



**Washington County, Maryland  
PUBLIC WORKS AGREEMENT  
Multi-Year, Multi-Phase Project  
Subdivision Infrastructure for Acceptance and Ownership by  
Washington County**

THIS AGREEMENT (hereinafter the “Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the Board of County Commissioners of Washington County, a body corporate and politic of the State of Maryland (hereinafter the “County”) and **Developer** (hereinafter the “Developer”).

**RECITALS**

Developer is the owner and party undertaking the development of certain real property located in Washington County, Maryland, and described as: **[Subdivision/Development Name, Phase/Section/Block, location, ADC Map No. and Grid, etc]** (hereinafter the “Property”).

Developer intends to construct the following public improvements in multi-phases over a multi-year period on the Property (hereinafter the “Improvements”), all roadways and associated drainage systems for:

| Phase | Construction to be Completed | Estimated Value of Construction | Anticipated Completion Time |
|-------|------------------------------|---------------------------------|-----------------------------|
| 1     |                              |                                 |                             |
| 2     |                              |                                 |                             |
| 3     |                              |                                 |                             |
| 4     |                              |                                 |                             |

Not: PV = Present value of construction cost opinion; ADJ = Future adjusted value assuming 5% per annum inflation. Security value shall be the sum of the adjusted values shown above.

County regulations require Developer to construct the improvements in accordance with the County’s Policy S-3, “Construction of Subdivision Infrastructure for Acceptance and Ownership by Washington County” (hereinafter the “Policy”).

Developer shall provide adequate security and enter into a written agreement, wherein Developer agrees, inter alia, to construct and maintain the public Improvements in order to obtain building permits.

In consideration for Developer obtaining the necessary approvals and permission from the County to obtain building permits and construct the private improvements, the Developer has agreed to provide certain security guarantees, bond or irrevocable standby letter of credit (drawn on a Maryland bank

branch, with an expiration date to be specified by the County), in form acceptable to the County as hereinafter set forth, in favor of the County to guarantee completion of the Improvements in accordance with County specifications and the Policy.

NOW, THEREFORE, in consideration of the premises and recitals and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. The aforesaid recitals are hereby incorporated herein by reference and made a part of this Agreement.
2. It is anticipated that the Developer shall cause the Improvements to be constructed and completed, to the County's specifications and satisfaction pursuant with the Policy, in accordance with the phasing schedule indicated in this agreement. Recognizing this is a multi-year, multi-phase project and in accordance with item Number 4 below, the County will reevaluate the amount of the security, not to exceed, every twenty-four (24) months for the duration of the infrastructure construction. The security value shall be updated and renewed in accordance with item Number 4 below. Security for any and all work beyond that within the most current 24 month period shall be adjusted for future construction cost inflation using standard calculation methods of future value ( $FV = PV(1+i)^n$ ), with an interest rate (i) equal to five (5) percent per annum.
3. For purposes of Performance Security, the Developer does hereby deposit with the County a:  bond, or  letter of credit, in form(s) satisfactory and acceptable to the County in the total amount of Amount Written Out Dollars (\$Amount), (hereinafter the "Performance Security").
4. The amount of the Performance Security is in accordance with a detailed cost estimate (as adjusted), approved by the Chief Engineer, which is attached hereto as Exhibit A and incorporated herein by reference. The County will re-evaluate the amount of the security, not to exceed, every twenty-four (24) months for the duration of the infrastructure construction period referenced in item Number 2 above, based on the outstanding work remaining and/or the construction market cost index at the time of the reevaluation. The Developer will cause corresponding adjustments to be made to said security, as required by the County, whether increase, decrease or no change, for the duration of the infrastructure construction.
5. The Performance Security is deposited with the County to guarantee payment for the construction and completion of the Improvements, as more particularly set forth on the following referenced construction drawings and plans (hereinafter the "Plans"), with all revisions noted, prepared by Engineering Firm responsible for plans, titled Title of Plan and reviewed and signed as "APPROVED FOR CONSTRUCTION" by the Director of Engineering, or their designee on Date signed by Chief Engineer. With the County's approval, the drawings and plans may be revised from time to time, provided that adequate security is available or provided by Developer to cover any increased costs.

6. Developer shall construct and complete the Improvements in accordance with County specifications and those specifications set forth in the Plans, which shall be subject to inspection by the Verifying Engineer (as defined in the Policy).
7. If Developer does not complete the Improvements in accordance with the Policy, the County may make claim on or draw upon the Performance Security as necessary for the completion of the Improvements, and may retain any excess funds for payment of the County's attorney's fees, inspection services, and other related expenses.
8. Notwithstanding the making of a claim on or drawing by the County upon the Performance Security, Developer shall remain liable to the County for the full and total cost of any of the Improvements not fully completed.
9. Prior to the releases of said Performance Security, Developer shall fully comply with Sections III-E, F, and G of the Policy relevant to the completed portion(s) of the Improvements, and the County, together with the Verifying Engineering, shall inspect said completed Improvements to ensure that the Improvements have been constructed according to County specifications and those specification set forth in the Plans.
10. Developer shall warrant all Improvements, where applicable, in accordance Section III-G of the Policy. This warranty shall extend throughout the maintenance period and shall begin following written acceptance as set forth in the policy.
11. For purposes of Maintenance Security during the maintenance period, the Developer shall, at the appropriate time, post with the County a security, bond, or irrevocable standby letter of credit (drawn on a Maryland bank branch, with an expiration date to be specified by the County), as provided for in the Policy, in a form(s) satisfactory and acceptable to the County (hereinafter the "Maintenance Security"). The value of the Maintenance Security shall be established in accordance with Section III-G of the Policy at the beginning of the maintenance period. Multi-phase infrastructure acceptance and maintenance periods for Improvements may occur throughout the construction and duration of this Agreement.
12. If Developer does not maintain the Improvements in accordance with the Policy, the County may make claim on or draw upon the Maintenance Security as necessary to repair any deficiencies of the Improvements, and may retain any excess funds for payment of the County's attorney's fees, inspection services, and other related expenses.
13. Prior to the release of said Maintenance Security, Developer shall fully comply with Section III-G of the Policy relevant to the completed portion(s) of the Improvements, and the county shall inspect and completed Improvements to ensure that the Improvements have been constructed according to County specifications and are suitable for unconditional acceptance.

