

**AMENDMENT 1 TO AGREEMENT BETWEEN
THE CITY OF FRANKLIN, TENNESSEE
AND
STREAM VALLEY FRANKLIN, LLC
RELATIVE TO PHASING OF THE STREAM VALLEY DEVELOPMENT
COF Contract No. 2012-0143**

THIS AMENDMENT is made and entered into on this, the ___ day of _____, 2013, by and between the City of Franklin, Tennessee ("City") and Stream Valley, LLC, a Tennessee limited liability company ("Stream Valley") who mutually agree as follows:

WITNESSETH:

WHEREAS, the City and the Stream Valley entered into an agreement relative to phasing of the Stream Valley development, dated October 23, 2012 ("Agreement"); and

WHEREAS, the City and Stream Valley desire to modify the Agreement to include these additional terms.

NOW THEREFORE, in consideration of these premises and the mutual promises contained herein, it is agreed by and between the parties as follows:

SECTION I.

The Agreement is hereby amended to delete the following text noted with a strikethrough; to add the following text noted in **bold**; and is approved to read as follows:

9. The Developer must provide certification of TDOT approval of a curb cut for the Second Connection prior to approval of ~~site plans~~ **final plats** or **residential** building permits ~~for Phases D and E~~ **in excess of 388 homes.**

10. The Second Connection or alternative connection must be completed prior to approval of ~~site plans~~ **final plats** or **residential** building permits **in excess of 388** ~~for Phases D and E.~~

~~10-11.~~ **No commercial building permits shall be approved prior to completion of the second connection or alternative connection.**

~~11-12.~~ Any terms or conditions which were approved by Ordinance 2004-108 and are not subject to this agreement remain in full force and effect.

SECTION II.

1. The foregoing recitals are incorporated by reference as if fully stated herein.
2. ENTIRE AGREEMENT. This Amendment and the Agreement constitutes the entire agreement between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of this Amendment. The terms and conditions may

not be changed except by an Amendment expressly referencing this amendment by section number and signed by an authorized representative of each party.

- 3. SURVIVAL. This Amendment shall survive the completion of or any termination of the original contract, revised contract, or agreement or other document to which it may accompany or incorporate by reference.

Approved by the Franklin Board of Mayor and Alderman on _____.

WITNESS our hands on the dates as indicated.

DEVELOPER

STREAM VALLEY FRANKLIN, LLC,
a Tennessee limited liability company

By:

Print
Name:

Title:

STATE OF TENNESSEE)
COUNTY OF _____)

Before me, _____, a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged ___self to be _____ (or other officer authorized to execute the instrument) of STREAM VALLEY FRANKLIN, LLC, the within named bargainor, a limited liability company, and that _____ as such _____ executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company by _____self as _____.

Witness my hand and seal, at Office in _____, Tennessee, this _____ day of _____, 20_____.

Notary Public
My Commission
Expires: _____

CITY

CITY OF FRANKLIN, TENNESSEE, a municipality

By: _____
DR. KEN MOORE
Mayor

Date: _____

Attest

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 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

**AGREEMENT BETWEEN THE CITY OF FRANKLIN, TENNESSEE
AND
STREAM VALLEY FRANKLIN, LLC RELATIVE TO PHASING OF THE STREAM VALLEY
DEVELOPMENT
COF Contract No. 2012-0143**

This contract between THE CITY OF FRANKLIN, TENNESSEE ("City") and STREAM VALLEY FRANKLIN, LLC, a Tennessee limited liability company, ("Developer") entered into on this the 30th day of October, 2012.

WHEREAS, on June 14, 2005, the Board of Mayor and Aldermen ("BOMA") approved Ordinance 2004-108, entitled "An Ordinance to Zone 288.70 Acres Planned Residential (PR 1.67), and 74.65 Acres Planned Commercial (PC 4.61), and Approve the Concept Plan of Stream Valley, Located on the West Side of Interstate 65 and East of Lewisburg Pike Approximately 3,700 Feet South of Goose Creek Bypass" ("Ordinance"); and

WHEREAS, condition 9 of the Ordinance stated "[d]evelopment shall be limited to no more than 200 dwelling units west of Five Mile Creek until a second access is provided through development of adjacent property."; and

