 2022.

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

DEVELOPER

JOHN MAHER BUILDERS, INC.

By: 

JOHN MAHER, Owner

CITY OF SPRING HILL, TENNESSEE

By: 

JIM HAGAMAN, Mayor