

PUBLIC WORKS AGREEMENT

THIS PUBLIC WORKS AGREEMENT, executed this 28 day of April 1998, by and between the ST, MARY'S COUNTY METROPOLITAN COMMISSION (hereinafter, the "Commission"),

Makielski Saba Corporation, (hereinafter, the "Developer"),

P J Guaranty LLC, (hereinafter, the "Owner") and

Suburban Bank, (hereinafter, the "Lender #17014 Letter of Credit #399999 Res#SM02 Acct#399999 EHA KAE 8/17/2021 Sep 23, 2002 02:33 PM

holder),

WITNESSETH

WHEREAS, the Commission is responsible for all water and sewerage projects in the Eighth (8th) Sanitary District of St. Mary's County, Maryland (the "County"); and,

WHEREAS, Owner is the owner in fee simple of all that lot, tract or parcel of land located in St. Mary's County, Maryland, subject to this Agreement, more particularly described at Exhibit N/A, attached hereto and incorporated herein, (hereinafter referred to as the "Property"); and,

WHEREAS, the Developer is developing the Property situated within said Sanitary District of St. Mary's County, Maryland, known and further described as Saint Georges Hundred, Phase III, Section II, hereinafter referred to as the "Project"; and,

WHEREAS, the Developer, either by requirement of St. Mary's County or by choice, desires to construct certain central sewage facilities and/or central water facilities (the "Facilities"), to serve the Project; and,

WHEREAS, the Developer seeks the approval of the Commission for the construction of the Facilities; and,

WHEREAS, the Concept Plan for the development of the Project has been submitted to and approved by the Board of County Commissioner of St. Mary's County or their duly appointed agent; and,

WHEREAS, Developer has designed the Facilities in accordance with the St. Mary's County Standard Specifications for Water and Sewerage Construction, the Comprehensive Water and Sewerage Plans for St. Mary's County and any other rules, regulations, directives

or special instructions issued by the Commission for the State of Maryland and the Federal Government; and,

**WHEREAS**, Developer has submitted a statement(s) included as Exhibit N/A \_\_\_\_\_ and/or Exhibit N/A, attached hereto and incorporated herein, setting forth a proposed phasing for the construction of the Facilities and a proposed schedule of completion for said phase or phases, said statement having been approved by the Commission. The Developer has also submitted an itemized engineer's estimate which has been approved by the Commission.

**WHEREAS**, Developer has furnished a Performance and Payment bond or Irrevocable Letter of Credit which has been approved by the Commission, a copy of which appears at Exhibit N/A, payable to the Commission, its successors and assigns, in an amount of \$ N/A conditioned that the Developer shall well and truly perform and fulfill the covenants, conditions and terms of this Agreement, and shall assure payment for all materials utilized and work performed, all of which shall remain in force until the expiration of the warranty period as set forth in Paragraph EIGHTH.

**WHEREAS**, Developer has conveyed unto the Commission any and all required interest in the real property subject to development of the Facilities within the Project, including necessary interest in fee, as well as easements, rights of entry and other rights of way, as required by the Commission, more particularly set forth in Exhibit N/A, hereinafter referred to as "Commission Property"; and,

**WHEREAS**, Lender #1 is the holder of a recorded security interest in the Property; and,

**WHEREAS**, Lender #2, if any, and Owner, if different from Developer, have joined in the execution of these presents to acknowledge the obligations of the Developer set forth herein;

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**FIRST:** The Commission shall grant unto Developer a right of entry onto the Commission Property for the purpose of construction and maintenance of the Facilities, provided, however, that Developer hold the Commission harmless for and indemnifies the Commission against any and all losses or damages incurred by the Commission during such



time as Developer occupies such Commission Property, and further provided that Developer presents evidence of insurance coverage satisfactory to the Commission, including the naming the Commission as an additional insured, protecting all interests of the Commission.

**SECOND:** Developer shall construct all of the Facilities according to the schedule and in the phase or phases of construction as set forth herein, and in the case of multi-phased projects, no phase beyond the first shall be commenced until the Facilities under any of the previous phases have been approved and accepted by the Commission.

**THIRD:** Developer shall construct the Facilities in accordance with final plans and specifications, and amendments thereto, as approved by the Commission. In the event that final plans and specifications have not been approved at the time of execution of this Agreement, no work in connection with the construction of the Facilities shall be commenced prior to the approval by the Commission of such plans and specifications. Furthermore, within sixty (60) days after the construction of any phase of the Facilities is completed and approved, a completed set of "Mylar Drawings" shall be submitted to the Commission.

**FOURTH:** Developer shall maintain the Performance and Payment Bond or Letter of Credit provided in Exhibit N/A, for the period of construction of the Facilities, and for the period of the required warrantee as set forth herein.

**FIFTH:** Developer shall make available the Property to duly authorized representative of the Commission at all reasonable times for purposes of inspecting construction of the Facilities.

**SIXTH:** Developer shall pay the following fees and charges:

**Review Fees:** \$4,050.00 based upon \$75.00  
       per residential lot, or EDU and N/A per commercial lot or EDU, payable upon execution of this Agreement.

**Inspection Charges:** N/A based upon 3.5% of the Performance and Payment Bond or Irrevocable Letter of Credit, payable upon execution of this Agreement. Said amount shall be placed in an account by the Commission and shall be drawn upon from time to time to reimburse the Commission for the direct and indirect cost of said Inspection service, and if said cost is less than the Inspection Charge initially collected, the remaining

balance shall be returned to the Developer or, if the total Inspection cost is more than the Inspection Charge initially collected, the Developer shall pay to the Commission the difference.

**Connection Charges:** \$4,752.00 based upon \$88.00 per connection payable upon execution of this Agreement or at the time a connection permit is issued.

**Debt Service Charge:** \$524.17 per month based upon N/A per EDU per month, or \$1.70 per front foot per year based on 3700 front feet, payment beginning at the time capacity allocation is made (Planning Commission approval or service is made available, whichever occurs first).

**Sewer Service Charge:** \$706.32 per month based upon \$13.08 per month per EDU beginning when the service is utilized. This Service Charge reflects the currently approved rate and is subject to change.

**Water Service Charge:** \$550.80 per month based upon \$10.20 per month per meter for service and N/A per month per meter for Ready-to-Serve charge, beginning when the service is utilized. The meter will be read on a quarterly basis with an allowance of 18,000 gallons per quarter. \$1.70/1,000 gallons will be charged over the 18,000 gallon limit. This Service Charge reflects the currently approved rate and is subject to change.

**Water Supply Fees:** \$250.00 per EDU for development without supply (wells) that utilize the public water system, payable upon the first of the following to occur:

1. Payment in full at the time this Public Works Agreement is executed; or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated to the date of payment. Payment date not to exceed 365 days after date of execution of this agreement. \*

**Water Storage Fees:** \$450.00 per EDU for developments without storage facilities that utilize the public water system, payable upon the first of the following to occur:



1. Payment in full at the time this Public Works Agreement is executed;  
or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement. \*

\* If this option is selected, a bond in the amount of 110% of the amount due (\$41,580.00) will be required.

**SEVENTH:** No premises within the Project to be connected to the Facilities shall be occupied or used for any purpose whatsoever prior to the Facilities being accepted by the Commission without the express written prior approval of the Commission.

**EIGHTH:** Developer shall warrantee all mechanical, electrical and control Facilities for a period of twelve (12) months and all earthwork and associated underground construction for a period of eighteen (18) months after approval and acceptance by the Commission. The warranties shall cover the cost of labor, equipment and materials necessary to correct any problems with the Facilities.

**NINTH:** The Parties hereto expressly acknowledge that the following shall constitute events of Default of this Agreement:

1. Failure of Developer to construct the Facilities according to the schedule and in the phase or phases as set forth herein.
2. Failure of Developer to construct the Facilities in accordance with the approved plans and specifications approved by the Commission, as set forth herein.
3. Failure of Developer to provide a complete set of "Mylar Drawings" pursuant to ¶ **THIRD** above.
4. Failure of Developer to maintain the required bond for the period of construction and warranty of the Facilities.
5. Failure of Developer to prosecute work according to standard specifications.
6. Failure of Developer to respond to requests to honor warranties within a reasonable time schedule, such schedule to be established by the Commission.

7. Failure of Developer to perform any of the terms and conditions of this Agreement.

**TENTH:** The parties hereto acknowledge and agree that in an event of Default the Commission may take any or all of the following actions:

1. Notify Developer to Stop Work.
2. Demand that Developer vacate Commission Property.
3. Notify Developer of intention to call bond.

The Commission may, in its sole discretion and for the benefit of the project, give Developer a reasonable period to cure an event of Default. Failure of Developer to cure Default during such cure period shall constitute an event of continuing Default, with all remedies available to the Commission. Forbearance by the Commission shall not constitute a waiver of its rights to declare subsequent default.

**ELEVENTH:** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives and assigns of the parties hereto.

WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO THE DAY AND YEAR FIRST ABOVE WRITTEN:

WITNESS the hands and seals of the parties hereto, this 28 day of April 1998

ATTEST:

J. W. Ball

ST. MARY'S COUNTY METROPOLITAN COMMISSION

By: Francis L. Williams  
Francis L. Williams  
Chairman

ATTEST:

M. S. G. Scott

DEVELOPER: Makielski Saba Corporation

By: Farhad Saba  
Farhad Saba, President

PROPERTY OWNER: Pyquaranty LLC

By: Dennis J. Makielski  
Dennis J. Makielski, Manager

LENDER #1: Suburban Bank

By: Jeffery S. Wagner  
Jeffery S. Wagner, V.P.

