

## REQUEST FOR BOARD ACTION

### HENDERSON COUNTY BOARD OF COMMISSIONERS

**MEETING DATE:** June 5, 2006

**SUBJECT:** Improvement Guarantee for River Stone

**ATTACHMENTS:**

1. Application for Improvement Guarantee
2. Draft Performance Guarantee Agreement
3. Cost Estimates

#### **SUMMARY OF REQUEST:**

Mr. Drew Norwood submitted on behalf of Windsor Aughtry Company Inc., an improvement guarantee application for Sections 4-A, 5A, and 6A (approximately 60 lots) of River Stone. River Stone is a 524-lot Planned Unit Development located on approximately 175 acres of land off of Butler Bridge Road and North Rugby Road. River Stone was approved by the Board of Commissioners under Special Use Permit # SP-05-01 on November 30, 2005. The improvement guarantee is proposed to cover the onsite water and sewer distribution systems and construction of the roads which includes paving, a valley gutter system and drainage for the above mentioned sections in River Stone. The improvement guarantee will also cover a portion of the offsite water line extension.

According to Sections 170-38 and 170-39 of the Henderson County Subdivision Ordinance, where the required improvements have not been completed or in lieu of completing all of the required improvements in order to submit a Final Plat and also prior to Final Plat approval, the developer may post a performance guarantee for the improvements. Section 170-38 of the Henderson County Subdivision Ordinance also states that the installation of the improvements must be completed within two years of the date of approval of the improvement guarantee. The developer intends to post with the County an irrevocable letter of credit in the amount of at least \$1,159,512.50 to cover the cost of the improvements (\$135,975.75 for offsite improvements and \$989,543.75 for onsite improvements) as well as the required twenty-five percent (25%) contingency (\$33,993.75 for offsite improvements and \$197,908.75 for onsite improvements). The proposed completion date for the improvements is December 15, 2006.

A draft Performance Guarantee Agreement is attached for the Board's consideration. If the application is approved, the developer must submit an irrevocable letter of credit in accordance with the terms of the Agreement. Once the County receives a letter of credit in proper form, the relevant parties must execute the Agreement.

#### **COUNTY MANAGER'S RECOMMENDATION/BOARD ACTION REQUESTED:**

I recommend that the Board approve the improvement guarantee application for River Stone, subject to the developer submitting to Henderson County an irrevocable letter of credit in accordance with the terms of the draft Performance Guarantee Agreement.

Henderson County  
APPLICATION FOR IMPROVEMENT GUARANTEES

Name of Subdivision River Stone Subdivision, Section 4-A, Section 5-A and Section 6-A

Name of Owner Windsor/Aughtry Co., Inc.

Address P. O. Box 16449, Greenville, SC 29606

Phone: 864-271-9855

Agent Drew Norwood Phone: 864-271-9855

Date of Preliminary Plan Approval by Planning Board 12-15-05

Significant Conditions Imposed: Special Use Permit 5P-05-01

Type of improvement requested:

Cash on Deposit (Certified Check)

Bank Escrow Account

Irrevocable Letter of Credit

Surety Performance Bond

Trust Agreement

Name of bank or bonding company Sun Trust Bank

Amount of guarantee (including 25% overhead) \$ This amount will be provided by engineer by separate

Projected completion date December letter. per DP on 5/22/06  
September 15, 2006

Are cost estimates attached (with quantities and unit costs)?  yes  no

Have engineering and design work been completed?

complete  partially complete  incomplete

I have read and understand all requirements stated in Article V of the Henderson County Subdivision Ordinance regarding subdivision improvement guarantees.

[Signature]  
Owner's Signature

5-17-06  
Date

Submitted By F. A. Norwood

Date 5-17-06

Received By MC

Date 5/19/06

5/19/06  
\$ 250.00 fee paid

**STATE OF NORTH CAROLINA**

**PERFORMANCE GUARANTEE AGREEMENT**

**COUNTY OF HENDERSON**

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_, by and between Windsor Aughtry Company Inc., hereinafter referred to as "Developer," and the Henderson County Board of Commissioners, hereinafter referred to as "Board;"

**WITNESSETH:**

**WHEREAS**, the Developer is attempting to secure approval of one or more Final Plats for a Planned Unit Development known as River Stone, hereinafter referred to as the "Project," located in Henderson County, North Carolina; and

**WHEREAS**, Henderson County Board of Commissioners approved River Stone Planned Unit Development under Special Use Permit # SP-05-01, under Chapter 200 of the Henderson County Code, which is entitled Zoning, and;

**WHEREAS**, Henderson County Planning Board approved the Combined Master Plan and Development Plan for River Stone under Chapter 170 of the Henderson County Code, which is entitled Subdivision of Land, and;

