

**OFFSITE WATER QUALITY DETENTION AGREEMENT BETWEEN  
THE CITY OF FRANKLIN AND HARPETH ASSOCIATES LLC  
COF CONTRACT NO 2014-0298**

This agreement ("Agreement") is entered into by and among the **City of Franklin, Tennessee** ("City") and **Harpeth Associates LLC**, a Tennessee limited liability company ("Developer") on this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**WHEREAS**, on September 12, 2014 the Developer submitted the Harpeth Square PUD Subdivision Development Plan to the City of Franklin for approval; and

**WHEREAS**, City of Franklin Municipal Code, Title 23 requires new development and redevelopment to control post development storm water peak runoff volume to ensure water quantity does not exceed pre-development conditions; and

**WHEREAS**, City of Franklin Municipal Code, Title 23 requires new development and redevelopment to comply with Green Infrastructure – Runoff Reduction Requirements as outlined in section Sec. 23-106; and

**WHEREAS**, the Developer and the City have agreed to partner together in the construction of an offsite water quantity and quality facility to satisfy City and State requirements; and

**WHEREAS**, the City owns property located at 214 South Margin Street; and

**WHEREAS**, the City has developed a Master Plan for Bicentennial Park that includes a stormwater feature to be constructed to provide water quality and quantity relief for the Harpeth River.

**NOW THEREFORE**, the City and Developer and their successors and assigns, do hereby agree as follows:

1. The foregoing recitals are incorporated into this Agreement and made a part thereof.
2. The Developer shall design the stormwater quantity requirements for Harpeth Square according to Title 23 of the City of Franklin Municipal Code and incorporate the required volume in the offsite water quantity and quality feature.
3. The Developer agrees to construct the water quantity and quality features as preliminarily shown in Exhibit A as part of Bicentennial Park.
4. The City agrees to give the Developer full access to the property located at 214 South Margin Street to construct the water quantity and quality features.
5. By constructing the water quantity and quality feature in Bicentennial Park, the Developer shall have fulfilled his requirements for water quantity and quality for the Harpeth Square Project.

6. The Developer will be responsible for obtaining and complying with all Federal, State and Local Permits associated with the construction of the water quantity and quality features as preliminarily shown in Exhibit A.
7. The Developer shall be responsible for coordinating design and construction with the 3<sup>rd</sup> Ave North Greenway Project and the approved Bicentennial Park Plans. The Developer shall try to match the approved grading and landscape plans to the maximum extent possible.
8. The City shall provide the developer with all reports, plans, survey and design data from the 3<sup>rd</sup> Avenue North Greenway and Bicentennial Park Projects.
9. At the completion of construction and release of all performance and maintenance sureties the City shall have full long term maintenance responsibility of the facility as preliminary shown in Exhibit A.
10. The Developer shall be required to post a surety for stormwater improvements prior to the approval of the final plat associated with the Harpeth Square PUD Subdivision.
11. The Developer shall be required to have the water quality and quality features, as preliminary shown in Exhibit A, one hundred percent (100%) complete prior to receiving a certificate of occupancy on the first building constructed as part of the Harpeth Square PUD Subdivision.
12. The Developer agrees to indemnify and hold harmless the City as well as its officials, employees, officers and agents from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Developer, their respective employees, contractors, or any person acting for or on its or their behalf in the performance of the work relating to this Agreement. The Developer further agree that they shall be liable for the reasonable cost of attorneys for the City in the event such services are necessitated to enforce the terms of this Agreement.
13. Time of the Essence. The parties agree that **TIME IS OF THE ESSENCE** with respect to the parties' performance of all provisions of the Agreement.
14. Notices. Any notice provided pursuant to the Agreement, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth in the Agreement or such other address as either party may in the future specify in writing to the other.
15. Severability. If any term or provision of the Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Agreement will not be affected.
16. Precedence. In the event of conflict between this Agreement or any other contract, agreement or other document to which the Agreement may accompany, the provisions of this

Agreement will to the extent of such conflict take precedence unless such document expressly states that it is amending this Agreement.

17. Applicable Law; Choice of Forum/Venue. The Agreement constitutes the entire agreement and is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The Choice of forum and venue shall be exclusively in the Courts of Williamson County, TN.

**Approved by the Franklin Board of Mayor and Aldermen on \_\_\_\_\_, 2014.**

**WITNESS** our hands on the dates as indicated.

**[SIGNATURE PAGES FOLLOW]**

DRAFT

**The Developer:**

Harpeth Associates LLC, a Tennessee limited liability company

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Notice Address:

XXXXXXXXXX

XXXXXXXXXX

Attention: Mr. \_\_\_\_\_

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

STATE OF TENNESSEE

COUNTY OF WILLIAMSON

Personally appeared before me, the undersigned, a Notary Public of said County and State, \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself/herself to be the \_\_\_\_\_ of Harpeth Associates LLC, the within named bargainor, a limited liability company, and that as such \_\_\_\_\_ he/she executed the within instrument on behalf of the limited liability company for the purposes therein contained.

Witness my hand, at Office, this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

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

**CITY**

CITY OF FRANKLIN, TENNESSEE, a  
municipality

By: \_\_\_\_\_  
DR. KEN MOORE  
Mayor

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

By: \_\_\_\_\_  
ERIC S. STUCKEY  
City Administrator

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

STATE OF TENNESSEE )  
 )  
COUNTY OF WILLIAMSON )

Before me, the undersigned Notary Public of said County and State, personally appeared DR. KEN MOORE and ERIC S. STUCKEY, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged themselves to be the Mayor and City Administrator, respectively, of the City of Franklin, Tennessee, the within named bargainor, a municipality, and that as such Mayor and City Administrator executed the foregoing instrument for the purposes therein contained, by signing the name of the municipality by themselves as Mayor and City Administrator.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Approved as to form by:

\_\_\_\_\_  
Shauna R. Billingsley, City Attorney