WHEREAS, during the first reading before the BOMA on April 12, 2005, the BOMA amended the Ordinance to attach a phasing exhibit provided by the then developer; and

WHEREAS, the City has been unable to locate the phasing exhibit in its files; and

WHEREAS, the Developer has provided the City with a phasing exhibit it purports to be the phasing exhibit provided and attached to the Ordinance on April 12, 2005; and

WHEREAS, the phasing exhibit provided by the Developer provides that Phase A shall consist of 161 single-family lots and 33 townhomes, Phase B shall consist of 214 single-family lots and shall not start construction until required improvements on Lewisburg Pike are complete and a traffic light is built upon TDOT approval, Phase C shall consist of 32 single-family lots, 144 townhomes and 240 condominiums and shall not start construction until 2nd connection is complete, and Phase D shall consist of 10,000 square feet of retail, 290,000 square feet of office space, and 15,000 square feet of civic use and shall not start construction until Goose Creek By-Pass is improved and the interchange construction has begun; and

WHEREAS, the City and Developer disagree as to whether the second connection must be complete prior to the development of Phase B but both agree that a second connection is required prior to construction commencing for Phase C; and

WHEREAS, the parties agree that in an effort to forgo potential legal action, a negotiated agreement is in the best interest of the parties.

NOW THEREFORE, the City and the Developer, 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 revised phasing exhibit is attached to this Agreement as Exhibit A and incorporated into this Agreement and made a part thereof.
3. The Developer shall provide a second connection from the development to either Lewisburg Pike or Goose Creek Bypass/Peytonsville Road (Highway 248) (the "Second Connection"). The Second Connection may utilize the existing fee-owned connecting property to Goose Creek Bypass/Peytonsville Road (Highway 248), or may provide access through one or more adjacent properties.
4. The Developer shall install an improved water supply line that supplies adequate fire flow according to the City of Franklin specifications (the "Water Line").
5. The Developer may build up to 280 homes and certificates of occupancy shall be issued therefore prior to a performance surety being posted for the Second Connection in the amount of \$1,200,000.00. This fee is based on current surety rates established by the City, and in the event the rates are changed, the performance surety amount shall be adjusted to the surety rates in effect at the time the 280 home limit is reached.
6. All homes within the development shall have residential fire sprinkler systems installed until such time as the Second Connection has been built and accepted by the City, and the Water Line has been installed by the Developer, tested and approved/accepted by HB&TS and the City has received a certification of acceptance by HB&TS provided by the Developer.
7. Any plat for lots in excess of 280 lots shall provide that the performance surety for the Second Connection be posted with recording of such plat, and shall further provide that the Developer shall not be permitted building permits beyond 280 units until the Water Line has been installed, tested and accepted by HB&TS and the City has receipt of HB&TSs certification of acceptance and the performance surety has been provided for the Second Connection or the Second Connection has been built and accepted by the City.
8. The Developer shall design, procure, and install a traffic signal per City standards at the Stream Valley main entrance located on Lewisburg Pike. The timing of improvements for the signal shall be based on current City standards as set forth in Section 9.2.1 of the City of Franklin, TN, Transportation & Street Technical Standards, 2011 Edition, for warranting a traffic signal. The developer agrees to provide an updated traffic study conducted by a traffic engineer approved by the City upon submittal of a plat in excess of 280 units in the development. From that point forward, the Developer shall provide updated warrant analysis at the aforementioned intersection at the 50%, 75%, and 100% build-out of the development. The Developer shall post a surety in the amount of \$30,000 at the 280 unit cap to cover

design fees for the traffic signal, and if no traffic signal is warranted with the development, this surety shall be released as a result of the 100% build-out analysis. If the updated warrant analysis studies require installation of a traffic signal, the Developer shall be required to post a surety with the plat per standard City procedures for an amount that shall be set at the time the traffic signal is warranted. The traffic signal shall be designed, installed, and accepted by the City within one (1) year of the filing of said plat.


9. The Developer must provide certification of TDOT approval of a curb cut for the Second Connection prior to approval of site plans or building permits for Phases D and E.
10. The Second Connection or alternative connection must be completed prior to approval of site plans or building permits for Phases D and E.
11. Any terms or conditions which were approved by Ordinance 2004-108 and are not subject to this agreement remain in full force and effect.

