



## **Developer Agreement**

THIS AGREEMENT made on the \_\_\_\_\_, by and between the \_\_\_\_\_, hereinafter referred to as "Utility," and \_\_\_\_\_, hereinafter referred to as "Developer."

WHEREAS the Utility owns and operates the water system that will service the \_\_\_\_\_ as described below; and WHEREAS, the Developer has made application for utility service.

1. NOW, THEREFORE, in consideration of the premises and the mutual promises of the parties herein contained, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, the parties hereto have entered into the following Agreement:
2. Upon completion by the Developer of all the Utility's requirements set forth herein, the Utility hereby agrees to and will permit the Developer to connect onto the Utility's lines and to install the lines and other facilities necessary for proper installation. The Developer is to install the facilities for the utility service strictly in accordance with the drawings, plans, and specifications as drawn or approved by the Utility. These drawings, plans, and specifications are attached to the Agreement and made a part hereof as though copied herein.
3. The Developer agrees to follow all health, safety, workers' compensation, and all other applicable federal, state, and local statutes or governmental agency regulations in performing its obligations under this Agreement.
4. The Developer will pay for all material and labor necessary to install and complete the facilities in accordance with all drawings, plans, and specifications and this Agreement.
5. At the time of execution of the Agreement, the Developer will pay to the Utility all fees and charges currently established by the Utility for:
  - engineering fees and legal fees and \$1,500.00 per lot capacity fee.

The Utility's total estimated cost for installation of utilities covered in this contract is \$\_\_\_\_\_.

6. The Utility shall have a continuous right to inspect the work on the facilities to assure the Utility that the same are being installed as approved. If work is found not to meet the Utility's standards, the Utility has the right to stop said work on all or any portion of the work until work is upgraded to the Utility's standards. Inspection fees will be billed based on an hourly rate, set by Friendsville Utility Board, and will be invoiced to the developer monthly. The Utility hourly rate shall be \$\_\_\_\_\_.
7. Upon project completion and upon the Utility giving written notice of acceptance, the Utility shall be and become the sole owner of the facilities free and clear of the claims of any person or entity without the necessity of any further writing, contract, or deed; however, the Utility may also require a deed of exchange thereof. The parties intend that this Agreement shall operate as a conveyance of the facilities when the same are installed and accepted.
8. The Developer agrees to produce and submit to the Utility as-built drawings for all the facilities it constructs.
9. The Developer hereby warrants all facilities installed pursuant to the provisions of this agreement against defects in workmanship and material for a period of one (1) year from the date of acceptance thereof in writing by the Utility. Further, the Developer shall immediately repair, at its own cost and expense, all breaks, leaks, or defects of any type whatsoever arising from any cause whatsoever occurring within one (1) year from the date the facilities are accepted in writing by the Utility. Upon the failure of the Developer after reasonable notice to take immediate steps to make such repairs, the Utility is hereby authorized by the Developer to make such repairs at the reasonable cost and expense of the Developer, or to have such repairs made by a third party at the reasonable cost and expense of the Developer hereunder. The Developer hereby warrants that the facilities shall be paid for in full and that no liens or encumbrances shall remain in regard to the facilities.
10. In the event the Developer fails to install the facilities in accordance with the terms of this Agreement, the Utility may, in its sole discretion, elect to accept all or a portion of the facilities installed. Should the Utility choose to accept all or a portion of these facilities, the Utility shall become the sole owner of the accepted facilities upon giving the Developer written notice of its acceptance without the necessity of any further writing, contract, or deed. The Utility's election to accept such facilities under this paragraph shall not be construed as an assumption of any obligation related to these facilities of the Developer or of any third party.
11. In the event the Developer fails to install the facilities in accordance with the terms of this Agreement, the amounts paid to the Utility under paragraph 4 are not refundable to the Developer.

12. The Developer shall require any contractor or contractors who perform work to install the facilities to furnish the Developer bonds covering faithful performance of work and the payment of obligations arising from work on the facilities.
13. The Developer shall provide a copy of this Agreement to any lender or contractor who performs work on the installation of these facilities before entering any contract with such lender or contractor.
14. The Developer covenants and agrees to hold the Utility harmless from the claim of any person, firm, corporation, or entity, to defend any action at law or equity brought, and to protect the Utility against any judgments rendered growing out of the installation herein provided for whether the same be on private or public property.
15. In the event the Developer breaches this Agreement, the Developer shall bear the cost of the Utility's reasonable expenses, including attorney's fees and other expenses incurred in any efforts to enforce this Agreement whether by negotiation, litigation, or otherwise.
16. The Developer understands and agrees that no third party shall obtain any benefits or rights under this Agreement with respect to water or sewer tapping privileges, and no connection shall be made to any residence or other customer site until all necessary arrangements have been made in accordance with the Utility's Rules and Regulations.
17. A copy of such Rules and Regulations is attached to this Agreement and made a part of this Agreement, and in the event of any discrepancies between the terms of this Agreement and the Rules and Regulations, the latter shall control.
18. The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of the remaining provisions.
19. This Agreement shall constitute the entire agreement of the parties. This Agreement may be modified or amended only by an instrument in writing executed by all parties hereto.
20. All notices permitted or required under this Agreement shall be deemed given if hand-delivered, or mailed by United States registered or certified mail, postage prepaid, return receipt requested, to the following address:

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21. The Developer agrees to pay to the Utility monthly a "Dry Tap Charge". This charge is a per lot fee that is calculated to cover the Utility's cost of depreciation of the utilities being installed under this contract. The fee shall be paid until the lot(s) have been sold and the new owner has had a tap installed on the lot. Failure to paid said fees shall relieve the Utility from any obligation to provide service to this development. This fee for this project is \$\_\_\_\_\_ per lot per month minimum.
22. The Developer shall issue a Bond or irrevocable Letter of Credit in an amount of money which the Utility, in its sole discretion, deems necessary to cover the "Dry Taps Charge". The Utility can reduce this Bond or Letter of Credit at its derision. In no way shall the Utility's right to future drafts on the Irrevocable Letter of Credit be impaired by the foregoing terms. Action by the Utility in calling on or drawing on the said Irrevocable Letter of Credit pursuant to the terms of the Bond shall not be deemed a release of the principal for any liability hereunder. The principal acknowledges that it is liable for all obligations under this Bond and under associated obligations under this Bond and under its Water Service Contract with the Utility.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day and date first above written.

\_\_\_\_\_  
Position Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Developer

\_\_\_\_\_  
Position Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Utility Representative

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Date