

ST. MARY'S COUNTY, MARYLAND
PUBLIC WORKS AGREEMENT

(Grandfathered)

THIS PUBLIC WORKS AGREEMENT made this _____ day of _____, 20 ____, by and between _____, a body corporate of the State of _____, Party of the First Part, and the COUNTY COMMISSIONERS FOR ST. MARY'S COUNTY, MARYLAND, a body corporate and public of the State of Maryland, Party of the Second Part, WITNESSETH that:

WHEREAS, an approved Subdivision Plan of the Subdivision situated in the _____ (_____) Election District of St. Mary's County, Maryland, entitled: _____, dated _____, 20_____, and revised _____, 20_____ prepared by _____ to be recorded in the Plat Records of St. Mary's County, Maryland.

WHEREAS, it is a requirement of the Regulations relating to the Control of Land Subdivision of St. Mary's County that a guarantee be furnished by the subdivider to complete all improvements required by the Regulations precedent to the approval of the final plat by the Planning Commission; namely, evidence of financial responsibility in the form of a surety bond to protect the County and the residents thereof from the costs of failure to complete in the required manner the necessary improvements; and

WHEREAS, it is the purpose of this Agreement to guarantee completion of all required public improvements in said subdivision according to the provisions of the Subdivision Regulations of St. Mary's County; and

WHEREAS, the Party of the First Part has agreed to complete the construction of said public improvements in accordance with the specifications on or before _____, for the purpose of guaranteeing the timely and satisfactory completion of the said public improvements in accordance with this Agreement, and the approved and recorded plat or plats, as appropriate, of said subdivision, as well as the approved road profiles, cross sections and storm drainage plans, the same being duly stamped and approved by the Public Works Director and maintained on file with the Department of Public Works, all such plats, plans, profiles and cross sections being incorporated herein by reference and made a part hereof. NOW THERFORE, in consideration of the mutual promises and consideration contained herein, the receipt and sufficiency of which hereby acknowledged, BE IT AGREED, that:

1. The Parties agree that upon the request of the Party of the First Part and provided circumstances warrant as determined by the sole discretion of the Party of the Second Part, the term for completion of the improvements guaranteed by this Agreement may be extended, provided the amount of the bond, or any amendment thereto, is in sufficient amount to insure completion of the improvements as determined by the Party of the Second Part, and further provided that both the principal and surety agree in writing to said extension.

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2. The Party of the First Part herewith furnishes a surety bond in the amount of _____ Dollars (\$ _____,000.00 _____), which said token of financial responsibility shall be returned to the Party of the First Part if and when the required improvements are satisfactorily and timely completed by the Party of the First Part; but, in the event said improvements are not so completed, said guarantee shall indemnify the Party of the Second Part against loss or expense incurred by reason of the failure of the Party of the First Part to complete said improvements as by this Agreement required. In no event shall the liability of the issuer of the surety exceed the face amount of the surety. Such liability shall not extend beyond the termination date set forth in the surety.

3. It is a condition of the guarantee securing this Agreement that if the Party of the First Part fully and properly performs all of the construction required and conveys good title to the same within the date specified, then the guarantee shall then and there expire and the said parties shall be released from this Agreement, but should the Party of the First Part fail to construct the required improvements within the time specified herein and in accordance with the above-described plans and specifications, or fail to convey the roadbed and easements as herein provided, or fail to take appropriate and effective corrective action within thirty (30) days after written notification by the Party of the Second Part of noncompliance with specified engineering requirements during the construction of the said improvements, or otherwise fail to perform this Agreement as herein set forth, then the Party of the Second Part shall have the right to require indemnification as to loss or expense incurred by the Party of the Second Part by reason of the failure of the Party of the First Part to perform this Agreement, and also shall have the right to refuse to take over or to maintain the said roads and other improvements until the same are fully completed by the Party of the First Part; or, at its option, the Party of the Second Part may record deeds for the easements herein described and enter into and upon same for the purpose of constructing the required improvements, and

4. IT IS FURTHER AGREED THAT, in the event of default by the developer in performance of this Agreement, the Party of the Second Part shall give the developer and his surety, if any, written notification of said default, and the surety shall, within thirty (30) days of such notice, elect in writing: (a) to complete the required public improvements in conformance with the original plans and specifications within such reasonable period as the Party of the Second Part may specify; or (b) indemnify the Party of the Second Part against loss or expense arising out of the failure of the Party of the First Part to complete said improvements as required by the terms of this Agreement. If there is no surety, or if the surety fails to take the required corrective action, it is hereby stipulated that any construction or conveyance privileges granted to the subdivider or his assigns in way of the improvements guaranteed by this Agreement may be suspended by the Order of the County Commissioners as may be necessary to protect the public interest in the premises pending completion of the required improvements. In no event shall the liability of the issuer of the Bond exceed the face amount of the Bond. Such liability shall not extend beyond the termination date set forth in the Bond, unless the termination date has been amended as set forth herein.

