

Agreement prepared by:
 David A. Ives, Asst. City Attorney
 City of Murfreesboro
 P.O. Box 1044, Murfreesboro, TN 37133-1044

**INSPECTION AND MAINTENANCE AGREEMENT
 FOR PRIVATE WATER DISTRIBUTION SYSTEM FOR FIRE PROTECTION**

Name of Project:			City Use:		
Record Book:		Page No.			
Map:		Parcel No.			
Address of Project					
Owner:					
Owner Address:					
City:		State:		Zip Code:	

SEE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT A

This Agreement is made this ____ day of _____, 20 ____, by and between, _____, for itself, its heirs, administrators, executors, assigns and any other successor in interest (collectively "Owner"), and the City of Murfreesboro (hereinafter "City"), and Consolidated Utility District of Rutherford County (hereinafter "CUD"), which is the public water provider.

WHEREAS, the Owner owns the parcel of land noted above and intends to construct a private water distribution system for fire protection on the referenced property (hereinafter "Property"); and

WHEREAS, the Owner certifies that this system will adhere to International Fire Code (most recent edition adopted by the City) and will be constructed in accordance with National Fire Protection Association (NFPA) 24: Standard for the Installation of Private Fire Service Mains and Their Appurtenances as in effect at the date of this Agreement; and

WHEREAS, the Owner agrees to inspect, test and maintain the private water distribution system for fire protection in accordance with NFPA 25: Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection facilities, as amended from time to time; and

WHEREAS, the Owner has an approved development agreement with the CUD; and

WHEREAS, CUD will supply public water to the Owner at an approved location to serve the Property and the City will provide fire protection to serve the Property; and

WHEREAS, the Owner has delivered a set of development plans for the Property, including satisfactory hydraulic fire-flow calculations, to the City for approval:

THEREFORE, in consideration of the benefits to be received by the Owner as a result of the approval by the City and CUD of these plans, the Owner, with full authority to execute deeds, mortgages, and other covenants, does hereby covenant and agree with the City and CUD as follows:

1. The Owner shall provide for adequate long term maintenance and continuation of the private water distribution system for fire protection in accordance with NFPA 25: Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection facilities, to ensure that the distribution system is and remains in proper working condition.
2. The Owner shall maintain on site a record of annual inspections and maintenance actions. The record shall include the inspection schedule, times of inspection, remedial actions taken to repair, modify or reconstruct

the system; the condition of fire hydrants and valves, and notification of any planned change in responsibility for the system. The City may require the inspection and maintenance records to be submitted to the City and CUD. The City and CUD shall be notified forty-eight (48) hours in advance of any scheduled repair. The City and CUD shall be notified immediately of any disruption of water service or any maintenance activity that diminishes or inhibits full fire flows.

3. The City and/or CUD shall have the right to enter the Property at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the system and its appurtenances. By arrangement with the Owner, the City may install and maintain equipment to monitor the performance of the private water distribution system for fire protection. By arrangement with the Owner, CUD may install and maintain equipment to monitor the performance of the private water distribution system. The Owner shall be solely responsible for the costs associated with any necessary flushing operations by the City or CUD.
4. If the City finds that the Owner has not maintained the system, the City may order the Owner to make repairs to bring the system up to standards. If the work is not performed within the time specified by the City, the Owner understands and agrees that the City may enter the Property and take steps necessary to repair or maintain the private water distribution system for fire protection.
5. Neither the City nor CUD shall be obligated to maintain or repair the private water distribution system for fire protection, and this Agreement shall not be construed to impose any such obligation on the City and/or CUD.
6. If the City and/or CUD incur expenses in repairing or maintaining the private water distribution system for fire protection, and the Owner fails to pay the City and/or CUD for the above expenses within 45 days of a written notice, the City and/or CUD may collect said expenses from the Owner through appropriate legal action, and the Owner shall be liable for the reasonable expenses of collection, including court costs, and attorney fees. Owner agrees that the City and/or CUD may record a lien against the Property to secure any payment due pursuant to this paragraph.
7. The Owner hereby releases and shall indemnify and hold harmless the City and CUD, their officers, agents and employees, from any and all damages, accidents, casualties, occurrences, claims (including claims that the City and / or CUD, their officers, agents or employees were negligent) or attorney's fees which might arise or be asserted, in whole or in part, against the City and / or CUD arising out of or related to the construction, presence, existence, maintenance, operation or failure of the private water distribution system for fire protection subject to this Agreement. In the event that a claim is asserted against the City and / or CUD, their officers, agents or employees, the City and / or CUD shall notify the Owner, who shall defend at Owner's expense any suit based on such claim. If any judgment or claim against the City and / or CUD, their officers, agents or employees, shall be allowed, the Owner shall pay all costs and expenses in connection therewith. Neither the City nor CUD will indemnify, defend or hold harmless in any fashion the Owner from any claims arising from any failure regardless of any language in any attachment or other document that Owner may provide.
8. No waiver of any provision of this Agreement shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.
9. The Owner shall record this Agreement in the office of the Register of Deeds of Rutherford County, Tennessee, and the Agreement shall constitute a covenant running with the land. A recorded copy of the Agreement shall be provided to City prior to issuance of building permit(s) (excluding foundation, grading and land disturbance permit(s)), or the delivery of combustibles to the site, whichever first occurs.
10. Prior to and as a condition of the issuance of a Certificate of Occupancy, the Owner agrees to have a qualified Tennessee-licensed (i) engineer, (ii) specialist, (iii) laboratory, (iv) sprinkler contractor or (v) fire safety specialty organization acceptable to the City's fire code official inspect the system and provide to the City their certification that the constructed facilities conform substantially to the approved design plans and referenced International Fire Code and NFPA standards. Where the constructed condition varies significantly from the approved design or standards, appropriately revised calculations shall be provided by the professional certifying the system.