**WHEREAS**, Chapter 170 requires the completion of certain improvements prior to Final Plat approval, however Sections 170-38 and 170-39 allow the Board to permit the Developer to post an irrevocable letter of credit with Henderson County to guarantee the completion of said required improvements; and

**WHEREAS**, the Developer has requested that the Board approve the posting of an irrevocable letter of credit to guarantee and secure the completion of said improvements in lieu of completion of all improvements prior to said approval;

**IT IS THEREFORE AGREED** as follows:

1. The Developer will, on or before December 15, 2006, complete as required the following improvements to serve lots in Sections 4A, 5A and 6A in the Project: offsite water line extension, onsite water and sewer distribution systems and road construction for said Sections (which includes paving, a valley gutter system and drainage) as required by the Henderson County Subdivision Ordinance, as shown on the Combined Master Plan and Development Plan for the Project, as approved under Special Use Permit # SP-05-01 by the Henderson County Board of Commissioners on November 30, 2005, and as shown on the attached cost estimates prepared by Donald Hunley, P.E. (signed and sealed 5/19/06).
2. The Developer will post with Henderson County an irrevocable letter of credit guaranteeing completion of said improvements by the required date. Said letter

of credit must be issued by a bank licensed to do business in North Carolina, in the amount of at least \$1,159,512.50 (the "Improvement Guarantee"), payable to Henderson County, and having an expiration date not earlier than 60 days after the completion date stated in Paragraph 1, above.

3. In the event that the required improvements are completed as required, the letter of credit will be released. In the event that the improvements are not completed as required, then the Developer shall be in breach of this Agreement and the Improvement Guarantee and the County shall call the letter of credit and use the funds to complete the required improvements.
4. At such time as the County Attorney has reviewed and approved this Agreement and this Agreement is fully executed, and a letter credit in the proper form is posted, then the Board will allow the Final Plat(s) for the Project to be approved by the Subdivision Administrator, provided that all requirements of Chapter 170 of the Henderson County Code, Chapter 200 of the Henderson County Code and Special Use Permit # SP-05-01 are met.
5. The County Manager shall have the authority to approve the release of portions of the Improvement Guarantee as work progresses, provided the amount remaining under the Improvement Guarantee meets or exceeds 125% of the cost of the remaining improvements. The County Manager has the discretion to require the Developer to provide, at the Developer's expense, an independent verification of the remaining work.

**IN WITNESS WHEREOF**, the Board has, by appropriate action, caused this Agreement to be reviewed for approval by the County Attorney and executed by its Chairman or other authorized member and attested by the Clerk, and the Developer has caused this Agreement to be properly executed, this the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**County Attorney**

**HENDERSON COUNTY BOARD OF COMMISSIONERS**

BY: \_\_\_\_\_  
**William L. Moyer, Chairman**

**ATTESTED BY:**

**[OFFICIAL SEAL]**

\_\_\_\_\_  
**Elizabeth W. Corn, Clerk to the Board**

**DEVELOPER:**  
**Windsor Aughtry Company, Inc.**

**BY:** \_\_\_\_\_  
**President / Vice President**

**ATTESTED BY:**

**[CORPORATE SEAL]**

\_\_\_\_\_  
**Secretary/Assistant Secretary**

**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

I, \_\_\_\_\_, Notary Public for said County and State, certify that Elizabeth W. Corn personally came before me this day and acknowledged that she is the Clerk to the Board of Commissioners of Henderson County, a municipal corporation and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by the Chairman of the Board of Commissioners, sealed with its corporate seal, and attested by her as its Clerk.

**THIS** the \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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

**My Commission Expires:** \_\_\_\_\_

**[NOTARIAL SEAL]**

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**STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON**

I, \_\_\_\_\_, Notary Public for said State and County certify that \_\_\_\_\_ came before me this day and acknowledged that he/she is the Secretary/Assistant Secretary of Windsor Aughtry Company, Inc., and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President/Vice President, sealed with its corporate seal, and attested by himself/herself as its Secretary/Assistant Secretary.

**THIS** the \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

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**Notary Public**

**PROJECT COST ESTIMATE : ON-SITE**

**RIVERSTONE SUBDIVISION - SECTIONS 5A, & 6A**

**WGLA #04180 - Site Improvements Remaining**

**Road System (3000 LF of Local Roads)**

Stone Base (CABC)	3,500.0	TN	@	\$18.00 =	\$63,000.00
Pavement (2" I-2)	9,000.0	SY	@	\$7.00 =	\$63,000.00
Valley Curb	6,000.0	LF	@	\$9.25 =	\$55,500.00
<b>Stormwater Drainage</b>					
18"Ø (HDPE)	620.0	LF	@	\$30.00 =	\$18,600.00
24"Ø (HDPE)	1,140.0	LF	@	\$35.00 =	\$39,900.00
30"Ø (HDPE)	261.0	LF	@	\$45.00 =	\$11,745.00
36"Ø (HDPE)	10.0	LF	@	\$50.00 =	\$500.00
48"Ø (HDPE)	0.0	LF	@	\$70.00 =	\$0.00
54"Ø RCP	0.0	LF	@	\$125.00 =	\$0.00
Drop Inlets	24	EA	@	\$1,500.00 =	\$36,000.00
Entrances w/ Turning Lanes	1	LS	@	\$55,000.00 =	\$55,000.00
	<b>Subtotal</b>				<b>\$343,245.00</b>