R. J. Sibley

EXHIBITS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



(COMMISSION)

STATE OF MARYLAND

COUNTY OF ST. MARY'S,

to wit:

I HEREBY CERTIFY that on this 28th day of April 1998

before me a Notary Public in and for the County of St. Mary's aforesaid personally appeared Francis Leroy Williams Chairman of the St. Mary's County Metropolitan Commission, and on behalf of said Commission did acknowledge the foregoing instrument to be the act and deed of the St. Mary's County Metropolitan Commission.

WITNESS my hand and Notarial Seal

Lillian J. Bryan

Notary Public.

My Commission expires 02/01/00.

(DEVELOPER)

STATE OF

Maryland

COUNTY OF

Charles

to wit:

I HEREBY CERTIFY that on this 18th day of March, 1998 before me,

the subscriber, a Notary Public in the county aforesaid, personally appeared \_\_\_\_\_

Fahad Saba and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Mary Budget Scott

Notary Public

My Commission Expires: 12/31/01



(OWNER)

STATE OF

Maryland

COUNTY OF

Charles

to wit:

I HEREBY CERTIFY that on this 18<sup>th</sup> day of March, 1998 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Dennis J. Makulski and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Mary Budgett Scott

Notary Public

My Commission Expires: 12/31/01

(LENDER #1)

STATE OF

Maryland

COUNTY OF

Howard

to wit:

I HEREBY CERTIFY that on this 18<sup>th</sup> day of March, 1998 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Jeffrey S. Wagner and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Kathryn M. Postell

Notary Public

My Commission Expires: 8-22-2000



PUBLIC WORKS AGREEMENT

THIS PUBLIC WORKS AGREEMENT, executed this 31 day of

August 1998, by and between the ST, MARY'S COUNTY

METROPOLITAN COMMISSION (hereinafter, the "Commission"),

Hickory Hills North, L.L.C., (hereinafter, the "Developer"),

Hickory Hills North, L.L.C., (hereinafter, the "Owner") and

United Pacific Insurance Company, (hereinafter, the "Lender #1"),

United Pacific Insurance Company, (hereinafter, the "Lender #2", Letter of Credit holder),

RECORDING FEE 0.00  
TOTAL 0.00  
Rest#SH02 Rcpt#999999  
LHA KAE BIK#2021  
SEP 23 2002 02:34 PM

WITNESSETH

WHEREAS, the Commission is responsible for all water and sewerage projects in the Eighth (8th) Sanitary District of St. Mary's County, Maryland (the "County"); and,

WHEREAS, Owner is the owner in fee simple of all that lot, tract or parcel of land located in St. Mary's County, Maryland, subject to this Agreement, more particularly described at Exhibit D, attached hereto and incorporated herein, (hereinafter referred to as the "Property"); and,

WHEREAS, the Developer is developing the Property situated within said Sanitary District of St. Mary's County, Maryland, known and further described as Hickory Hills North, Section II, hereinafter referred to as the "Project"; and,

WHEREAS, the Developer, either by requirement of St. Mary's County or by choice, desires to construct certain central sewage facilities and/or central water facilities (the "Facilities"), to serve the Project; and,



**WHEREAS**, the Developer seeks the approval of the Commission for the construction of the Facilities; and,

**WHEREAS**, the Concept Plan for the development of the Project has been submitted to and approved by the Board of County Commissioner of St. Mary's County or their duly appointed agent; and,

**WHEREAS**, Developer has designed the Facilities in accordance with the St. Mary's County Standard Specifications for Water and Sewerage Construction, the Comprehensive Water and Sewerage Plans for St. Mary's County and any other rules, regulations, directives or special instructions issued by the Commission for the State of Maryland and the Federal Government; and,

**WHEREAS**, Developer has submitted a statement(s) included as Exhibit   A   and/or Exhibit   B  , attached hereto and incorporated herein, setting forth a proposed phasing for the construction of the Facilities and a proposed schedule of completion for said phase or phases, said statement having been approved by the Commission. The Developer has also submitted an itemized engineer's estimate which has been approved by the Commission.

**WHEREAS**, Developer has furnished a Performance and Payment bond or Irrevocable Letter of Credit which has been approved by the Commission, a copy of which appears at Exhibit   C  , payable to the Commission, its successors and assigns, in an amount of \$   201,670.00   conditioned that the Developer shall well and truly perform and fulfill the covenants, conditions and terms of this Agreement, and shall assure payment for all materials utilized and work performed, all of which shall remain in force until the expiration

of the warranty period as set forth in Paragraph EIGHTH.

**WHEREAS**, Developer has conveyed unto the Commission any and all required interest in the real property subject to development of the Facilities within the Project, including necessary interest in fee, as well as easements, rights of entry and other rights of way, as required by the Commission, more particularly set forth in Exhibit N/A, hereinafter referred to as "Commission Property"; and,

**WHEREAS**, Lender #1 is the holder of a recorded security interest in the Property; and,

**WHEREAS**, Lender #2, if any, and Owner, if different from Developer, have joined in the execution of these presents to acknowledge the obligations of the Developer set forth herein;

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**FIRST:** The Commission shall grant unto Developer a right of entry onto the Commission Property for the purpose of construction and maintenance of the Facilities, provided, however, that Developer hold the Commission harmless for and indemnifies the Commission against any and all losses or damages incurred by the Commission during such time as Developer occupies such Commission Property, and further provided that Developer presents evidence of insurance coverage satisfactory to the Commission, including the naming the Commission as an additional insured, protecting all interests of the Commission.

**SECOND:** Developer shall construct all of the Facilities according to the schedule and in the phase or phases of construction as set forth herein, and in the case of multi-phased projects, no phase beyond the first shall be commenced until the Facilities under any



of the previous phases have been approved and accepted by the Commission.

**THIRD:** Developer shall construct the Facilities in accordance with final plans and specifications, and amendments thereto, as approved by the Commission. In the event that final plans and specifications have not been approved at the time of execution of this Agreement, no work in connection with the construction of the Facilities shall be commenced prior to the approval by the Commission of such plans and specifications. Furthermore, within sixty (60) days after the construction of any phase of the Facilities is completed and approved, a completed set of "As-Built Mylar Drawings" shall be submitted to the Commission.

**FOURTH:** Developer shall maintain the Performance and Payment Bond or Letter of Credit provided in Exhibit C, for the period of construction of the Facilities, and for the period of the required warrantee as set forth herein.

**FIFTH:** Developer shall make available the Property to duly authorized representative of the Commission at all reasonable times for purposes of inspecting construction of the Facilities.

**SIXTH:** Developer shall pay the following fees and charges:

**Inspection Charges:** \$7,058.00 based upon 3.5% of the Performance and Payment Bond or Irrevocable Letter of Credit, payable upon execution of this Agreement. Said amount shall be placed in an account by the Commission and shall be drawn upon from time to time to reimburse the Commission for the direct and indirect cost of said Inspection service, and if said cost is less than the Inspection Charge initially collected, the remaining balance shall be returned to the Developer or, if the total

Inspection cost is more than the Inspection Charge initially collected, the Developer shall pay to the Commission the difference.

**Connection Charges:** \$4,098.00 based upon \$88.00 per connection payable upon execution of this Agreement or at the time a connection permit is issued.

**Debt Service Charge:** \$518.44 per month based upon N/A per EDU per month, or \$1.70 per front foot per year based on 3660 front feet, payment beginning at the time capacity allocation is made (Planning Commission approval or service is made available, whichever occurs first).

**Sewer Service Charge:** \$601.68 per month based upon \$13.08 per month per EDU beginning when the service is utilized. This Service Charge reflects the currently approved rate and is subject to change.

**Water Service Charge:** \$469.20 per month based upon \$10.20 per month per meter for service and N/A per month per meter for Ready-to-Serve charge, beginning when the service is utilized. The meter will be read on a quarterly basis with an allowance of 18,000 gallons per quarter. \$1.70/1,000 gallons will be charged over the 18,000 gallon limit. This Service Charge reflects the currently approved rate and is subject to change.

**Water Supply Fees:** \$250.00 per EDU for development without supply (wells) that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed;  
or



2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this agreement. \*

**Water Storage Fees: \$450.00** \_\_\_\_\_ per EDU for developments without storage facilities that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed;  
or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement. \*

\* If this option is selected, a bond in the amount of 110% of the amount due (\$35,420.00) will be required.

**SEVENTH:** No premises within the Project to be connected to the Facilities shall be occupied or used for any purpose whatsoever prior to the Facilities being accepted by the Commission without the express written prior approval of the Commission.

**EIGHTH:** Developer shall warrantee all mechanical, electrical and control Facilities for a period of twelve (12) months and all earthwork and associated underground construction for a period of eighteen (18) months after approval and acceptance by the Commission. The warranties shall cover the cost of labor, equipment and materials necessary to correct any problems with the Facilities.

**NINTH:** The Parties hereto expressly acknowledge that the following shall constitute events of Default of this Agreement:

1. Failure of Developer to construct the Facilities according to the schedule and in the phase or phases as set forth herein.
2. Failure of Developer to construct the Facilities in accordance with the approved plans and specifications approved by the Commission, as set forth herein.
3. Failure of Developer to provide a complete set of "Mylar Drawings" pursuant to ¶ **THIRD** above.
4. Failure of Developer to maintain the required bond for the period of construction and warranty of the Facilities.
5. Failure of Developer to prosecute work according to standard specifications.
6. Failure of Developer to respond to requests to honor warranties within a reasonable time schedule, such schedule to be established by the Commission.
7. Failure of Developer to perform any of the terms and conditions of this Agreement.

**TENTH:** The parties hereto acknowledge and agree that in an event of Default the Commission may take any or all of the following actions:

1. Notify Developer to Stop Work.
2. Demand that Developer vacate Commission Property.
3. Notify Developer of intention to call bond.