Approved by the Franklin Board of Mayor and Alderman on October 23, 2012.

WITNESS our hands on the dates as indicated.

DEVELOPER

STREAM VALLEY FRANKLIN, LLC,
a Tennessee limited liability company

By: 
Print Name: ALEX MARKS
Title: Co-Manager

STATE OF TENNESSEE)
COUNTY OF Williamson)

Before me, Kristen Leigh Corn, a Notary Public of said County and State, personally appeared Alex Marks, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged him self to be co-manager (or other officer authorized to execute the instrument) of STREAM VALLEY FRANKLIN, LLC, the within named bargainer, a limited liability company, and that he as such co-manager executed the foregoing instrument for the purposes therein contained, by personally signing the name of the limited liability company by him self as co-manager.

Witness my hand and seal, at Office in Williamson County, Franklin, Tennessee, this 30th day of October, 2012.



Kristen Leigh Corn
Notary Public
My Commission Expires: 10/24/2015

Approved as to form by:
Bryan Echols
Bryan Echols
Counsel for Developer

CITY

CITY OF FRANKLIN, TENNESSEE, a municipality

By: [Signature]
DR. KEN MOORE
Mayor

Date: 10-24-12

Attest

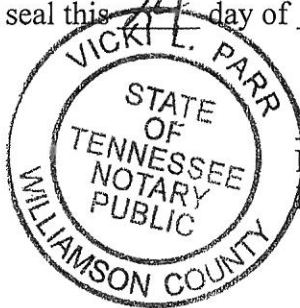
By: [Signature]
ERIC S. STUCKEY
City Administrator

Date: 10-24-12

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 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 24 day of October, 2012.

