

RESOLUTION 22-191

A RESOLUTION TO APPROVE A JOINT DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SPRING HILL AND ALAINA PARK LIVING, LLC 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 Alaina Park Living, LLC, the Developer of Alaina Park located to the southeast side of the Project propose to enter into a Joint Development Agreement in which the Developer will pre-pay the Impact Fees associated with Alaina Park in advance to be used towards the construction costs of the roundabout; and

WHEREAS, the Developer's Impact Fees are for 218 residential units at a fee of \$2,606/unit for a total prepayment of \$568,108; and

WHEREAS, the Developer will receive a credit on building permits associated with Alaina Park 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:

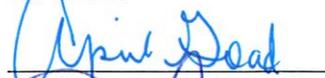
1. Approve the Joint Development Agreement between the City of Spring Hill and Alaina Park Living, LLC for pre-payment of the Impact Fees associated with Alaina Park in the amount of \$568,106 to be used towards the construction costs of the installation of a roundabout at the intersection of Port Royal 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 19th day of September, 2022.



Jim Hagaman, Mayor

ATTEST:



April Goad, City Recorder

LEGAL FORM APPROVED:



Patrick Carter, City Attorney



REQUEST: Approval of Resolution 22-191
SUBMITTED BY: Missy Stahl, CIP Manager
DATE: September 19, 2022
RE: To approve a joint development agreement between the City and Alaina Park Living, LLC for Countess Roundabout construction
ATTACHMENTS: Joint development agreement

PURPOSE:

To approve a joint development agreement between the City and Alaina Park Living, LLC 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

Alaina Park Living, LLC – Alaina Park - \$568,108

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 22-191 to approve a joint development agreement between the City and Alaina Park Living, LLC for Countess Roundabout construction.

**COUNTESS ROUNDABOUT JOINT DEVELOPMENT AND REIMBURSEMENT
AGREEMENT BETWEEN THE CITY OF SPRING HILL, TN AND ALAINA PARK
LIVING, LLC**

THIS AGREEMENT, entered into this the 9th day of Sept, 2022, by and between ALAINA PARK LIVING, LLC, the Developer of Alaina Park, 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 "Alaina Park" which is located on the southeast 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; and

WHEREAS, during construction of the Project, the Developer is to have a paved construction ingress/egress off of Port Royal Road for the ability to access the Alaina Park development site.

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 an amount equal to \$568,108 less the amount of impact fees paid by the Developer for lots within Alaina Park (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 Alaina Park is calculated as follows:

$$218 \text{ units} \times \$2,606/\text{unit} = \$568,108$$

4. Reimbursement Due to the Developer

In consideration of the Developer's up-front deposit of the Developer Facility Fee Amount, the Developer shall be due and receive a credit of \$2,606 upon application for each unit building permit 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 unit 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 Austin Pennington.

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. Access to the Alaina Park Development Site. The City agrees the Developer may construct a paved construction ingress/egress access drive off Port Royal Road to the Alaina Park development site, and agrees to grant Developer any temporary ingress and egress easement across City property if reasonably necessary for said drive. The City shall not obstruct access to said drive during construction of the Project. The Developer shall be responsible for the costs of said paved construction ingress/egress drive.

8. 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.

9. 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:

Alaina Park Living, LLC
ATTN: Jason Beavers
262 Robert Rose Road, Suite 300
Murfreesboro, TN 37129

10. 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.

11. Liability

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

12. Governing Law

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

13. 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.

14. 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.

15. 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

16. Amendment

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

17. 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.

18. 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.

19. 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.

20. 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.

(EXECUTION ON FOLLOWING PAGE)

Approved by the City of Spring Hill Board of Mayor and Alderman on Sept 9,
2022.

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

DEVELOPER

ALAINA PARK LIVING, LLC

CITY OF SPRING HILL, TENNESSEE

By: 
AUSTIN PENNINGTON, Owner

By: 
JIM HAGAMAN, Mayor