The Commission may, in its sole discretion and for the benefit of the project, give



Developer a reasonable period to cure an event of Default. Failure of Developer to cure Default during such cure period shall constitute an event of continuing Default, with all remedies available to the Commission. Forbearance by the Commission shall not constitute a waiver of its rights to declare subsequent default.

**ELEVENTH:** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives and assigns of the parties hereto.

**TWELFTH:** Developer can start Model Homes on Lots 109, 110, 42 and 43 prior to the complete construction of the water and sewer facilities.

WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO THE DAY AND YEAR FIRST ABOVE WRITTEN:

WITNESS the hands and seals of the parties hereto, this 31 day of August 19 98

.ATTEST:

ST.MARY'S COUNTY METROPOLITAN COMMISSION

L Bryan

Secretary

By: Floyd B. Derby

Floyd B. Derby

Chairman

ATTEST:

DEVELOPER: Hickory Hills North LLC

Connie Letten

By: Edward R. Curley III, Manager

Edward R. Curley III, Manager

PROPERTY OWNER: Hickory Hills North LLC

By: Edward R. Curley III, Manager

Edward R. Curley III, Manager

Elizabeth Tyldesley  
Elizabeth Tyldesley

~~MEMORANDUM~~ SURETY  
United Pacific Insurance Company

By: Arthur H. Jones, Attorney-in-Fact

Arthur H. Jones, Attorney-in-Fact

LENDER #2

By: \_\_\_\_\_

EXHIBITS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



(COMMISSION)STATE OF MARYLAND

COUNTY OF ST. MARY'S,

to wit:

I HEREBY CERTIFY that on this 26th day of March 1999

before me a Notary Public in and for the County of St. Mary's aforesaid personally appeared

Floyd B. Derby Chairman of the St. Mary's

County Metropolitan Commission, and on behalf of said Commission did acknowledge the

foregoing instrument to be the act and deed of the St. Mary's County Metropolitan

Commission.

WITNESS my hand and Notarial Seal

Deborah Smith Notary Public

My Commission Expires: 12/15/02

(DEVELOPER)STATE OF

Maryland

COUNTY OF

Calvert

to wit:

I HEREBY CERTIFY that on this 31st day of Aug 1998 before me,

the subscriber, a Notary Public in the county aforesaid, personally appeared \_\_\_\_\_

Edward R. Curley III and that ~~he/she/they~~ acknowledged the foregoing Public Works

Agreement to be ~~his/hers/their~~ act.

WITNESS my hand and Notarial Seal:

Janet P. Jenkins Notary Public

My Commission Expires: 7-1-99

(OWNER)STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_ to wit:

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_ before me, the subscriber, a Notary Public in the county aforesaid, personally appeared \_\_\_\_\_ and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

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

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

~~(OWNER)~~ (SURETY)

STATE OF Maryland

COUNTY OF Prince Georges to wit:

I HEREBY CERTIFY that on this 27th day of August, 19 98 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Arthur H. Jones and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

C. Jean Anderson Notary Public

My Commission Expires: 8-1-99



(LENDER #2)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_ to wit:

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_ before me, the subscriber, a Notary Public in the county aforesaid, personally appeared \_\_\_\_\_ and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

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

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

EXHIBIT A

STATEMENT OF  
PROPOSED WATER FACILITIES  
AND PHASING

PROJECT NAME: Hickory Hills North, Phase II  
TOTAL # OF PHASES: One  
DEVELOPER: Hickory Hills North, L.L.C.

PHASE I:

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 46

PROJECTED CONSTRUCTION START DATE: 01 July, 1998

PROJECTED CONSTRUCTION COMPLETION DATE: 01 July, 1999

FACILITIES TO BE CONSTRUCTED\*: Water distribution system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 14 April, 1998

COMMISSION PARTICIPATION: NONE

\*The facilities listed also include FOR WATER PUMPING STATION: Wells, pumps, controls, generators, chlorinators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same; FOR WATER STORAGE TANKS: Elevated storage tanks, standpipes, ground storage tanks,



hydropneumatic tanks and surge tanks as required by the Commission, together with all sites on which they are situated and 20' access to the same: FOR DISTRIBUTION SYSTEMS: Mains, fire hydrants, valves and valve boxes, fittings, blow offs, water house connections, water house service lines, curb stops, curb stop boxes, water meter settings and appurtenances, together with 20' permanent easements over the same for maintenance and modifications of and connection to these facilities; along with any and all other facilities or appurtenances which in any way could be construed as part of the water system.

Commission:  \_\_\_\_\_

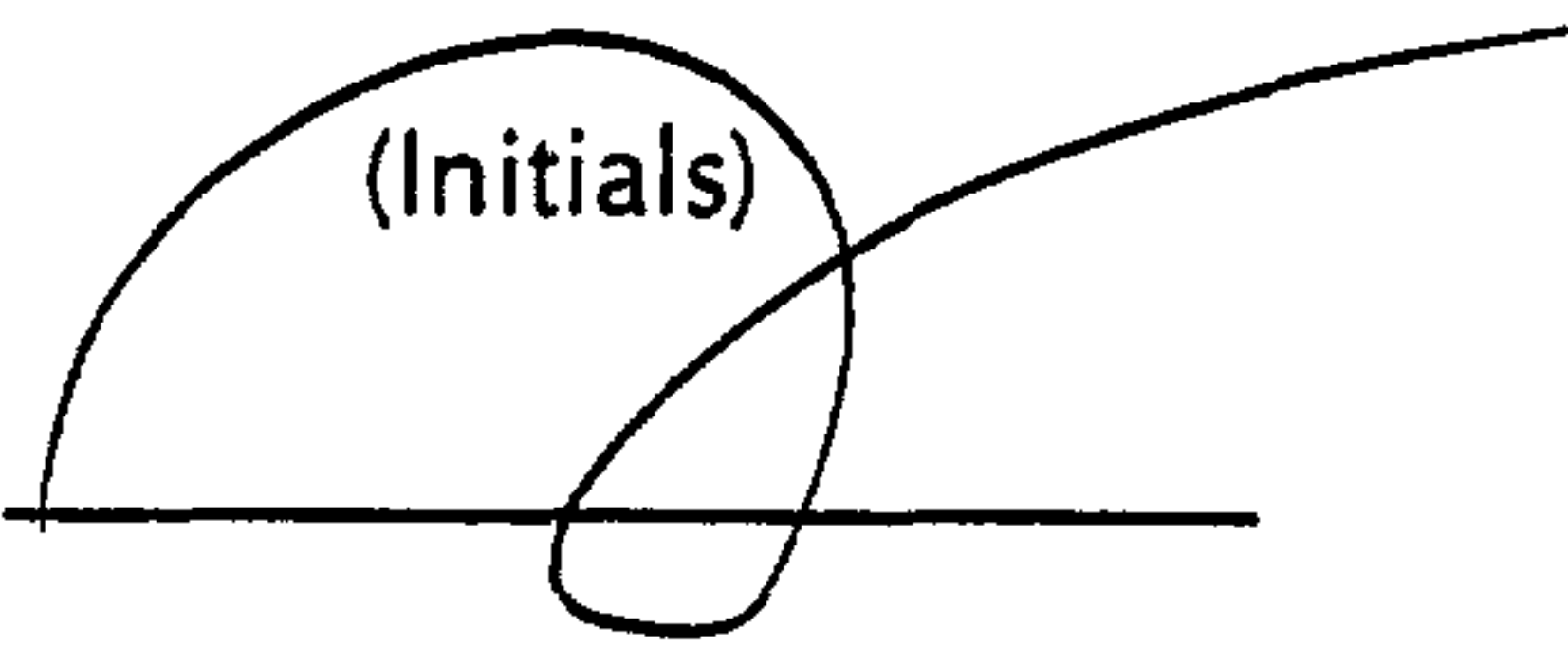
Developer:  \_\_\_\_\_  
(Initials)

EXHIBIT B

STATEMENT OF  
PROPOSED SEWER FACILITIES  
AND PHASING

PROJECT NAME: Hickory Hills North, Section II

TOTAL # OF PHASES: One

DEVELOPER: Hickory Hills North, L.L.C.

PHASE I:

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 46

PROJECTED CONSTRUCTION START DATE: 01 July, 1998

PROJECTED CONSTRUCTION COMPLETION DATE: 01 July, 1999

FACILITIES TO BE CONSTRUCTED\*: Sewerage collection system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 14 April 1998