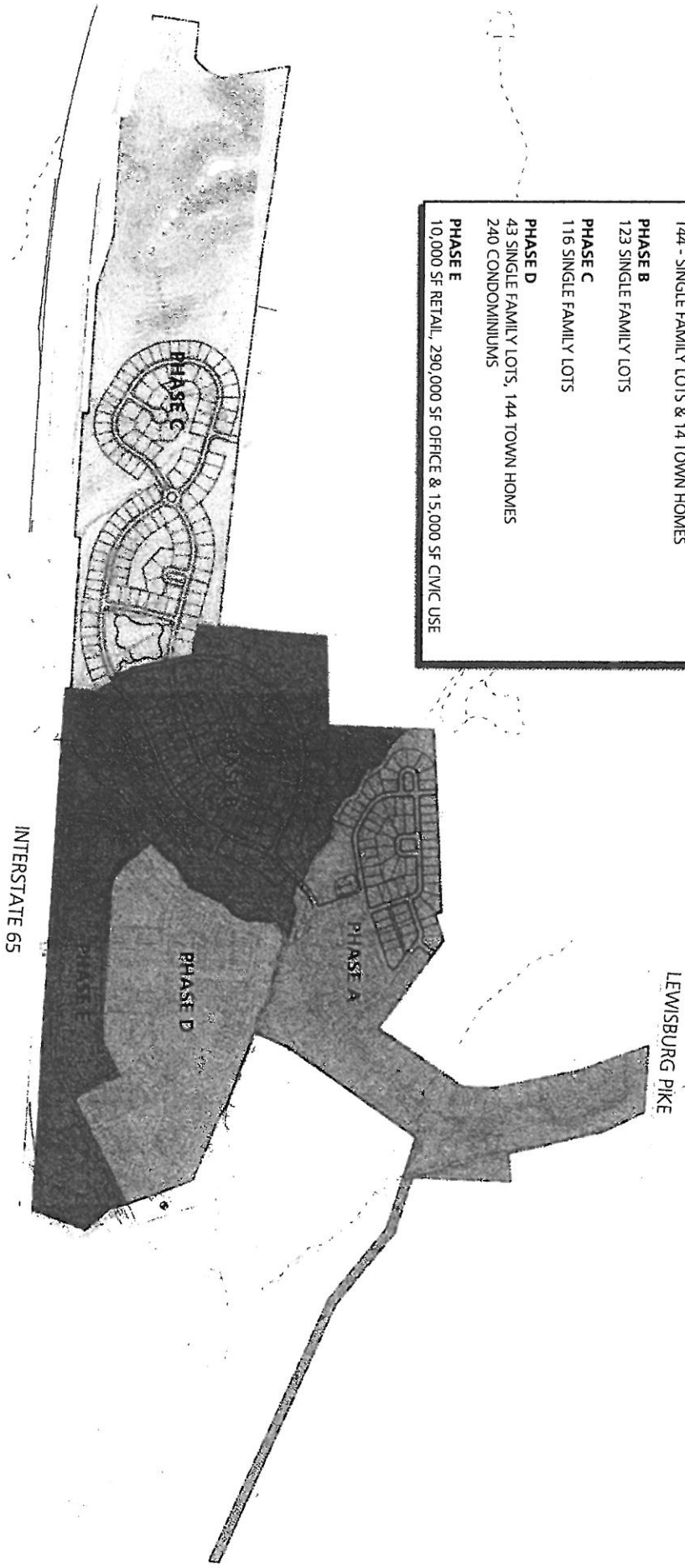


Vicki L. Parr
Notary Public
My Commission Expires: 3/21/16

Approved as to form by:

Shauna R. Billingsley
Shauna R. Billingsley
City Attorney

- PHASE A**
144 - SINGLE FAMILY LOTS & 14 TOWN HOMES
- PHASE B**
123 SINGLE FAMILY LOTS
- PHASE C**
116 SINGLE FAMILY LOTS
- PHASE D**
43 SINGLE FAMILY LOTS, 144 TOWN HOMES
240 CONDOMINIUMS
- PHASE E**
10,000 SF RETAIL, 290,000 SF OFFICE & 15,000 SF CIVIC USE





January 6, 2014

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Shauna Billingsley, City Attorney
Vernon Gerth, ACA, Community Development
Catherine Powers, Director, Planning and Sustainability

SUBJECT: Amendment I to the Agreement between the City of Franklin and Stream Valley Partners LLC

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information related to an Amendment with Stream Valley Partners LLC regarding the phasing of the Stream Valley Development, particularly the provision for the timing of a second access to the development.

Background

On June 14, 2005, the BOMA approved a rezoning and concept plan for the Stream Valley development, located on the west side of Interstate 65 and Lewisburg Pike. At the time of Planning Commission approval, condition (#9) limited the developer to 200 dwelling units west of Five Mile Creek before a second access would need to be established.

At the first BOMA meeting (April 12, 2005), the developer presented a phasing plan that allowed the construction of 408 units (Phases A and B) prior to the second access. This phasing exhibit was incorporated into the Board's action by motion. It was not clear from the minutes or video record of the meeting whether the Board's intent was to modify the condition requiring the second access to the neighborhood.

In an effort to resolve this inconsistency while still providing for adequate public safety access and the continuation of development, the attorneys for Stream Valley and the City of Franklin drafted an Agreement for the BOMA's review and approval. This Agreement would allow 280 dwelling units to be constructed prior to the posting of a surety for the construction of the second connection. In order to assure the safety of the residents of the development, those 280 units must have residential sprinklers installed (a practice currently being employed by the developer) unless an additional water line has been installed and approved by the City.

Additionally, a phasing plan, allowing for the construction of Phases A, B, and C, consisting of 397 units, (383 single family and 14 townhomes) was approved. The Agreement was approved by the BOMA on October 23, 2012.



HISTORIC
FRANKLIN
TENNESSEE

MEMORANDUM

Since that time, Stream Valley Partners, LLC, have been in discussion with TDOT related to the placement of the second access. The discussions are ongoing and may require cooperation of a third party to meet the City's requirement. Given the possible delay, Stream Valley, LLC Partners is requesting the Agreement be amended to require TDOT approval of the second connection and construction of that access prior to the approval of final plats or residential building permits in excess of 388 units. This is a change from site plan approval and removes phasing substituting an exact number.

The requirements for Sureties and residential sprinklers remain in place from the Original Agreement.

This amended Agreement represents a negotiation between the City and developer and will allow the developer to place the second connection in the most advantageous location to best serve the development.

Financial Impact

There is no financial cost to the City. The developer will post a surety in the amount of construction of the access.

Options

Not applicable to this item.

Recommendation

Approval of the Amendment I to the Agreement between the City of Franklin and Stream Valley Franklin Partners LLC is recommended.