11. Other than supplying public water to the Owner at an approved location, CUD shall have no responsibility for or liability in connection with the supply of water for the purposes set forth in this Agreement.
12. This Agreement must be re-executed and approved by the City and CUD if the Property served by the private water distribution system for fire protection subject to this Agreement is subdivided, is made subject to a condominium declaration, or is joined with other property.
13. (If applicable) _____ ("Creditor") is the holder of a promissory note dated _____ in the total principal sum of \$ _____ secured by a Deed of Trust of record at **Record Book** _____, **Page** _____, Register's Office of Rutherford County, Tennessee. Creditor hereby joins herein solely for the purpose of subordinating, and does hereby subordinate, the lien of the said Deed of Trust to this **INSPECTION AND MAINTENANCE AGREEMENT FOR PRIVATE WATER DISTRIBUTION SYSTEM FOR FIRE PROTECTION** in favor of the City; but said Deed of Trust shall not be otherwise affected hereby, and shall continue in full force and effect as before the execution and delivery hereof, subject and subordinate only to said **INSPECTION AND MAINTENANCE AGREEMENT FOR PRIVATE WATER DISTRIBUTION SYSTEM FOR FIRE PROTECTION**.

[SIGNATURE AND NOTARY BLOCKS ON FOLLOWING PAGES]

Date: _____

Owner Name

By: _____
Signature Printed Name Title

Date: _____

Creditor Name (if applicable)

By: _____
Signature Printed Name Title

OWNER

State of _____ County of _____

Before me, the undersigned authority, a Notary Public in and for said County and State mentioned, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and executed this Agreement (Inspection and Maintenance Agreement for Private Water Distribution System for Fire Protection) in _____ capacity as _____ of _____ for the purposes contained herein.

Witness my hand and official seal at office in _____, this _____ day of _____, of the year _____.

Notary Public: _____
My Commission Expires: _____

CREDITOR

State of _____ County of _____

Before me, the undersigned authority, a Notary Public in and for said County and State mentioned, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and executed this Agreement (Inspection and Maintenance Agreement for Private Water Distribution System for Fire Protection) in _____ capacity as _____ of _____ for the purposes contained herein.

Witness my hand and official seal at office in _____, this _____ day of _____, of the year _____.

Notary Public: _____
My Commission Expires: _____

**Accepted by:
City of Murfreesboro
by Fire & Rescue Department**

**Accepted by:
Consolidated Utility District
Of Rutherford County**

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

CITY

STATE OF TENNESSEE

COUNTY OF RUTHERFORD

Before me, the undersigned authority, a Notary Public in and for said County and State mentioned, personally appeared _____, with whom I am personally acquainted or who proved to me on the basis of satisfactory evidence, and who, upon his oath acknowledged himself to be the _____ of the City of Murfreesboro Fire & Rescue Department, and that he as such _____, being authorized to do so, executed the within and foregoing instrument for the purposes therein contained.

Witness my hand and official seal at office in _____, this _____ day of _____, of the year _____.

Notary Public: _____

My Commission Expires: _____

CONSOLIDATED UTILITY DISTRICT

STATE OF TENNESSEE

COUNTY OF RUTHERFORD

Before me, the undersigned authority, a Notary Public in and for said County and State mentioned, personally appeared _____, with whom I am personally acquainted or who proved to me on the basis of satisfactory evidence, and who, upon his oath acknowledged himself to be the _____ of Consolidated Utility District of Rutherford County, and that he as such _____, being authorized to do so, executed the within and foregoing instrument for the purposes therein contained.

Witness my hand and official seal at office in _____, this _____ day of _____, of the year _____.

Notary Public: _____

My Commission Expires: _____