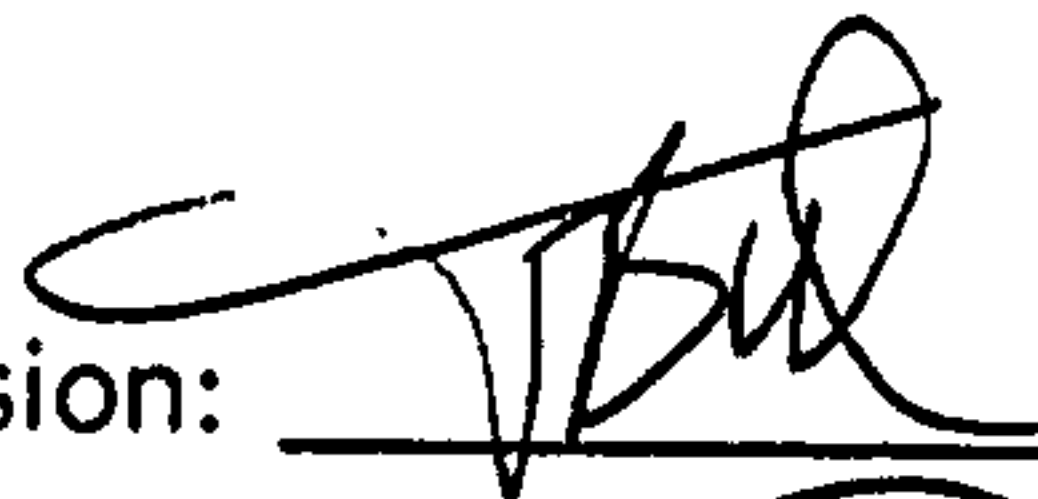
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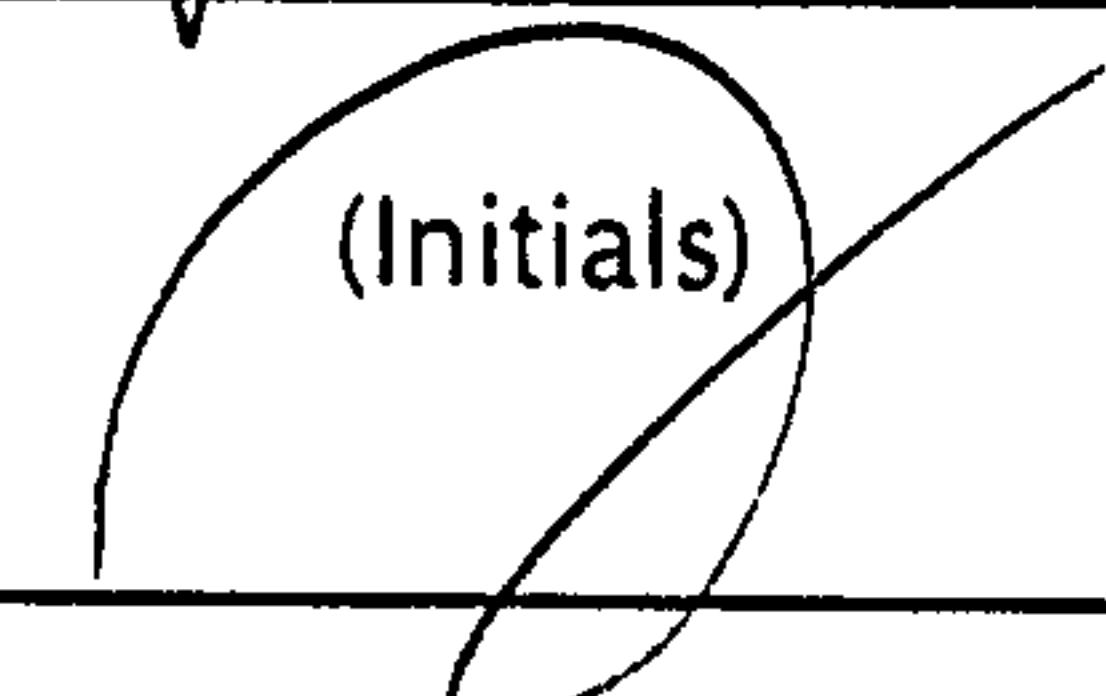
COMMISSION PARTICIPATION: NONE

\*The facilities also include for WASTEWATER PUMPING STATIONS: pumps, wet wells, generators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same. FOR



WASTEWATER TREATMENT PLANTS: Storage lagoons, physical plants influent and effluent lines, lift stations, generators, together with all sites on which they are situated and 20' access to the same; FOR COLLECTION SYSTEMS: Collector and lateral sewers, force mains, sewer house service lines, air release valves, together with 20' permanent easements over the same for maintenance and modifications of connection to these facilities, along with any and all other facilities or appurtenances which in any way could be construed as part of the sewerage system.

Commission:  \_\_\_\_\_

Developer:  \_\_\_\_\_  
(Initials)

PUBLIC WORKS AGREEMENT

THIS PUBLIC WORKS AGREEMENT, executed this 29 day of

January 1998, by and between the ST, MARY'S COUNTY METROPOLITAN COMMISSION (hereinafter, the "Commission"),

RECORDING FEE 0.00  
TOTAL 0.00  
Rest#SND: Rcpt#999999  
EWA KAE 81K#2021  
SEP 23 2002 02:35 PM

235 Partnership/Great Mills Trading Post, (hereinafter, the "Developer")

235 Partnership, (hereinafter, the "Owner") and

First National Bank of St. Mary's, (hereinafter, the "Lender #1"),

First National Bank of St. Mary's, (hereinafter, the "Lender #2", Letter of Credit holder),

WITNESSETH

WHEREAS, the Commission is responsible for all water and sewerage projects in the Eighth (8th) Sanitary District of St. Mary's County, Maryland (the "County"); and,

WHEREAS, Owner is the owner in fee simple of all that lot, tract or parcel of land located in St. Mary's County, Maryland, subject to this Agreement, more particularly described at Exhibit D, attached hereto and incorporated herein, (hereinafter referred to as the "Property"); and,

WHEREAS, the Developer is developing the Property situated within said Sanitary District of St. Mary's County, Maryland, known and further described as Laurel Glen, Phase 5, Sections 1 & 2, hereinafter referred to as the "Project"; and,

WHEREAS, the Developer, either by requirement of St. Mary's County or by choice, desires to construct certain central sewage facilities and/or central water facilities (the "Facilities"), to serve the Project; and,

**WHEREAS**, the Developer seeks the approval of the Commission for the construction of the Facilities; and,

**WHEREAS**, the Concept Plan for the development of the Project has been submitted to and approved by the Board of County Commissioner of St. Mary's County or their duly appointed agent; and,

**WHEREAS**, Developer has designed the Facilities in accordance with the St. Mary's County Standard Specifications for Water and Sewerage Construction, the Comprehensive Water and Sewerage Plans for St. Mary's County and any other rules, regulations, directives or special instructions issued by the Commission for the State of Maryland and the Federal Government; and,

**WHEREAS**, Developer has submitted a statement(s) included as Exhibit A \_\_\_\_\_ and/or Exhibit B \_\_\_\_\_, attached hereto and incorporated herein, setting forth a proposed phasing for the construction of the Facilities and a proposed schedule of completion for said phase or phases, said statement having been approved by the Commission. The Developer has also submitted an itemized engineer's estimate which has been approved by the Commission.

**WHEREAS**, Developer has furnished a Performance and Payment bond or Irrevocable Letter of Credit which has been approved by the Commission, a copy of which appears at Exhibit C \_\_\_\_\_, payable to the Commission, its successors and assigns, in an amount of \$ 237,156.70 conditioned that the Developer shall well and truly perform and fulfill the covenants, conditions and terms of this Agreement, and shall assure payment for all materials utilized and work performed, all of which shall remain in force until the expiration



of the warranty period as set forth in Paragraph EIGHTH.

**WHEREAS**, Developer has conveyed unto the Commission any and all required interest in the real property subject to development of the Facilities within the Project, including necessary interest in fee, as well as easements, rights of entry and other rights of way, as required by the Commission, more particularly set forth in Exhibit N/A, hereinafter referred to as "Commission Property"; and,

**WHEREAS**, Lender #1 is the holder of a recorded security interest in the Property; and,

**WHEREAS**, Lender #2, if any, and Owner, if different from Developer, have joined in the execution of these presents to acknowledge the obligations of the Developer set forth herein;

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**FIRST:** The Commission shall grant unto Developer a right of entry onto the Commission Property for the purpose of construction and maintenance of the Facilities, provided, however, that Developer hold the Commission harmless for and indemnifies the Commission against any and all losses or damages incurred by the Commission during such time as Developer occupies such Commission Property, and further provided that Developer presents evidence of insurance coverage satisfactory to the Commission, including the naming the Commission as an additional insured, protecting all interests of the Commission.

**SECOND:** Developer shall construct all of the Facilities according to the schedule and in the phase or phases of construction as set forth herein, and in the case of multi-phased projects, no phase beyond the first shall be commenced until the Facilities under any

of the previous phases have been approved and accepted by the Commission.

**THIRD:** Developer shall construct the Facilities in accordance with final plans and specifications, and amendments thereto, as approved by the Commission. In the event that final plans and specifications have not been approved at the time of execution of this Agreement, no work in connection with the construction of the Facilities shall be commenced prior to the approval by the Commission of such plans and specifications. Furthermore, within sixty (60) days after the construction of any phase of the Facilities is completed and approved, a completed set of "As-Built Mylar Drawings" shall be submitted to the Commission.

**FOURTH:** Developer shall maintain the Performance and Payment Bond or Letter of Credit provided in Exhibit C, for the period of construction of the Facilities, and for the period of the required warrantee as set forth herein.

**FIFTH:** Developer shall make available the Property to duly authorized representative of the Commission at all reasonable times for purposes of inspecting construction of the Facilities.

**SIXTH:** Developer shall pay the following fees and charges:

**Inspection Charges:** \$8,300.00 based upon 3.5% of the Performance and Payment Bond or Irrevocable Letter of Credit, payable upon execution of this Agreement. Said amount shall be placed in an account by the Commission and shall be drawn upon from time to time to reimburse the Commission for the direct and indirect cost of said Inspection service, and if said cost is less than the Inspection Charge initially collected, the remaining balance shall be returned to the Developer or, if the total



Inspection cost is more than the Inspection Charge initially collected, the Developer shall pay to the Commission the difference.

**Connection Charges:** \$4,400.00 based upon \$88.00 per connection payable upon execution of this Agreement or at the time a connection permit is issued.

**Debt Service Charge:** \$544.26 per month based upon N/A per EDU per month, or \$1.70 per front foot per year based on 3,842 front feet, payment beginning at the time capacity allocation is made (Planning Commission approval or service is made available, whichever occurs first).

**Sewer Service Charge:** \$654.00 per month based upon \$13.08 per month per EDU beginning when the service is utilized. This Service Charge reflects the currently approved rate and is subject to change.

**Water Service Charge:** \$510.00 per month based upon \$10.20 per month per meter for service and N/A per month per meter for Ready-to-Serve charge, beginning when the service is utilized. The meter will be read on a quarterly basis with an allowance of 18,000 gallons per quarter. \$1.70/1,000 gallons will be charged over the 18,000 gallon limit. This Service Charge reflects the currently approved rate and is subject to change.

**Water Supply Fees:** \$250.00 per EDU for development without supply (wells) that utilize the public water system, payable as set forth below:

1. Payment to be made upon issuance of individual lot building permits.



2. On the 731st day after the signing of the record plat for this development, payment will be made in full for any remaining lots which have not received building permits.

**Water Storage Fees:** \$600.00 per EDU for developments without storage facilities that utilize the public water system, payable as set forth below:

1. Payment to be made upon issuance of individual lot building permits.
2. On the 731st day after the signing of the record plat for this development, payment will be made in full for any remaining lots which have not received building permits.

**SEVENTH:** No premises within the Project to be connected to the Facilities shall be occupied or used for any purpose whatsoever prior to the Facilities being accepted by the Commission without the express written prior approval of the Commission.

**EIGHTH:** Developer shall warrantee all mechanical, electrical and control Facilities for a period of twelve (12) months and all earthwork and associated underground construction for a period of eighteen (18) months after approval and acceptance by the Commission. The warranties shall cover the cost of labor, equipment and materials necessary to correct any problems with the Facilities.

**NINTH:** The Parties hereto expressly acknowledge that the following shall constitute events of Default of this Agreement:

1. Failure of Developer to construct the Facilities according to the schedule and in the phase or phases as set forth herein.
2. Failure of Developer to construct the Facilities in accordance with the

approved plans and specifications approved by the Commission, as set forth herein.

3. Failure of Developer to provide a complete set of "Mylar Drawings" pursuant to ¶ **THIRD** above.

4. Failure of Developer to maintain the required bond for the period of construction and warranty of the Facilities.

5. Failure of Developer to prosecute work according to standard specifications.

6. Failure of Developer to respond to requests to honor warranties within a reasonable time schedule, such schedule to be established by the Commission.

7. Failure of Developer to perform any of the terms and conditions of this Agreement.

**TENTH:** The parties hereto acknowledge and agree that in an event of Default the Commission may take any or all of the following actions:

1. Notify Developer to Stop Work.
2. Demand that Developer vacate Commission Property.
3. Notify Developer of intention to call bond.

The Commission may, in its sole discretion and for the benefit of the project, give Developer a reasonable period to cure an event of Default. Failure of Developer to cure Default during such cure period shall constitute an event of continuing Default, with all remedies available to the Commission. Forbearance by the Commission shall not constitute a waiver of its rights to declare subsequent default.

**ELEVENTH:** This Agreement shall be binding upon and inure to the benefit of the

heirs, successors, personal representatives and assigns of the parties hereto.

WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO THE DAY AND YEAR FIRST ABOVE WRITTEN:

WITNESS the hands and seals of the parties hereto, this 29 day of January 1998

.ATTEST:

ST.MARY'S COUNTY METROPOLITAN COMMISSION

*Alvin S. King*

By: *Francis L. Williams*

Secretary

Francis L. Williams  
Chairman

ATTEST:

DEVELOPER: 235 Partnership / Great Mills Trading Post

*Janet Young*

By: *Keith A. Allston*  
Keith A. Allston, Partner  
235 Partnership

By: *Joseph D. Knott*  
Joseph D. Knott, President  
Great Mills Trading Post

PROPERTY OWNER: 235 Partnership

By: *Keith A. Allston*  
Keith A. Allston, Partner

*Miguel*

LENDER #1:  
By: *Dan Kubican*  
First National Bank of St. Mary's  
Dan Kubican, Sr. Vice President



Miguel Sed

EXHIBITS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

LENDER #2

By: Dan Kubican

First National Bank of St. Mary's  
Dan Kubican, Sr. Vice President

(COMMISSION)STATE OF MARYLAND

COUNTY OF ST. MARY'S,

to wit:

I HEREBY CERTIFY that on this 20th day of January 1998

before me a Notary Public in and for the County of St. Mary's aforesaid personally appeared Francis L. Williams Chairman of the St. Mary's County Metropolitan Commission, and on behalf of said Commission did acknowledge the foregoing instrument to be the act and deed of the St. Mary's County Metropolitan Commission..

WITNESS my hand and Notarial Seal

Lillian J. Bryan Notary Public

My Commission Expires: 2/1/00

(DEVELOPER)STATE OF Maryland

COUNTY OF St. Mary's to wit:

I HEREBY CERTIFY that on this 27th day of January, 1998 before me,

the subscriber, a Notary Public in the county aforesaid, personally appeared Joseph D. Knott + Keith A. Allston and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Rose Marie Bean Notary Public

My Commission Expires:  
**ROSE MARIE BEAN**  
**NOTARY PUBLIC STATE OF MARYLAND**  
My Commission Expires July 1, 2000

(OWNER)STATE OF Maryland

COUNTY OF St. Mary's to wit:

I HEREBY CERTIFY that on this 27th day of January, 19 98 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Keith A. Allston and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

*Theresa Weiland* Notary Public

My Commission Expires: 7-1-99

(LENDER #1)

STATE OF Maryland

COUNTY OF St. Mary's to wit:

I HEREBY CERTIFY that on this 27th day of January, 19 98 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Dan Kubican and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

*Theresa Weiland* Notary Public

My Commission Expires: 7-1-99



(LENDER #2)

STATE OF Maryland

COUNTY OF St. Mary's to wit:

I HEREBY CERTIFY that on this 27th day of January, 19 98 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Dan Kubican and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Sharon Wilson Notary Public

My Commission Expires: 7-1-99

EXHIBIT A

STATEMENT OF

PROPOSED WATER FACILITIES

AND PHASING

PROJECT NAME: Laurel Glen, Phase 5, Sections 1&2

TOTAL # OF PHASES: One

DEVELOPER: 235 Partnership/Great Mills Trading Post

PHASE I:

PLAT REF: EWA 574/263 # LOTS TO BE SERVED: 50

PROJECTED CONSTRUCTION START DATE: 02/15/98

PROJECTED CONSTRUCTION COMPLETION DATE: 10/30/98

FACILITIES TO BE CONSTRUCTED\*: Water distribution system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 25 Sep, 1997

COMMISSION PARTICIPATION: NONE

\*The facilities listed also include FOR WATER PUMPING STATION: Wells, pumps, controls, generators, chlorinators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same, FOR WATER STORAGE TANKS: Elevated storage tanks, standpipes, ground storage tanks,

hydropneumatic tanks and surge tanks as required by the Commission, together with all sites on which they are situated and 20' access to the same: FOR DISTRIBUTION SYSTEMS: Mains, fire hydrants, valves and valve boxes, fittings, blow offs, water house connections, water house service lines, curb stops, curb stop boxes, water meter settings and appurtenances, together with 20' permanent easements over the same for maintenance and modifications of and connection to these facilities; along with any and all other facilities or appurtenances which in any way could be construed as part of the water system.

Commission: *JL*  
(Initials)

Developer: *KA*  
(Initials)



EXHIBIT B

STATEMENT OF

PROPOSED SEWER FACILITIES

AND PHASING

PROJECT NAME: Laurel Glen, Phase 5, Sections 1&2

TOTAL # OF PHASES: One

DEVELOPER: 235 Partnership/Great Mills Trading Post

PHASE I:

PLAT REF: EWA 574/263 # LOTS TO BE SERVED: 50

PROJECTED CONSTRUCTION START DATE: 02/15/98

PROJECTED CONSTRUCTION COMPLETION DATE: 10/30/98

FACILITIES TO BE CONSTRUCTED\*: Sewerage collection system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 25 Sep, 1997

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMISSION PARTICIPATION: NONE

\*The facilities also include for WASTEWATER PUMPING STATIONS: pumps, wet wells, generators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same. FOR

WASTEWATER TREATMENT PLANTS: Storage lagoons, physical plants influent and effluent lines, lift stations, generators, together with all sites on which they are situated and 20' access to the same; FOR COLLECTION SYSTEMS: Collector and lateral sewers, force mains, sewer house service lines, air release valves, together with 20' permanent easements over the same for maintenance and modifications of connection to these facilities, along with any and all other facilities or appurtenances which in any way could be construed as part of the sewerage system.

Commission:           Jlee            
(Initials)

Developer:           KA            
(Initials)

**PUBLIC WORKS AGREEMENT**

**THIS PUBLIC WORKS AGREEMENT**, executed this 17 day of July 17, 2001, by and between the ST, MARY'S COUNTY METROPOLITAN COMMISSION (hereinafter, the "Commission"), Sheetz, Inc., (hereinafter, the "Developer"), Blazar Rentals, LLC, (hereinafter, the "Owner") and St. Paul Fire and Marine Insurance Co., (hereinafter, the Surety),

**WITNESSETH**

**WHEREAS**, the Commission is responsible for all water and sewerage projects in the Eighth (8th) Sanitary District of St. Mary's County, Maryland (the "County"); and,

**WHEREAS**, Owner is the owner in fee simple of all that lot, tract or parcel of land located in St. Mary's County, Maryland, subject to this Agreement, more particularly described at Exhibit D, attached hereto and incorporated herein, (hereinafter referred to as the "Property"); and,

**WHEREAS**, the Developer is developing the Property situated within said Sanitary District of St. Mary's County, Maryland, known and further described as Great Mills Gas and Convenience Store, hereinafter referred to as the "Project"; and,

**WHEREAS**, the Developer, either by requirement of St. Mary's County or by choice, desires to construct certain central sewage facilities and/or central water facilities (the "Facilities"), to serve the Project; and,

RECORDING FEE 0.00  
TOTAL 0.00  
Res#502 Rpt#999999  
EWA KAE Bk#2283  
Sep 25, 2002 10:54 am



**WHEREAS**, the Developer seeks the approval of the Commission for the construction of the Facilities; and,

**WHEREAS**, the Concept Plan for the development of the Project has been submitted to and approved by the Board of County Commissioner of St. Mary's County or their duly appointed agent; and,

**WHEREAS**, Developer has designed the Facilities in accordance with the St. Mary's County Standard Specifications for Water and Sewerage Construction, the Comprehensive Water and Sewerage Plans for St. Mary's County and any other rules, regulations, directives or special instructions issued by the Commission for the State of Maryland and the Federal Government; and,

**WHEREAS**, Developer has submitted a statement(s) included as Exhibit     A     and/or Exhibit     , attached hereto and incorporated herein, setting forth a proposed phasing for the construction of the Facilities and a proposed schedule of completion for said phase or phases, said statement having been approved by the Commission. The Developer has also submitted an itemized engineer's estimate which has been approved by the Commission.

**WHEREAS**, Developer has furnished a Performance and Payment bond or Irrevocable Letter of Credit which has been approved by the Commission, a copy of which appears at Exhibit     B    , payable to the Commission, its successors and assigns, in an amount of \$ 74,023.00 conditioned that the Developer shall well and truly perform and fulfill the covenants, conditions and terms of this Agreement, and shall assure payment for all materials utilized and work performed, all of which shall remain in force until the expiration of the warranty period as set forth in Paragraph

**WHEREAS,** Developer has conveyed unto the Commission any and all required interest in the real property subject to development of the Facilities within the Project, including necessary interest in fee, as well as easements, rights of entry and other rights of way, as required by the Commission, more particularly set forth in Exhibit N/A, hereinafter referred to as "Commission Property"; and,

**WHEREAS,** Lender #1 is the holder of a recorded security interest in the Property; and,

**WHEREAS,** Lender #2, if any, and Owner, if different from Developer and Surety, have joined in the execution of these presents to acknowledge the obligations of the Developer set forth herein;

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**FIRST:** The Commission shall grant unto Developer a right of entry onto the Commission Property for the purpose of construction and maintenance of the Facilities, provided, however, that Developer hold the Commission harmless for and indemnifies the Commission against any and all losses or damages incurred by the Commission during such time as Developer occupies such Commission Property, and further provided that Developer presents evidence of insurance coverage satisfactory to the Commission, including the naming the Commission as an additional insured, protecting all interests of the Commission.

**SECOND:** Developer shall construct all of the Facilities according to the schedule and in the phase or phases of construction as set forth herein, and in the case of multi-phased projects, no phase beyond the first shall be commenced until the Facilities under any of the previous phases have been approved and accepted by the Commission.



Commission.

**THIRD:** Developer shall construct the Facilities in accordance with final plans and specifications, and amendments thereto, as approved by the Commission. In the event that final plans and specifications have not been approved at the time of execution of this Agreement, no work in connection with the construction of the Facilities shall be commenced prior to the approval by the Commission of such plans and specifications. Furthermore, within sixty (60) days after the construction of any phase of the Facilities is completed and approved, a completed set of "As-Built Mylar Drawings" shall be submitted to the Commission.

**FOURTH:** Developer shall maintain the Performance and Payment Bond or Letter of Credit provided in Exhibit B, for the period of construction of the Facilities, and for the period of the required warrantee as set forth herein.

**FIFTH:** Developer shall make available the Property to duly authorized representative of the Commission at all reasonable times for purposes of inspecting construction of the Facilities.

**SIXTH:** Developer shall pay the following fees and charges:

**Inspection Charges:** \$2,591.00 based upon 3.5% of the Performance and Payment Bond or Irrevocable Letter of Credit, payable upon execution of this Agreement. Said amount shall be placed in an account by the Commission and shall be drawn upon from time to time to reimburse the Commission for the direct and indirect cost of said Inspection service, and if said cost is less than the Inspection Charge initially collected, the remaining balance shall be returned to the Developer or, if the total Inspection cost is more than the Inspection Charge initially collected, the Developer shall pay to the Commission the difference. This Charge reflects the



currently approved rate and is subject to change.

**Connection Charges:** \$380.00 based upon 2" meter per connection payable upon execution of this Agreement or at the time a connection permit is issued. This Charge reflects the currently approved rate and is subject to change.

**Sewer Benefit Assessment Charge:** \$41.85 per month based upon N/A per EDU per month, or \$2.45 per front foot per year based on 205 front feet, payment beginning at the time capacity allocation is made (Planning Commission approval or service is made available, whichever occurs first). This Charge reflects the currently approved rate and is subject to change.

**Sewer Impact Fees:** \$180.00 based upon \$60.00 per lot or EDU, applied for future upgrade of the Forest Run Pump Station. This fee is levied because this section of the project lies entirely out of the designed service area for the above mentioned pump station. This Charge reflects the currently approved rate and is subject to change.

**Sewer Service Charge:** Metered per month based upon \$18.54 per month per EDU beginning when the service is utilized. This Service Charge reflects the currently approved rate and is subject to change.

**Water Service Charge:** Metered per month based upon \_\_\_\_\_ per month per meter for service and \_\_\_\_\_ per month per meter for Ready-to-Serve charge, beginning when the service is utilized. The meter will be read on a quarterly basis with an allowance of 18,000 gallons per quarter. \$1.67/1,000 gallons will be charged over the 18,000 gallon limit. This Service Charge reflects the currently approved rate and is subject to change.

**Water Supply Fees:**  \$250.00  per EDU for development without supply (wells) that utilize the public water system, payable as set forth below:

- 1. Payment in full at the time this Public Works Agreement is executed;  
or
- 2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this agreement.\* This Charge reflects the currently approved rate and is subject to change.

**Water Storage Fees:**  \$450.00  per EDU for developments without storage facilities that utilize the public water system, payable as set forth below:

- 1. Payment in full at the time this Public Works Agreement is executed;  
or
- 2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge reflects the currently approved rate and is subject to change.

**Treatment Capacity Charge:**  \$500.00  per EDU for the allocation of capacity at the Pine Hill Run Waste Water Treatment Plant, payable as set forth below:

- 1. Payment in full at the time this Public Works Agreement is executed;  
or
- 2. Payment in full anytime between the date of this Agreement and

up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge reflects the currently approved rate and is subject to change.

\* If this option is selected, a bond in the amount of 110% of the amount due (\$3,960.00) will be required.

**SEVENTH:** No premises within the Project to be connected to the Facilities shall be occupied or used for any purpose whatsoever prior to the Facilities being accepted by the Commission without the express written prior approval of the Commission.

**EIGHTH:** Developer shall warrantee all mechanical, electrical and control Facilities for a period of twelve (12) months and all earthwork and associated underground construction for a period of eighteen (18) months after approval and acceptance by the Commission. The warranties shall cover the cost of labor, equipment and materials necessary to correct any problems with the Facilities.

**NINTH:** The Parties hereto expressly acknowledge that the following shall constitute events of Default of this Agreement:

1. Failure of Developer to construct the Facilities according to the schedule and in the phase or phases as set forth herein.
2. Failure of Developer to construct the Facilities in accordance with the approved plans and specifications approved by the Commission, as set forth herein.
3. Failure of Developer to provide a complete set of "Mylar Drawings" pursuant to ¶ **THIRD** above.
4. Failure of Developer to maintain the required bond for the period of construction and warranty of the Facilities.



5. Failure of Developer to prosecute work according to standard specifications.
6. Failure of Developer to respond to requests to honor warranties within a reasonable time schedule, such schedule to be established by the Commission.
7. Failure of Developer to perform any of the terms and conditions of this Agreement.

**TENTH:** The parties hereto acknowledge and agree that in an event of Default the Commission may take any or all of the following actions:

1. Notify Developer to Stop Work.
2. Demand that Developer vacate Commission Property.
3. Notify Developer of intention to call bond.

The Commission may, in its sole discretion and for the benefit of the project, give Developer a reasonable period to cure an event of Default. Failure of Developer to cure Default during such cure period shall constitute an event of continuing Default, with all remedies available to the Commission. Forbearance by the Commission shall not constitute a waiver of its rights to declare subsequent default.

**ELEVENTH:** Upon completion and acceptance by the Commission of the facilities as set forth in paragraph SECOND above, the Developer when requested to do so by the Commission, agrees to convey all of the facilities with the appropriate sites, easements, and rights-of-way to the Commission for the nominal sum of One Dollar (\$1.00) and to provide all documentation and assurances of title as are requested by the Commission in connection with said proposed conveyances.

**TWELFTH:** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives and assigns of the parties hereto.

**WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO THE DAY AND YEAR FIRST ABOVE WRITTEN:**

WITNESS the hands and seals of the parties hereto, this      day of      20

.ATTEST:      ST.MARY'S COUNTY METROPOLITAN COMMISSION

Secretary

ATTEST:

*David P. Hylant*

*Valentino L. Johnson, Sr.*  
By: Valentino L. Johnson, Sr.

Valentino L. Johnson, Sr.  
Chairman

DEVELOPER: Sheelz, Inc

By: *Joseph M. Sheet*  
Joseph M Sheet

PROPERTY OWNER: Blazer Rentals, LLC

By: *John S. Blazer Cheryl C. Blazer*  
John S. Blazer Cheryl C. Blazer

LENDER #1

By: \_\_\_\_\_

LENDER #2

By: \_\_\_\_\_

EXHIBITS: A  
B  
pla

SURETY St. Paul Fire and Marine Insurance Company

By: *Elena Zunic*  
Elena Zunic  
Elena Zunic, Attorney-in-Fact

(COMMISSION)STATE OF MARYLAND

COUNTY OF ST. MARY'S,

to wit:

I HEREBY CERTIFY that on this 13<sup>th</sup> day of September 2001 before me a Notary Public in and for the County of St. Mary's aforesaid personally appeared Valentino L. Johnson, Sr. Chairman of the St. Mary's County Metropolitan Commission, and on behalf of said Commission did acknowledge the foregoing instrument to be the act and deed of the St. Mary's County Metropolitan Commission.

WITNESS my hand and Notarial Seal

Lillian J. Byan Notary Public

My Commission Expires: 2/1/04.

(DEVELOPER)STATE OF

Pennsylvania

COUNTY OF

Blair

to wit:

I HEREBY CERTIFY that on this 17<sup>th</sup> day of July, 2001 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Joseph M. Sheetz and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Gloria A. King Notary Public

My Commission Expires: 12-2-02

Notarial Seal  
Gloria A. King, Notary Public  
Altoona, Blair County  
My Commission Expires Dec. 2, 2002  
Member, Pennsylvania Association of Notaries



(OWNER)STATE OF Maryland  
COUNTY OF St. Marys to wit:

I HEREBY CERTIFY that on this 30<sup>th</sup> day of July, 2001 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared John S. Blazer and Cheryl Blazer and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Laura J. Guy Notary Public

My Commission Expires: 07-10-02

SURETY  
(~~RENDERX#1~~)

STATE OF Pennsylvania  
COUNTY OF Allegheny to wit:

I HEREBY CERTIFY that on this 26<sup>th</sup> day of July, 2001 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Elena Zunic and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Wendy Rosen Notary Public

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

Notarial Seal  
Wendy Rosen, Notary Public  
Pittsburgh, Allegheny County  
My Commission Expires Mar. 14, 2005  
Member, Pennsylvania Association of Notaries

EXHIBIT A  
STATEMENT OF  
PROPOSED WATER FACILITIES  
AND PHASING

PROJECT NAME: Great Mills Gas and Convenience Store  
TOTAL # OF PHASES: One  
DEVELOPER: Sheetz, Inc.

PHASE I:

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 3 EDUs

PROJECTED CONSTRUCTION START DATE: 15 Jul 01

PROJECTED CONSTRUCTION COMPLETION DATE: 30 Dec 01

FACILITIES TO BE CONSTRUCTED\*: Water distribution system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on

COMMISSION PARTICIPATION: None

JMS

\*The facilities listed also include ~~FOR WATER PUMPING STATION: Wells, pumps, controls, generators, chlorinators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same; FOR WATER STORAGE TANKS: Elevated storage tanks, standpipes, ground storage tanks, hydropneumatic tanks and surge tanks as required by the Commission, together with all sites on which they are situated and 20' access to the~~



Seaboard Surety Company  
St. Paul Fire and Marine Insurance Company  
St. Paul Guardian Insurance Company  
St. Paul Mercury Insurance Company

United States Fidelity and Guaranty Company  
Fidelity and Guaranty Insurance Company  
Fidelity and Guaranty Insurance Underwriters, Inc.

Power of Attorney No. 22396

Certificate No. 705828

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, and that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, and that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, and that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (*herein collectively called the "Companies"*), and that the Companies do hereby make, constitute and appoint

James L. Bly, Christine A. Hartung, Leslie L. Rudat, Pamela L. Nunez, Elena Zunic, Karen L. Jensen, Marjorie A. Altemus and Elizabeth A. Hartzberg

Pittsburgh

Pennsylvania

of the City of \_\_\_\_\_, State \_\_\_\_\_, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety to, and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and sealed this 9th day of February, 2001

Seaboard Surety Company  
St. Paul Fire and Marine Insurance Company  
St. Paul Guardian Insurance Company  
St. Paul Mercury Insurance Company

United States Fidelity and Guaranty Company  
Fidelity and Guaranty Insurance Company  
Fidelity and Guaranty Insurance Underwriters, Inc.

WARNING  
THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

*John F. Phinney*  
JOHN F. PHINNEY, Vice President

*Thomas E. Huibregtse*  
THOMAS E. HUIBREGTSE, Assistant Secretary

State of Maryland  
City of Baltimore

On this 9th day of February, 2001, before me, the undersigned officer, personally appeared John F. Phinney and Thomas E. Huibregtse, who acknowledged themselves to be the Vice President and Assistant Secretary, respectively, of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc.; and that the seals affixed to the foregoing instrument are the corporate seals of said Companies; and that they, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the names of the corporations by themselves as duly authorized officers.

In Witness Whereof, I hereunto set my hand and official seal.  
My Commission expires the 13th day of July, 2002.



*Rebecca Easley-Onokala*  
REBECCA EASLEY-ONOKALA, Notary Public



This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc. on September 2, 1998, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that in connection with the fidelity and surety insurance business of the Company, all bonds, undertakings, contracts and other instruments relating to said business may be signed, executed, and acknowledged by persons or entities appointed as Attorney(s)-in-Fact pursuant to a Power of Attorney issued in accordance with these resolutions. Said Power(s) of Attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman, or the President, or any Vice President, or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the foregoing officers and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Attorney(s)-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and subject to any limitations set forth therein, any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is validly attached; and

**RESOLVED FURTHER**, that Attorney(s)-in-Fact shall have the power and authority, and, in any case, subject to the terms and limitations of the Power of Attorney issued them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and other writings obligatory in the nature thereof, and any such instrument executed by such Attorney(s)-in-Fact shall be as binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary of the Company.

I, Thomas E. Huibregtse, Assistant Secretary of Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, United States Fidelity and Guaranty Company, Fidelity and Guaranty Insurance Company, and Fidelity and Guaranty Insurance Underwriters, Inc. do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.



*Thomas E. Huibregtse*

Thomas E. Huibregtse, Assistant Secretary

To verify the authenticity of this Power of Attorney, call 1-800-421-3880 and ask for the Power of Attorney clerk. Please refer to the Power of Attorney number, the above-named individuals and the details of the bond to which the power is attached.

**WARNING**  
**THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER**

EXHIBIT "B"

SITE IMPROVEMENT BOND

Bond No. 400JT6573

Know all men by these presents that **Sheetz, Inc.** as Principal, and **St. Paul Fire and Marine Insurance Company** of St. Paul, Minnesota, as Surety, are held and firmly bound unto **St. Mary's County Metropolitan Commission**, as Obligee, in the amount of **Seventy-Four Thousand Twenty-Three and 00/100 Dollars (\$74,023.00)** for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

Whereas, Principal has agreed to perform improvements at **Sheetz Convenience Store #318 - Great Mills, MD** per the final approved site plan.

Now, therefore, the condition of this obligation is such that, if the Principal shall satisfactory complete the aforesaid improvements in accordance with the approved plan and the requirements of St. Mary's County, within a period of two years, from the date of this Agreement, then this obligation shall be null and void, otherwise it shall remain in full force and effect. Provided, that upon the satisfactory completion of the aforesaid improvements within the time specified herein above, St. Mary's County, will accept the improvements and release the Principal and Surety, and further provided; the liability under this bond shall under no circumstances exceed the amount of the bond.

In witness whereof, the Principal and the Surety cause this bond to be signed, sealed and delivered this **10th day of July, 2001.**

[Signature]  
Witness

**Sheetz, Inc.**  
By: [Signature] (Principal) (SEAL)

Wendy Bright  
Witness Wendy Bright

**St. Paul Fire and Marine Insurance Company**  
By: [Signature] (SEAL)  
Karen L. Jensen, Attorney-in-Fact



**PUBLIC WORKS AGREEMENT**

**THIS PUBLIC WORKS AGREEMENT**, executed this 8 day of November 2001, by and between the **ST. MARY'S COUNTY METROPOLITAN COMMISSION** (hereinafter, the "Commission"), **Liberty Home Builder, Inc.**, (hereinafter, the "Developer"), **Hickory Hills III-B, LLC**, (hereinafter, the "Owner") and **Bank of America**, (hereinafter, the "Lender #1", Letter of Credit holder),

RECORDING FEE 0.00  
 TOTAL 0.00  
 Rest#5902 Rpt#999999  
 EHA KAE 814#2283  
 Sep 25, 2002 10:55 am

**WITNESSETH**

**WHEREAS**, the Commission is responsible for all water and sewerage projects in the Eighth (8th) Sanitary District of St. Mary's County, Maryland (the "County"); and,

**WHEREAS**, Owner is the owner in fee simple of all that lot, tract or parcel of land located in St. Mary's County, Maryland, subject to this Agreement, more particularly described at Exhibit D, attached hereto and incorporated herein, (hereinafter referred to as the "Property"); and,

**WHEREAS**, the Developer is developing the Property situated within said Sanitary District of St. Mary's County, Maryland, known and further described as Hickory Hills, Section 3D, hereinafter referred to as the "Project"; and,

**WHEREAS**, the Developer, either by requirement of St. Mary's County or by choice, desires to construct certain central sewage facilities and/or central water facilities (the "Facilities"), to serve the Project; and,



**WHEREAS**, the Developer seeks the approval of the Commission for the construction of the Facilities; and,

**WHEREAS**, the Concept Plan for the development of the Project has been submitted to and approved by the Board of County Commissioner of St. Mary's County or their duly appointed agent; and,

**WHEREAS**, Developer has designed the Facilities in accordance with the St. Mary's County Standard Specifications for Water and Sewerage Construction, the Comprehensive Water and Sewerage Plans for St. Mary's County and any other rules, regulations, directives or special instructions issued by the Commission for the State of Maryland and the Federal Government; and,

**WHEREAS**, Developer has submitted a statement(s) included as Exhibit     A     and/or Exhibit     B    , attached hereto and incorporated herein, setting forth a proposed phasing for the construction of the Facilities and a proposed schedule of completion for said phase or phases, said statement having been approved by the Commission. The Developer has also submitted an itemized engineer's estimate which has been approved by the Commission.

