

## DEVELOPER'S AGREEMENT

THIS AGREEMENT entered into and made as of this 13<sup>th</sup> day of March, 2001, by and between the **CITY OF DELTONA, FLORIDA**, (hereinafter referred to as the "City"), and **Ms. Susan T. McCaskill and Ms. Shirley H. McCaskill Trustee** (hereinafter referred to as the "Owner/Developer").

### WITNESSETH

**WHEREAS**, the Owner/Developer warrants that it holds legal title to the property described in Paragraph 2 below and that the holders of any and all liens and encumbrances affecting such property will subordinate their interests to this Agreement; and

**WHEREAS**, the Owner/Developer desires to facilitate the orderly development of the subject property, in compliance with the laws and regulations of the City and of other governmental authorities, and the Owner/Developer desires to ensure that its development is compatible with other properties in the area and planned traffic patterns; and

**WHEREAS**, it is the purpose of this Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein; and

**WHEREAS**, the Owner/Developer has sought the City's approval for a subdivision exemption application (No. 98-SUBXM-004), and the City and the Owner/Developer mutually agree to enter into this Developer's Agreement to implement City Code requirements subject to the covenants, restrictions, and easements offered by the Owner/Developer and contained herein;

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Incorporation. The recitals herein contained are true and correct and are incorporated herein by reference.

2. Ownership. The Owner/Developer represents that it is the present owner of the following described property (hereinafter referred to as the "Subject Property"):

**Lots 0019 and 0014 combined, including road/utility easement:** The North 726.00 feet of West 900.00 feet of North 1452.00 feet of Northeast  $\frac{1}{4}$  of Section 1, Township 19 South, Range 31 East, Volusia County, Florida. Subject to and together with a 50 foot wide private easement for utilities and road. Centerline of said 50 foot easement described as follows: begin at the North  $\frac{1}{4}$  corner of Section 1, Township 19 South, Range 31 East, run N  $89^{\circ} 46' 26''$ E, 450.00 feet, thence run S  $00^{\circ} 24' 55''$ E, 25.00 feet to point of beginning of centerline of easement, thence run S  $89^{\circ} 46' 26''$ W, 425.00 feet; thence run S  $00^{\circ} 24' 55''$ E, 701.00 feet; thence run N  $89^{\circ} 46' 26''$ E, 525.00 feet, according to a boundary survey prepared by M. Edward Gordon on March 12, 1999.

3. Title Opinion/Certification. The Owner/Developer will provide to the City, in advance of the City's execution of this Agreement, a Title Opinion of an attorney licensed in Florida, or a certification by an abstractor or title company authorized to do business in Florida, showing marketable title to the Subject Property to be in the name of the Owner/Developer and showing all liens, mortgages, and other encumbrances not satisfied or released of record.

4. Property Owners Association. The Owner/Developer and its assigns and successors in interest and all lot owners and their assigns and successors in interest acknowledge and agree to form and join in a Property Owners Association (Association) for the purpose of constructing a paved or all-weather hard packed driving surface suitable for emergency vehicle

access and maintaining the required site access road, attached hereto as Exhibit "B" and incorporated specifically herein, in perpetuity. The construction and the Association's maintenance of the required site access road is subject to the City's approval of offsite stormwater impacts and compaction and material suitable for emergency vehicle access during inclement weather conditions.

5. Property Division Approval Requirements. The Owner/Developer has applied with the City for approval of subdivision exemption application, as permitted by City Ordinance 96-25. The City hereby approves the Owner/ Developer's subdivision exemption application subject to the following requirements:

- a. The Owner/Developer shall not cause, allow, undertake or complete division or subdivision of the Subject Property into more than six lots, tracts or parcels without first making application for and receiving subdivision plat approval from the City, in compliance with applicable State statutory and City Code requirements. The Owner/Developer agrees and acknowledges that any division, subdivision or resubdivision of the Subject Property or any portion thereof into more than six lots, tracts or parcels requires prior approval from the City of a subdivision plat. The division, subdivision or resubdivision of the Subject Property into more than six lots, tracts or parcels without first obtaining approval of a City subdivision plat application, as required by applicable State statutes and/or City Codes, is prohibited and is a violation of this Agreement and the City Code of Ordinances.
- b. The City's approval of the Owner/Developer's subdivision exemption application (No. 98-SUBXM-004) is based and conditioned upon the

proposed total creation of only six lots as shown on **Attachment A of this Agreement**. Attachment A of this Agreement is a sketch of the proposed lot configuration showing the proposed lot dimensions and access easements.

- c. The Owner/Developer shall undertake and complete, at their own expense, a property boundary survey by a Florida licensed and registered Land Surveyor of the Subject Property before the sale of the Subject Property or any portion thereof. Such survey shall be made available to each of the purchasers of the Subject Property or any portion thereof to assist the City, Owner/Developer, and property purchasers to comply with the terms of this Agreement and applicable City Code requirements. Portions of the Subject Property may be conveyed to purchasers using either a metes and bounds description or a survey.
- d. This Agreement and the City's approval of the Owner/Developer's subdivision exemption application shall not obligate the City or City Commission to accept or maintain any streets, including Wilburton Drive (south of Roland Drive) and Gator Lane, or access easements serving or providing access to the Subject Property or any portion thereof.
- e. The Owner/Developer shall not create any new streets or vehicle access easements across, on, or through a 100 year flood prone area which is or may be on the Subject property or portion thereof.
- f. The Owner/Developer shall include in every agreement for sale and conveyance document or instrument pertaining to the Subject Property or any portion thereof a copy of this Agreement and the following notice: **NO**



**GOVERNMENT AGENCY, INCLUDING THE CITY OF DELTONA,  
IS RESPONSIBLE FOR THE MAINTENANCE, UPKEEP, OR  
IMPROVEMENTS OF ANY PRIVATE DRIVES, ROADS, STREETS,  
EASEMENTS OR RIGHTS-OF-WAY PROVIDING INGRESS AND  
EGRESS TO THE PROPERTY HEREIN CONVEYED.** Such required  
notice shall be in **bold CAPITAL** letters.

6. Obligations. Should the Owner/Developer fail to undertake and complete its obligations as described in this Agreement to the City's specifications, then the City shall give the Owner/Developer thirty (30) days written notice to commence and ninety (90) days to complete said required obligation. If the Owner/Developer fails to complete the obligations within the ninety (90) day period then the City, without further notice to the Owner/Developer or its successors in interest, may, without prejudice to any other rights or remedies it may have, perform any and all of the obligations described in this Agreement. Further, the City is hereby authorized to assess the actual and verified cost of completing the obligations required under this Agreement against the Subject Property. The lien of such assessments shall be superior to all others, and all existing lienholders and mortgagees, by their execution of the subordination or Joinder documents, agree to subordinate their liens or mortgages to the City's said liens or assessments. Notice to the Owner/Developer and its successors in interest shall be deemed to have been given upon the mailing of notice to the address below.

7. Enforcement. In the event that enforcement of this Agreement by the City becomes necessary, and the City is successful in such enforcement, the Owner/Developer shall be responsible for all costs and expenses, including attorneys' fees whether or not litigation is necessary and if necessary, both at trial and on appeal, incurred in enforcing or ensuring

compliance with the terms and conditions of this Agreement which costs, expenses and fees shall also be a lien upon the Subject Property superior to all others. Should this Agreement require the payment of any monies to the City the recording of this Agreement shall constitute a lien upon the property for said monies, until said are paid, in addition to such other obligations as this Agreement may impose upon the Subject Property and the Owner/Developer. Interest on unpaid overdue sums shall accrue at the rate of eighteen percent (18%) compound annually or at the maximum rate allowed by law.

8. Indemnification. The Owner/Developer shall indemnify and hold harmless the City from and against all claims, demands, disputes, damages, costs, expenses (to include attorney's fees whether or not litigation is necessary and, if necessary, both at trial and on appeal), incurred by the City as a result, directly or indirectly, of the use or development of the property described in Paragraph 2 above, by the City or by third parties, except those claims or liabilities caused by or arising from the gross negligence of the City, its employees or agents. It is specifically understood that the City is not guaranteeing the appropriateness, efficiency, quality or legality of the use or development of the Subject Property, including, but not limited to, drainage or sewer plans, fire safety, or quality of construction, whether or not inspected, approved, or permitted by the City. In addition, the City is not guaranteeing the use of onsite septic systems which are permitted through the Florida Department of Health.

9. Compliance. The Owner/Developer agrees that it, and its successors and assigns, will abide by the provisions of this Agreement, the City's Comprehensive Plan, and the City's Land Development Code, including but not limited to, the site plan regulations of the City as amended from time to time, which are incorporated herein by reference, and such subsequent amendments hereto as may be applicable. Further, all required improvements, including

landscaping, shall be continuously maintained by the Owner/Developer, or its successors and assigns, in accordance with the City's Land Development Code. The City may, without prejudice to any other legal or equitable right or remedy it may have, withhold permits, certificates of occupancy or approvals, and may terminate sewer and/or water services to the subject property should the Owner/Developer fail to comply with the terms of this Agreement.

10. Notices. Where notice is herein required to be given, it shall be by certified mail, return receipt requested, addressee only, hand delivery or courier. Said notice shall be sent to the following, as applicable:

OWNER/DEVELOPER'S REPRESENTATIVES:

Ms. Susan T. McCaskill and Ms. Shirley H. McCaskill, Trustee  
~~742 Mulberry Lane~~ 3215 Ohio Ave.  
~~Celebration, FL 34747~~ Sanford, FL 32773

CITY REPRESENTATIVES:

Bob Nix, AICP  
Development Services Director  
City of Deltona  
P.O. Box 5550  
Deltona, FL 32728

James A. Fowler, City Attorney  
City of Deltona  
28 West Central Blvd.  
Orlando, FL 32801

Should any party identified above change, it shall be said party's obligation to notify the remaining parties of the change in a fashion as is required for notices herein. It shall be the

Owner/Developer's obligation to identify its lender(s) to all parties in a fashion as is required for notices herein.

11. Captions. The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.

12. Binding Effect. This Agreement shall run with the land, shall be binding upon and inure to the benefit of the Owner/Developer and its assigns and successors in interest, and the City and its assigns and successors in interest. The Owner/Developer agrees to pay the cost of recording this document in the Public Records of Volusia County, Florida. This Agreement does not, and is not intended to, prevent or impede the City from exercising its legislative authority as the same may affect the Subject Property.

13. Severability. If any part of this Developer's Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Developer's Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Developer's Agreement is declared severable.



IN WITNESS WHEREOF, the Owner/Developer and the City have executed this Agreement as of the day and year first above.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

John S. Chinelli  
Signature of Witness #1

John S. Chinelli  
Print or type name

Robert G. Nick, Jr.  
Signature of Witness #2

ROBERT G. NICK, JR.  
Print or type name

OWNER/DEVELOPER

By: Susan J. McCaskill  
Signature # 1

SUSAN T. MCCASKILL  
Print or type name

As: \_\_\_\_\_  
Print or type

By: \_\_\_\_\_  
Signature # 2

\_\_\_\_\_  
Print or type name

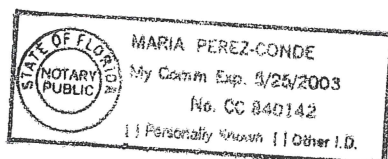
As: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 13 day of March 2001, by SUSAN T. MCCASKILL and JOHN S. CHINELLI, respectively, of Sanford, who are personally known to me or who have produced a driver's license as identification and who did (did not) take an oath.

(NOTARY SEAL)

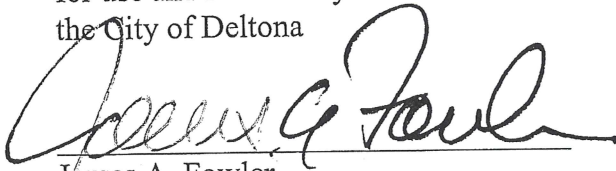


Maria P. Conde  
Signature  
MARIA P. CONDE  
Print or type name

Notary Public – State of Florida  
Commission No: CC 840142  
My Commission Expires: 5/25/03

ACCEPTED BY THE CITY OF DELTONA

Approved as to form and legality  
for use and reliance by  
the City of Deltona

  
James A. Fowler  
City Attorney

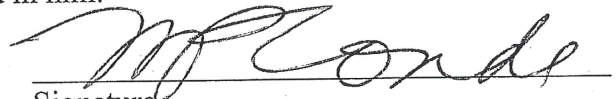
By: B. Nix  
Bob Nix, Development Services Director

Date: March 13, 2001

Mailing Address:  
P.O. Box 5550  
Deltona, FL 32728

STATE OF FLORIDA  
COUNTY OF Volusia

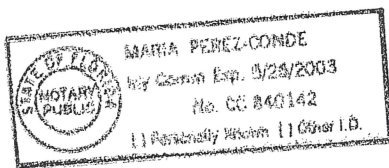
The foregoing instrument was acknowledged before me this 13 day of March, 2001, by Bob Nix, Development Services Director, of the CITY OF DELTONA, FLORIDA, who is personally known to me and he acknowledged executing the same freely and voluntarily under authority vested in him.

  
Signature

(NOTARY SEAL)

MARIA PEREZ-CONDE  
Print or type name

Notary Public-State of Florida  
Commission No.: CC 840142  
My Commission Expires: 5/25/03



**This instrument prepared by:**  
**Deltona Development Services Dept.**  
**777 Deltona Blvd., Suite 24**  
**Deltona, Florida 32725**  
**(407) 575-0333**