

LANDSCAPE MAINTENANCE AGREEMENT

THIS LANDSCAPE MAINTENANCE AGREEMENT (this "Agreement"), made this ___ day ___ of ___, 20___ by and between Bryan County, Georgia, a political subdivision of the State of Georgia (herein after referred to as "Bryan County " or "County") and _____, a _____(herein after referred to as "the "Developer").

WITNESSETH:

WHEREAS, Developer is the owner and/or developer of a parcel of land located in Bryan County, Georgia and more fully described as _____;

WHEREAS, the said parcel of land has been improved by Developer as designated on the Site Plan identified herein;

WHEREAS, the County, pursuant to Section 114-420 of the Unified Development Ordinance, requires the submission and approval of a landscape plan;

WHEREAS, Developer has submitted a landscape plan dated _____ ("Landscape Plan") that has been approved by the County Community Development Department, and the Developer has completely installed all improvements as indicated on the Landscape Plan; and

WHEREAS, pursuant to Section 114-633(d) of the Unified Development Ordinance, the developer is required to provide a landscape maintenance guarantee to ensure compliance with all relevant provisions of Section 114-633 and this surety shall further guarantee the workmanship, maintenance and materials for a period of two (2) years following the date of acceptance of said improvements by Bryan County.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, covenants, and agreements, Developer agrees as follows:

1. **Developer's Obligations.** Developer covenants (i) the improvements will be maintained and repaired if necessary in accordance with and at the same location as shown on the approved Landscape Plan; (ii) to comply with all relevant provisions of Section 114-633 of the County Unified Development Ordinance; and (iii) to secure and maintain a landscape maintenance guarantee subject to approval by the Community Development Director or their authorized designee as to amount and form and legal sufficiency, to cover all necessary costs and expenses that may be incurred or expended by the County to enforce this Agreement. Said guarantee having been provided, as identified below, hereinafter referred to as "Maintenance Guarantee".

- (a) **Irrevocable Letter of Credit** issued by _____ dated _____ in the amount of \$ _____;
- (b) **Cashier's Check**, Check No. _____, dated _____, in the amount of \$ _____;
- (c) **Surety Bond** from _____, dated _____, in the amount of \$ _____

(d) **Wire Transfer** from _____, completed on _____ in the amount of \$ _____.

2. **Reduction of Guarantee.** The Maintenance Guarantee shall be reduced by fifty (50) percent of the total cost of the original guarantee, after one year after release of the Landscape Planting Bond and upon approval of the Community Development Director. Developer will provide written notice to the Director of the completion of installation of the Landscape according to the Plan.

3. **Term.** Developer agrees to maintain all improvements as accepted by the County and shown on the Landscape Plan for a period of two (2) years following the date of the certificate of occupancy or release of the Landscaping Planting Bond. This Agreement becomes effective on the date noted above and shall remain in effect until the Maintenance Guarantee is specifically released, in writing, by the Community Development Director or their authorized designee (“Term”).

4. **Default.** Developer shall be in default for (i) failure to maintain the landscape improvements pursuant to the Landscape Plan and as herein agreed; (ii) failure to secure and maintain the Maintenance Guarantee for the Term of this Agreement; and/or (iii) violation of any term of this Agreement.

5. **Remedies.** In the event Developer is in default, the County shall provide Developer written notice of such default by registered or certified mail, return receipt requested, at the address set forth in Paragraph No. 6 herein. Developer shall have ten (10) days from the date such notice is deemed given in which to cure the default or present a reasonable timeframe to be approved by the Community Development Director or their authorized designee, in their sole discretion, of when the default will be cured. If Developer fails to do so, the County may draw upon the Maintenance Guarantee to the extent required for payment of any cost incurred by the County under this Agreement to replace landscaping (trees, shrubs, and plants). The County also shall have the right to seek any remedies available at law or in equity. The rights and remedies provided by this Agreement are cumulative and not exclusive of any other rights and remedies provided by law. Notwithstanding the foregoing, the County may install the improvements if it determines that conditions present a threat to public safety. The cost of such emergency installation shall be charged to Developer.

6. **Notices.** A notice, communication, or request under this Agreement by the County or Developer shall be sufficiently given or delivered if dispatched by either (i) registered or certified mail, return receipt requested, postage prepaid, (ii) nationally recognized overnight delivery service (next business day service), or (iii) hand delivery (if receipt is evidenced by a signature of the addressee or authorized agent), and addressed as follows:

If to Developer: Name:
 Address:

 Phone:
 Email:

If to the County: Attn: Audra Miller
 Bryan County Community Development
 Department
 66 Captain Matthew Freeman Dr,
 Suite 111
 Richmond Hill, GA 31324

Any notice, communication, or request so sent shall be deemed to have been “given” (i) as of the next business day after being sent if sent by a nationally recognized express mail service, (ii) as of the fifth (5th) business day

after being sent if sent by registered or certified mail or (iii) upon receipt if sent by hand delivery. Any party may change its address for notice purposes by giving written notice thereof to the other parties, except that such change of address notice shall not be deemed to have been given until actually received by the addressee thereof.

7. **Amendment.** This Agreement may not be amended or modified except by prior written agreement executed by authorized representatives of the Developer and the County.

8. **Non-Assignment.** Developer shall not assign the rights granted under this Agreement without the prior written consent of the County, except assignment of rights and assumption of liabilities hereunder may be made to purchasers in a sale or other transfer of all or any portion of the property or to a lender secured by a deed of trust encumbering the property without the consent of the County so long as the instrument evidencing such assignment of rights and assumption of liabilities is recorded in the Office of the Clerk of Court of Bryan County and a copy of the recorded instrument is provided to the Community Development Department.

9. **Waiver.** Waiver by the County or failure of the County to take action with respect to any breach of any term, covenant, or condition contained herein shall not be deemed a waiver of such term, covenant, or condition.

10. **Binding Effect.** The covenants and conditions contained herein, subject to the provisions as to assignment and transfer, shall apply to and bind the heirs, successors, executors, administrators, and assigns of Developer.

11. **Jurisdiction.** All provisions of law, now or hereafter in effect, in the State of Georgia shall govern this Agreement.

12. **Severability.** If for any reason any provision in this Agreement is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement. This Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been a part of the Agreement.

13. **Headings.** The headings contained herein are provided for convenience only and shall not be used in interpreting or construing this Agreement.

14. **Entire Agreement.** Except as otherwise provided herein, all existing agreements and contracts, both verbal and written, between the parties are superseded by this Agreement. This Agreement, including any addenda, attachments, and references, constitute the entire agreement between the parties.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement. The signatories covenant each has the authority to bind the parties hereto as evidenced by their affixed signatures on the dates indicated.

DEVELOPER (*attach additional signature pages if needed*):

Date: _____

By: _____

Name:

Title:

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COUNTY:
BRYAN COUNTY, GEORGIA

Date: _____

By: _____

Name:

Title: