

**PARKLAND IMPACT FEE (PAYMENT OF FEE ONLY)  
AGREEMENT FOR CAROTHERS GLEN PUD BETWEEN THE CITY  
OF FRANKLIN AND SUNNYBROOK INVESTMENT CO., LLC**

**CONTRACT NO. 2019-0285**

**PARKLAND IMPACT FEE** (this “Agreement”), made and entered into this \_\_\_ day of \_\_\_\_\_ 2019 by and between THE CITY OF FRANKLIN, TENNESSEE (hereinafter “City”) and Sunnybrook Investment Co. LLC (hereinafter “Sunnybrook”) pursuant to Title 25, Chapter 4 of the City of Franklin Municipal Code, and Sunnybrook as owner of that certain land known as Carothers Glen PUD in Williamson County, Tennessee. The parties join herein for the sole purpose of consenting to and approving this Agreement, and hereby consent to and approve this Agreement.

**WITNESSETH:**

**WHEREAS**, Sunnybrook is in the process of developing the property located at 4338 and 4340 South Carothers Drive, Franklin, Tennessee 37064 (the “Development Project”), located in Parkland Quadrant Two (2) of the City, consisting of Forty-Five (45) dwelling units; and

**WHEREAS**, Parkland Impact Fees are based on the mathematical formulas and allocations set forth in the City's Parkland Dedication Ordinance (Ordinance 2016-25, Franklin Municipal Code §25-405, and hereinafter, "Ordinance"); and

**WHEREAS**, the Parkland Impact Fee as set forth in the Ordinance is Four Thousand Three Hundred Four and 00/100 Dollars (\$4,304.00) per dwelling unit; and

**WHEREAS**, the total Parkland Impact Fee obligation for this project is One Hundred Ninety-Three Thousand Six Hundred Eighty Dollars (\$193,680.00) and shall be paid at the final plat or at the issuance of the first building permit, whichever comes first.

**NOW, THEREFORE**, in consideration of the terms, conditions and mutual agreements by and between the parties as hereinafter set forth in detail, the parties do hereby mutually agree as follows:

I. **AGREEMENT FOR PAYMENT OF PARKLAND IMPACT FEES**

1. The foregoing recitals are incorporated into this Agreement and made a part thereof.
2. This Agreement is non-transferable to the successors or assigns of Sunnybrook unless the successor assumes the same obligations of Sunnybrook in writing. Such assignment shall be provided to the City within fifteen (15) days of its occurrence. Upon assignment, Sunnybrook shall be relieved from further liability under this Agreement.
3. The City and Sunnybrook agree that the terms and conditions contained herein shall be binding on and shall insure to their heirs, representatives, successors, and assigns.
4. Applicable Law/Choice of Forum and Venue. This Agreement 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 parties’ choice for forum and venue shall be

exclusively in the courts of Williamson County, Tennessee.

5. All notices required to be given by any party shall be in writing, addressed to all other parties, and delivered by certified mail or in person to:

In the case of the City:

City of Franklin  
Attn: Vernon J. Gerth, ACA  
109 Third Ave. South  
P.O. Box 305  
Franklin, TN 37065-0305

In the case of Sunnybrook:

Sunnybrook Investment Co. LLC  
Attn: Jeremy Boczulak  
1724 Boxwood Drive  
Nashville, TN 37211

6. This Agreement constitutes the entire agreement between the parties. There are no further or other agreements or understandings, written or oral, in effect between the parties, relating to the subject matter hereof. This Agreement may be amended or modified only be an instrument of equal formality signed by the respective parties.

## II. General Terms and Conditions

1. **Personal Liability.**  
No member, Mayor, Alderman, official, or employee of the City shall be personally liable to Sunnybrook or any successor in interest, in the event of any default or breach by the City, or for any amount which may become due to Sunnybrook or successor or on any obligations hereunder.
2. **Warranties /Limitation of Liability/Waiver.**  
The City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Sunnybrook to limit its liability shall be void and unenforceable. The City, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 et. seq. for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the Contractor beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.
3. **Severability.**  
If any term or provision of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement will not be affected.

**IN WITNESS WHEREOF** the said parties have hereunto set their signatures, on this day and date first above written.

**CITY OF FRANKLIN, TENNESSEE**

**Attest:**

By: \_\_\_\_\_  
Dr. Ken Moore, Mayor

By: \_\_\_\_\_  
Eric S. Stuckey, City Administrator

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

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

**STATE OF TENNESSEE** )  
)  
**COUNTY OF WILLIAMSON** )

Before me, \_\_\_\_\_, a Notary Public of said State and County, 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 where, upon oath, Dr. Ken Moore acknowledged himself to be Mayor and Eric S. Stuckey acknowledged himself to be City Administrator of the City of Franklin, Tennessee, and that as such, being authorized to do so, have executed the foregoing instrument for the purposes therein contained.

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

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**Approved as to form:**

By: \_\_\_\_\_  
Maricruz R. Fincher, Staff Attorney

**Sunnybrook  
Investments Co. LLC**

By:

Name:

Title:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_ (seal)

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_