



MEMORANDUM

July 16, 2011

TO: Board of Mayor and Aldermen

FROM: Eric Stuckey, City Administrator
Vernon Gerth, Assistant City Administrator
David Parker, P.E., CIP Executive
Micky Dobson, Project Engineer

SUBJECT: Consideration of the Berry Circle Utility Improvements Agreement (COF Contract No. 2011-0091)

Purpose

The purpose of this memorandum is to explain the purpose of the attached agreement between Berry Circle Partners LLC (“Developer”) and the City of Franklin (“City”) for the City making certain public sanitary sewer and water infrastructure upgrades (improvements) in the area of the Berry Circle cul-de-sac in return for a monetary contribution and dedication of a utility easement.

Background

Berry Circle Partners LLC has plans to develop four (4) existing platted single-family lots and two (2) newly platted single-family lots within the Berry Home Place Subdivision located on Berry Circle north of Lewisburg Avenue. As part of a proposed Agreement, the City will receive monetary contributions to upgrade existing sanitary sewer and water infrastructure within the Berry Circle public right-of-way. These improvements will benefit both the proposed single-family dwellings and immediate neighborhood. Besides a monetary contribution of \$19,776.84, the developer has agreed to dedicate a waterline easement that will allow the City to complete, at a future date, a water loop extending from Berry Circle to Fourth Avenue. This water loop will provide for enhanced water quality and redundancy presently not available via the existing dead-end system. In exchange for the Developer’s monetary and easement contributions, the City improvements will provide assurance that the City’s water system will provide sufficient pressure for both potable and fire service. Additionally, the Water Management Department has agreed to complete the improvements in-house, prior to the end of the year.

Financial Impact

Upgrades to aging infrastructure is on-going and in this instance the developer has agreed to contribute \$9,776.84 towards water system upgrades and an additional \$10,000 to allocate towards sanitary sewer system upgrades in addition to dedicating a utility easement allowing for future infrastructure improvements.

Recommendation

Staff recommends approval of the Berry Circle Utility Improvements Agreement.

BERRY CIRCLE UTILITY IMPROVEMENTS AGREEMENT
COF Contract No. 2011-0091

This following terms and conditions set forth in this "Agreement" dated this ___ day of July, 2011 is agreed to by and between the City of Franklin, Tennessee ("City") and Berry Circle Partners, LLC ("Developer") pertaining to the provisions of water service upgrade ("Water Service") by the City, and utility improvements ("Utility Improvements") by Developer for a portion of a single-family community development by Developer within the Berry Home Place Subdivision (the "Property") located on Berry Circle.

WHEREAS, the Property is located in the City and is within the area served by the City's Water Management Department.

WHEREAS, Developer proposes to develop and build six (6) single-family units on the Property that includes four (4) existing and two (2) proposed lots.

WHEREAS, Developer has requested that the City provide "Water Service" to the Property in the form of necessary upgrades to the existing water line located within the public right-of-way of Berry Circle. "Water Service" shall include the ability to supply sufficient domestic water service that includes water for fire suppression to the property, and the associated costs, excluding the agreed upon amount to be provided by Developer, further described below.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, the parties hereto, for themselves, their successors and assigns, agree as follows:

1. The above recitals are incorporated herein by reference.
2. Developer will contribute NINE THOUSAND SEVEN HUNDRED SEVENTY-SIX AND 84/100 DOLLARS (\$9,776.84) to the City towards the aforementioned "Water Service" for the water line upgrade for the Utility Improvements. In addition to the monetary contribution, Developer has granted a utility easement, as noted on Exhibit A, to the City for the future purpose of completing a water loop from Berry Circle to Fourth Avenue. Should the City require a temporary construction easement, the Developer agrees to supply the temporary construction easement to the City at no cost upon request.
3. Developer will, at its expense, meet all design criteria and costs involved with sanitary sewer installation necessary to service the two newly proposed lots of the Property including, but not limited to, total cost of grinder pump systems, fiberglass manhole upgrades, and gravity sewer line installation and upgrades. Developer also agrees to contribute TEN THOUSAND DOLLARS (\$10,000) to the City towards the future improvement of the Berry Circle sewer.
4. Payment to the City for the amounts specified in this Agreement shall be submitted no later than August 1, 2011.
5. In return for the payments being submitted on or before August 1, 2011, the City agrees to complete the Water Service Project by December 1, 2011. In the event the City shall be delayed in completing its scope of involvement past December 1, 2011, such delay shall not be a basis for

withholding any building permit, plan approval, or certificate of occupancy for the residences to be completed within the Property.

6. Should Developer decide to occupy the front four (4) existing lots on Berry Circle before December 1, 2011, arrangements may occur to permit residential occupancy prior to the date listed. Subject to all other ordinances, rules and regulations of the City with respect to such matters.

7. This Agreement is limited to matters involving the provisions of "Water Service" and "Utility Improvements" to the Property and Developer acknowledges that all development rights and other matters respecting the development of the Property are governed by the City's Municipal Code, Zoning Ordinance, and related regulations.

8. Developer's rights under this Agreement may be assigned to the entity formed by Developer for the ownership and development of the Property so long as Developer or its affiliates will have an ownership interest in said entity.

Approved by the Board of Mayor and Aldermen this the _____ day of July, 2011.

WITNESS our hands on the dates as entered.

City of Franklin

Berry Circle Partners, LLC

By: _____
Dr. Ken Moore
Mayor

By: _____
Its: _____

Date: _____

Date: _____

Approved as to Form:

By: _____
Shauna R. Billingsley, City Attorney