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5. A road construction permit is required before road work can commence. This permit is issued by the Department of Public Works. A condition of both the permit and this Public Works Agreement is compliance by the Party of the First Part with the provisions of the St. Mary's County Road Ordinance, No. 76-7, as amended from time to time, applicable to improvements contemplated by this Agreement. Specific reference is made to Section 7 of the Road Ordinance (Construction and Maintenance Requirements).

6. The Party of the First Part must obtain all Construction Easement Agreements from property owners necessary for the construction and completion of the improvements required hereunder. Said Easement Agreements are in the form approved by the County Attorney and are assignable to the Party of the Second Part in the event of default by the Developer (Party of the First Part) and upon the Party of the Second Part recovery of the performance security given hereunder by Developer (Party of the First Part).

7. Should the required construction improvements not be started and diligently pursued within one (1) year after execution of this Agreement, it is herein stipulated that any construction or conveyance privileges granted to the subdivider or his assigns in way of the improvements, guaranteed by this Agreement may be suspended by Order of the County Commissioners until a new Agreement shall be executed incorporating therein any changes, increased guarantees or conditions as may be required by the County Commissioners acting in the public interest.

8. Compliance with the maintenance provisions of Section 7 of the Road Ordinance. Failure to adhere to the maintenance provisions of the Road Ordinance once construction has begun, shall likewise result in revocation of all construction and conveyance privileges granted to the subdivider or his assigns by way of this Agreement, and these privileges may likewise be suspended by Order of the County Commissioners until a new Agreement as outlined above has been executed.

9. The Party of the First Part, in addition to recovery against it under the guarantee shall, nevertheless, remain liable to the Party of the Second Part, for such additional costs as may necessarily be incurred in order to complete the required improvements herein described in accordance with the applicable plans and specifications.

10. To enable the Party of the Second Part to carry out the above provisions, the Party of the First Part hereby covenants to the Party of the Second Part, that it will provide, at the time of recordation of the subdivision plat, a Certificate of Title in form satisfactory to the Party of the Second Part, for the parcels of land to be conveyed unto the Party of the Second Part, evidencing marketable fee simple title in the Party of the First Part and further evidencing the parcels to be free of any liens, encumbrances, easements, restrictions or covenants at the time of recordation of the subdivision plat; and the Party of the First Part does further warrant that it has not, or will not, encumber said roads, streets, easements, structures, and facilities, but shall specifically reserve unto itself the parcels of land to be conveyed to the Party of the Second Part in all conveyances of the surrounding property.

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11. The Party of the First Part covenants and undertakes to convey to the Party of the Second Part, its successors and/or assigns, in fee simple the following described parcels of land in the said subdivision; and shall execute such further assurances as the Party of the Second Part deems necessary to effectuate the conveyance.

(NOTE: Herein shall be included the names and description of the affected streets and drainage easements.)

All of the above being as shown on the approved Subdivision Plans entitled: _____ to be recorded among the Land Records of St. Mary's County, Maryland.

Being part of the lands conveyed by _____ to _____ by deed dated _____ and recorded among the Land Records of St. Mary's County, Maryland, in Liber No. _____ Folio No. _____.

12. Nothing herein shall be construed to waive the right of the County to maintain a suit against the Party of the First Part and/or Surety on the indemnity bond nor to assign the right to recover the indemnity herein provided in whole or in part.

WITNESS the seal and signature of _____, PRINCIPAL.

ATTEST: BY: _____

TITLE: _____

WITNESS, also, the signature of St. Mary's County, Maryland, a body corporate and public of the State of Maryland, by the hand of **Francis Jack Russell, President, County Commissioners for St. Mary's County, Maryland.**

ATTEST: COUNTY COMMISSINIONERS FOR ST. MARY'S COUNTY, MARYLAND

By: _____
Francis Jack Russell, President

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STATE OF MARYLAND, ST. MARY'S COUNTY TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 20_____, before the subscribed, a Notary Public of the State of Maryland, in and for St. Mary's County, personally appeared _____, (PRINCIPAL), who acknowledged himself to be _____, (Title), and that he, as such, being authorized to do so, acknowledged the foregoing Agreement to be the act of said Principal.

AS WITNESS my hand and Seal Notarial.

_____(Seal)
Notary Public

My Commission Expires _____.

STATE OF MARYLAND, ST. MARY'S COUNTY TO WIT:

I HEREBY CERTIFY that on this _____ day of _____, 20_____, before the subscribed, a Notary Public of the State of Maryland, in and for St. Mary's County, personally appeared **Francis Jack Russell** (Principal), who acknowledged himself to be **PRESIDENT**, County Commissioners for St. Mary's County (Title), and that she, as such, being authorized to do so, acknowledged the foregoing Agreement to be the act of said Principal.

AS WITNESS my hand and Seal Notarial.

_____(Seal)
Notary Public

My Commission Expires _____.

The _____ Company, FDIC NO. _____, Bond / Letter of Credit No. _____, is recognized and identified as being part of the Public Works Agreement between _____ and St. Mary's County, Maryland, said Agreement being dated _____.

SURETY COMPANY

By: _____

Title: _____