

AGREEMENT

THIS TRI-PARTY AGREEMENT (this "Agreement") is entered into this 13th day of October 2006 by and among Mercantile Bank ("Lender"),

Blues Creek Hld ("Developer") and Watson Construction Co.

("Contractor") for the purposes set forth herein and for the benefit of the City OF GAINESVILLE, FLORIDA (the "City").

RECITALS

A. Developer intends to develop a residential subdivision to be known as Blues Creek Unit 7 and to record a plat of the same on the real property described on attached Exhibit "A". (the "Subdivision")

B. Developer has contracted with the Contractor to install the streets, necessary drainage water, sewer and other improvements (the "improvements") required under applicable law and ordinances of the City pursuant to a contract between Developer and Contractor a copy of which is attached hereto as Exhibit "B". (the "Contract").

C. As a condition of the acceptance of the plat of the Subdivision for recording, require that assurances be given before the Subdivision is platted that the improvements will be completed within a reasonable time to the standards required by the City and will together with the other components of the improvements be the responsibility of the Developer after completion for maintenance and repair until accepted by the City.

D. Lender has made a loan to the Developer for the purpose of paying the cost of the improvements and has agreed to join in this Agreement for the purpose of assuring the City funds will be available for completion of the improvements in the event the Developer or the Contractor fail to complete the same.

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E. The parties hereto now desire to reduce their understanding and agreement to writing.

NOW THEREFORE, in consideration of the mutual covenants and promises hereinafter made by the parties hereto, it is agreed as follows:

1. The parties hereto agree to the truth of the recitals set forth herein and to their incorporation herein by reference.
2. Lender from the loan proceeds made available to the Developer for construction of the Improvements hereby sets aside for this purpose, the sum of ~~227.314.00~~ ^{\$} 227.314.00 which is 120% of the amount set forth in the Contract and which will be used exclusively for construction of the improvements and may not be used for any other purpose until such improvements are in place and accepted by the City. Disbursement of the funds during the course of construction will be made on certification by Dunn Engineering private engineer acting for the account of the Developer, as to the value of work then completed, and then, acceptance by the City of such certification, or, a separate certification by the City. The Lender shall then advance to the Developer for payment to the Contractor the sum agreed by the private engineer and the City, each progress payment to be charged a ten percent (10%) retainage, to be paid with the final payment on completion of the improvements and so certified to by the City.

Should the Contractor default in performance under this Contract, the Developer agrees to proceed promptly to engage a new contractor within thirty (30) days to complete these Improvements. The selection of the new contractor will be subject to

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approval by the Lender and by the City which approval will not be unreasonably withheld. Should the Developer not proceed to relet the contract within such time period on a default by the present Contractor, the Lender and/or the City shall be entitled to complete the improvements so that the City will accept the improvements, and use for the purpose of paying for such completion, the balance remaining of the loan funds attributable to the Contract and if such amounts are not sufficient, the Lender shall advance additional monies up to (10%) of the original fund for a maximum total of \$227,314.00 so, and shall have the option to advance any additional monies that may be required, all of which advances have been secured by the Developer to the Lender.

This completion may be by the Lender and another contractor, or by the City, directly whichever shall be determined by the Lender and the City to be most appropriate for an early completion of the improvements and final acceptance by the City.

The Developer and the Contractor agree to prosecute the construction of the improvements in a reasonably diligent manner to assure completion within 150 days from recording of the plat. Should the Developer be required to engage a new contractor as a result of the default by the Contractor, the time for completion will be extended for a period not to exceed ninety (90) additional days. If in the judgment of the City, the progress of construction is falling behind schedule, the City will so advise the Developer who shall then be bound to take corrective measures. The Lender shall likewise be advised and may thereupon withhold further disbursements of progress payment until a resolution of the problem acceptable to the City may be obtained. The obligation of Lender hereunder shall cease on the earlier of one (1) year from the date of completion as set forth in the Contract or such date as all the improvements have been completed and

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so certified by the City.

Should the City have to take over and complete or have completed the Improvements required by City ordinances, then the obligation of the Lender to pay a sum equal to the cost of such improvements to the City (in accordance with the terms and conditions of the agreement) or make such sum available that shall exist independent of and regardless of whether or not the Developer may be in default on its agreement with the Lender.

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This agreement executed at Gainesville, Florida, this 2 day of March, 2007

WITNESSES:

Elizabeth F. Berenger
Elizabeth F. Berenger

Lisa Gillis
As to Lender LISA GILLIS

[Signature]

Bonnie Z. Ross
As to Contractor

Bonnie Z. Ross

[Signature]
As to Developer

As to Engineer

LENDER NAME

BY: Robert Cameron
As Its "Lender"

CONTRACTOR NAME

BY: [Signature]
As Its "Contractor"

DEVELOPER NAME

BY: [Signature]
As Its "Developer"

CITY OF GAINESVILLE

BY: _____
Its City Engineer

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