**Water Distribution System**

8"Ø Water Line (DIP/CL 350)	2,950.0	LF	@	\$22.00 =	\$64,900.00
6"Ø Water Line (DIP/CL 350)	3,000.0	LF	@	\$18.00 =	\$54,000.00
8"Ø GV & Box	5	EA	@	\$850.00 =	\$4,250.00
6"Ø GV & Box	31	EA	@	\$600.00 =	\$18,600.00
Fire Hydrants	13	EA	@	\$2,000.00 =	\$26,000.00
Air Release Valves	5	EA	@	\$700.00 =	\$3,500.00
Services	59	EA	@	\$660.00 =	\$38,940.00
	<b>Subtotal</b>				<b>\$210,190.00</b>

**Sanitary Sewer System**

8"Ø Gravity Sewer (PVC/SDR35) 0'-6' deep	2,200.0	LF	@	\$20.00 =	\$44,000.00
8"Ø Gravity Sewer (PVC/SDR35) 6'-8' deep	2,800.0	LF	@	\$25.00 =	\$70,000.00
8"Ø Gravity Sewer (PVC/SDR35) 8'-10' deep	370.0	LF	@	\$30.00 =	\$11,100.00
8"Ø Gravity Sewer (PVC/SDR35) 10'+ deep	0.0	LF	@	\$35.00 =	\$0.00
8"Ø Gravity Sewer (DIP/CL350) all depths	180.0	LF	@	\$45.00 =	\$8,100.00
4"Ø Manholes (Precast Concrete) 0'-8' deep	10	EA	@	\$1,400.00 =	\$14,000.00
4"Ø Manholes (Precast Concrete) 6'-8' deep	11	EA	@	\$1,500.00 =	\$16,500.00
4"Ø Manholes (Precast Concrete) 8'-10' deep	5	EA	@	\$1,700.00 =	\$8,500.00
4"Ø Manholes (Precast Concrete) 10'+ deep	0	EA	@	\$2,000.00 =	\$0.00
Stabilization Stone	1,700.0	TN	@	\$18.00 =	\$30,600.00
Service Connections	59	EA	@	\$600.00 =	\$35,400.00
	<b>Subtotal</b>				<b>\$238,200.00</b>

Total Estimated Construction Cost \$791,635.00

Contingency 25% \$197,908.75

**TOTAL AMOUNT** \$989,543.75

ENGINEER: DONALD L. HUNLEY, P. E.

William G. Lapsley & Associates, PA  
 Post Office Box 546  
 Hendersonville, NC 28793

DATE 5/19/06



**PROJECT COST ESTIMATE  
RIVERSTONE SUBDIVISION  
WGLA #04180**

**Off-site Water Extension to Project Entrance**

8"Ø Water Line (DIP/Cl. 350)	3,625.0	LF	@	\$21.00 =	\$76,125.00
8"Ø GV & Box	5.0	EA	@	\$850.00 =	\$4,250.00
6"Ø GV & Box	7.0	EA	@	\$600.00 =	\$4,200.00
Fire Hydrants	7.0	EA	@	\$2,000.00 =	\$14,000.00
Air Release Valves	1.0	EA	@	\$700.00 =	\$700.00
Bridge Crossing not incl. Pipe	250.0	LF	@	\$138.00 =	\$34,500.00
Connection to Existing Water Main	1.0	LS	@	\$2,200.00 =	\$2,200.00
<b>Subtotal</b>					<b>\$135,975.00</b>

Total Estimated Construction Cost \$135,975.00  
 Contingency 25% \$33,993.75

**TOTAL AMOUNT FOR OFF-SITE WATER** \$169,968.75

**TOTAL AMOUNT FOR SITE IMPROVEMENTS** (following page) \$989,543.75

**TOTAL AMOUNT FOR LETTER OF CREDIT** (including 25%) \$1,159,512.50

ENGINEER: DONALD L. HUNLEY, P.E.

William G. Lapsley & Associates, PA  
 Post Office Box 546  
 Hendersonville, NC 28793

DATE 5/19/06