14. The County shall have the right, in its sole discretion, to approve any changes relating to the construction of the Improvements, or the terms of this Agreement. All such proposed changes shall be in writing and signed by all parties to this document(s) being changed.
15. Developer shall maintain the Improvements (including but not limited to snow removal) at Developer's expense until the County accepts such Improvements for maintenance. Not all improvements even if located within County accepted rights-of-way will be eligible for acceptance by the County for maintenance.
16. Developer shall be responsible for pavement markings and the erection of street name, stop signs and other signs as determined by the Chief Engineer in accordance with the Policy. All signage and markings must comply with County standards and Manual of Uniform Traffic Control Devices (MUTCD) requirements.
17. Upon any breach of this Agreement by Developer, Developer shall be liable to the County for all costs and expenses, including attorneys' fees and related expenses, that the County may incur if the County chooses to complete or repair deficiencies of such Improvements, and the County may retain the balance of any security for payment of such expenses.
18. Developer agrees to obtain, at Developer's sole expense, all easements, which are reasonably necessary for the construction and maintenance of the Improvements, which easements shall be in a form acceptable to the County.
19. Developer shall indemnify and hold harmless the County, its officials, employees, agents and representatives, from any and all claims, actions, suits and demands, of any nature, arising from the construction of the Improvements.
20. Developer warrants that it is the fee simple owner of the Property and that all parties having any right, title or interest in the Property have consented to and joined in this Agreement.
21. All or any part of the provisions of this Agreement shall not be deemed merged in the execution and delivery by the Developer to the County of a deed for the Improvements, but shall remain in full force and effect, nor shall County thereby be deemed to have waived any of its rights at law or in equity against Developer.
22. The County's ordinances, rules and regulations are incorporated herein by reference and together with this Agreement contain the entire understanding of the parties and may not be modified or amended unless in writing signed by the parties hereto.
23. Developer may not assign this Agreement without the express prior written consent of the County, which consent will not be unreasonably withheld.
24. This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of Maryland and Developer hereby consents to jurisdiction in the State of Maryland, and venue in Washington County, Maryland.

- 25. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.
- 26. All notices and correspondence under or regarding this Agreement or any provisions hereof shall be in writing and shall be hand-delivered or sent postage prepaid by either (i) United States mail, certified, return receipt requested, or (ii) for delivery the next day with a nationally recognized express courier to Developer at:

Authorized Representative  
 Name of Development  
 Address  
 City, State, Zip

And to the County at: Richard Eichelberger  
 Director of Permits & Inspections/Code Official  
 747 Northern Avenue  
 Hagerstown MD 21742-2723

IN WITNESS WHEREOF, the parties hereto have placed their hands and seals as of the date first written above.

|         |                                              |
|---------|----------------------------------------------|
|         | NAME (CORPORATION,<br>PARTNERSHIP, LLC ETC.: |
| Witness | By:<br>Signature (SEAL)                      |
|         | Name and Title (Please Print)                |
| Witness | By:<br>Signature (SEAL)                      |
|         | Name and Title (Please Print)                |

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WITNESS/ATTEST

BOARD OF COUNTY  
COMMISSIONERS OF WASHINGTON  
COUNTY, MARYLAND

\_\_\_\_\_  
Printed

By: \_\_\_\_\_  
John F. Barr, President (SEAL)  
Board of County Commissioners  
Washington County, Maryland

Approved as to content:

\_\_\_\_\_  
Richard Eichelberger  
Director of Permits & Inspections/Code  
Official

Review and approved as to form:

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

.....  
**(Notaries for: SOLE OWNERSHIP, CO-OWNERSHIP AND PARTNERSHIP)**

State of \_\_\_\_\_ County of \_\_\_\_\_ to wit:

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the  
subscriber, a Notary Public in and for the State and County aforesaid, personally appeared  
\_\_\_\_\_ whose name(s) is/are subscribed to within the  
instrument, and acknowledge that he/she executed the same for the purposes therein contained.

Witness my hand and Notary Seal

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

My Commission Expires:

**(Notary for: CORPORATIONS AND OTHER LEGAL ENTITES)**

State of \_\_\_\_\_ County of \_\_\_\_\_ to wit:

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared \_\_\_\_\_ who acknowledged him/herself to be the \_\_\_\_\_ of \_\_\_\_\_, qualified to do business in the state of Maryland, and that he/she was authorized to execute this instrument for the purposes contained herein.

Witness my hand and Notary Seal

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

My Commission Expires:

.....  
**(Notary for: WASHINGTON COUNTY, MARYLAND)**

State of  Maryland  County of  Washington  to wit:

I HEREBY CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared John F. Barr, who acknowledged himself to be the President of the Board of County Commissioners of Washington County, Maryland, that in his capacity as President, being authorized to do so, executed the foregoing instrument on behalf of the Board of County Commissioners of Washington County, Maryland, a body corporate and politic, for the purposes therein contained.

Witness my hand and Notary Seal

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

My Commission Expires: