

## AGREEMENT

THIS AGREEMENT made this 7<sup>th</sup> day of December, 2004, by and between the CITY OF HARRISONBURG ("City") and PHEASANT RUN, LLC ("Pheasant Run").

WHEREAS, Pheasant Run is the contract purchaser of a tract of land off of Willow Hill Drive in the City of Harrisonburg, Virginia owned by RCR Developers ("the Property"); and

WHEREAS, Pheasant Run and the City have come to agreement with regard to various items relating to the development of the Property and wish to memorialize the same. The parties acknowledge that the development of the Property requires the performance of the items listed and that Pheasant Run is relying on the City's agreement hereunder in allowing its study period with the seller of the Property to expire.

NOW, THEREFORE, the parties hereto agree as follows:

1. The City agrees to acquire the property owned by Bruce Dean Cable and Paul Marvin Cable which is located on Pleasant Hill Road and identified as tax map number 9-G-5 ("Cable Property") for the purpose of providing an additional entrance from Pleasant Hill Road to the Property.
2. Upon acquisition of the Cable Property, Pheasant Run shall tear down the house and shall install a road, to be built to the same specifications as the roads within the development, from Pleasant Hill Road across another lot owned by the City, tax map number 9-G-11, to the Property.
3. Pheasant Run agrees to dedicate to the City, at no cost to the City, portions of the Property for Erickson Avenue Extended, approximately as shown on Pheasant Run's preliminary plans submitted to the City. Final location of all rights-of-way and easements to be determined during development of the final plat for this subdivision. Pheasant Run also agrees to

provide a drainage easement along the northern line of Lot 1 to facilitate the drainage of a detention pond to be built by the City to the west of Lot 1.

4. The City shall upgrade the existing drainage and detention pond if required by the Erickson Avenue Extended roadway project, unless the drainage and detention pond must be upgraded by the developer of Pheasant Run, in which case, the City will participate with Pheasant Run by covering the cost of drainage and detention pond improvements necessary for the Erickson Avenue Extended project beyond those required for Pheasant Run Development.

In the event the Erickson Avenue Extended project requires upgrades to the drainage ditch and detention pond, Pheasant Run will provide to the City a drainage easement along the stream and detention pond along proposed Lots 68-81.

This upgrade, if required, will take place during the construction of Pheasant Run's development or during the construction of Erickson Avenue Extended roadway, whichever occurs first.

5. The City shall deed to Pheasant Run, at no cost to Pheasant Run, when and if available, and will use their best efforts to acquire that area shown on the Pheasant Run preliminary plans between Lots 13 through 19 and Erickson Avenue Extended. The City will be attempting to obtain this property for the extension of Erickson Avenue; however, it cannot be determined at this time if this property will be retained by the City for public utilities. If the City determines that it has no use for the property in the future, then the adjoining property owners would benefit the most from ownership of the property, however the City is not in a position to make this commitment at this time.

6. Pheasant Run initially was going to install a pump station to service part of the Property. The City has indicated its desire to obtain an easement rather than Pheasant Run installing a pump station. The City agrees to pursue the easement or indicate to Pheasant Run

that it should install the pump station when the phase of the subdivision requiring this sewer is under final design.

7. The parties agree that should either of them default in any of the covenants and agreements contained herein, that the defaulting party agrees to pay to the other the costs and expenses that may arise from enforcing this Agreement, including reasonable attorney's fees.

WITNESS the following signatures and seals:

CITY OF HARRISONBURG

By: *Logan Baker* (SEAL)  
Its: *City Manager*

PHEASANT RUN, LLC

By: *Robert T. Young* (SEAL)  
Its: \_\_\_\_\_