**WHEREAS**, Developer has furnished a Performance and Payment bond or Irrevocable Letter of Credit which has been approved by the Commission, a copy of which appears at Exhibit     C    , payable to the Commission, its successors and assigns, in an amount of \$ 197,745.00 conditioned that the Developer shall well and truly perform and fulfill the covenants, conditions and terms of this Agreement, and shall assure payment for all materials utilized and work performed, all of which shall remain in force until the expiration of the warranty period as set forth in Paragraph

EIGHTH.

**WHEREAS**, Developer has conveyed unto the Commission any and all required interest in the real property subject to development of the Facilities within the Project, including necessary interest in fee, as well as easements, rights of entry and other rights of way, as required by the Commission, more particularly set forth in Exhibit\_

      N/A, hereinafter referred to as "Commission Property"; and,

**WHEREAS**, Lender #1 is the holder of a recorded security interest in the Property; and,

**WHEREAS**, Lender #2, if any, and Owner, if different from Developer, have joined in the execution of these presents to acknowledge the obligations of the Developer set forth herein;

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**FIRST:** The Commission shall grant unto Developer a right of entry onto the Commission Property for the purpose of construction and maintenance of the Facilities, provided, however, that Developer hold the Commission harmless for and indemnifies the Commission against any and all losses or damages incurred by the Commission during such time as Developer occupies such Commission Property, and further provided that Developer presents evidence of insurance coverage satisfactory to the Commission, including the naming the Commission as an additional insured, protecting all interests of the Commission.

**SECOND:** Developer shall construct all of the Facilities according to the schedule and in the phase or phases of construction as set forth herein, and in the case of multi-phased projects, no phase beyond the first shall be commenced until the Facilities under any of the previous phases have been approved and accepted by the



Commission.

**THIRD:** Developer shall construct the Facilities in accordance with final plans and specifications, and amendments thereto, as approved by the Commission. In the event that final plans and specifications have not been approved at the time of execution of this Agreement, no work in connection with the construction of the Facilities shall be commenced prior to the approval by the Commission of such plans and specifications. Furthermore, within sixty (60) days after the construction of any phase of the Facilities is completed and approved, a completed set of "As-Built Mylar Drawings" shall be submitted to the Commission.

**FOURTH:** Developer shall maintain the Performance and Payment Bond or Letter of Credit provided in Exhibit C, for the period of construction of the Facilities, and for the period of the required warrantee as set forth herein.

**FIFTH:** Developer shall make available the Property to duly authorized representative of the Commission at all reasonable times for purposes of inspecting construction of the Facilities.

**SIXTH:** Developer shall pay the following fees and charges:

**Inspection Charges:** \$6,921.00 based upon 3.5% of the Performance and Payment Bond or Irrevocable Letter of Credit, payable upon execution of this Agreement. Said amount shall be placed in an account by the Commission and shall be drawn upon from time to time to reimburse the Commission for the direct and indirect cost of said Inspection service, and if said cost is less than the Inspection Charge initially collected, the remaining balance shall be returned to the Developer or, if the total Inspection cost is more than the Inspection Charge initially collected, the Developer shall pay to the Commission the difference. This Charge reflects the



currently approved rate and is subject to change.

**Connection Charges:** \$3,800.00 based upon \$380.00 (10 2" Remote Meters) per connection payable upon execution of this Agreement or at the time a connection permit is issued. This Charge reflects the currently approved rate and is subject to change.

**Sewer Benefit Assessment Charge:** \$1,020.00 per month based upon \_\_\_\_\_ per EDU per month, or \$2.04 per front foot per year based on 6,000 front feet, payment beginning at the time capacity allocation is made (Planning Commission approval or service is made available, whichever occurs first). This Charge reflects the currently approved rate and is subject to change.

**Sewer Service Charge:** \$2,224.80 per month based upon \$18.54 per month per EDU beginning when the service is utilized. This Service Charge reflects the currently approved rate and is subject to change.

**Water Service Charge:** \$100.20 per month based upon \_\_\_\_\_ per month per meter for service and \_\_\_\_\_ per month per meter for Ready-to-Serve charge, beginning when the service is utilized. The meter will be read on a quarterly basis with an allowance of 18,000 gallons per quarter. \$1.67/1,000 gallons will be charged over the 18,000 gallon limit. This Service Charge reflects the currently approved rate and is subject to change.

**Water Supply Fees:** \$250.00 per EDU for development without supply (wells) that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed;  
or
2. Payment in full anytime between the date of this Agreement and

up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this agreement.\* This Charge reflects the currently approved rate and is subject to change.

**Water Storage Fees: N/A** per EDU for developments without storage facilities that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed; or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge reflects the currently approved rate and is subject to change.

**Treatment Capacity Charge: \$500.00** per EDU for the allocation of capacity at the Pine Hill Run Waste Water Treatment Plant, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed; or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge reflects the currently approved rate and is subject to change.

\* If this option is selected, a bond in the amount of 110% of the amount due (\$99,000.00) will be required.

**SEVENTH:** No premises within the Project to be connected to the Facilities shall be occupied or used for any purpose whatsoever prior to the Facilities being accepted by the Commission without the express written prior approval of the Commission.

**EIGHTH:** Developer shall warrantee all mechanical, electrical and control Facilities for a period of twelve (12) months and all earthwork and associated underground construction for a period of eighteen (18) months after approval and acceptance by the Commission. The warranties shall cover the cost of labor, equipment and materials necessary to correct any problems with the Facilities.

**NINTH:** The Parties hereto expressly acknowledge that the following shall constitute events of Default of this Agreement:

1. Failure of Developer to construct the Facilities according to the schedule and in the phase or phases as set forth herein.
2. Failure of Developer to construct the Facilities in accordance with the approved plans and specifications approved by the Commission, as set forth herein.
3. Failure of Developer to provide a complete set of "Mylar Drawings" pursuant to ¶ **THIRD** above.
4. Failure of Developer to maintain the required bond for the period of construction and warranty of the Facilities.
5. Failure of Developer to prosecute work according to standard specifications.
6. Failure of Developer to respond to requests to honor warranties within a reasonable time schedule, such schedule to be established by the Commission.
7. Failure of Developer to perform any of the terms and conditions of this Agreement.



**TENTH:** The parties hereto acknowledge and agree that in an event of Default the Commission may take any or all of the following actions:

1. Notify Developer to Stop Work.
2. Demand that Developer vacate Commission Property.
3. Notify Developer of intention to call bond.

The Commission may, in its sole discretion and for the benefit of the project, give Developer a reasonable period to cure an event of Default. Failure of Developer to cure Default during such cure period shall constitute an event of continuing Default, with all remedies available to the Commission. Forbearance by the Commission shall not constitute a waiver of its rights to declare subsequent default.

**ELEVENTH:** Upon completion and acceptance by the Commission of the facilities as set forth in paragraph SECOND above, the Developer when requested to do so by the Commission, agrees to convey all of the facilities with the appropriate sites, easements, and rights-of-way to the Commission for the nominal sum of One Dollar (\$1.00) and to provide all documentation and assurances of title as are requested by the Commission in connection with said proposed conveyances.

**TWELFTH:** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives and assigns of the parties hereto.

BOOK 0396 PAGE 0085

**WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO THE DAY  
AND YEAR FIRST ABOVE WRITTEN:**

WITNESS the hands and seals of the parties hereto, this 8 day of November 2001

.ATTEST:

ST. MARY'S COUNTY METROPOLITAN

COMMISSION

*L. Bryan*

Secretary

By: *Bryan M. Barthelme*  
Bryan M. Barthelme  
~~Valentino L. Johnson, Sr.~~  
Chairman

ATTEST:

*Rhonda L. Valentino*

DEVELOPER: Liberty Home Builder, Inc  
By: *Ed Curley III* Pres.  
Ed Curley III

PROPERTY OWNER: Hickory Hills III-B, LLC  
By: *Ed Curley III* Manager  
Ed Curley III, Manager

LENDER #1: Bank of America  
By: *Ron Rymer*  
Ron Rymer, Vice President

EXHIBITS: A  
B  
C

BOOK 0090 PAGE 0086

(COMMISSION)STATE OF MARYLAND

COUNTY OF ST. MARY'S,

to wit:

I HEREBY CERTIFY that on this 8<sup>th</sup> day of November 2001

before me a Notary Public in and for the County of St. Mary's aforesaid personally appeared Bryan M. Bauhelme Chairman of the St. Mary's County Metropolitan Commission, and on behalf of said Commission did acknowledge the foregoing instrument to be the act and deed of the St. Mary's County Metropolitan Commission.

WITNESS my hand and Notarial Seal

Lo Bryan Notary Public

My Commission Expires: 2/1/2004.

(DEVELOPER)STATE OF

MARYLAND

COUNTY OF

ST. MARY'S to wit:

I HEREBY CERTIFY that on this 26<sup>th</sup> day of October, 2001 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Edward R. Coyle, III and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Ronda L. Valentino Notary Public

My Commission Expires: June 4, 2003



(OWNER) STATE OF MARYLAND

COUNTY OF ST. MARY'S to wit:

I HEREBY CERTIFY that on this 26<sup>th</sup> day of October, 20 01 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Edward R. Corley, III and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Ronda R. Valentino Notary Public

My Commission Expires: June 4, 2003

(LENDER #1)

STATE OF MARYLAND

COUNTY OF ST. MARY'S to wit:

I HEREBY CERTIFY that on this 26<sup>th</sup> day of October, 20 01 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Ron Rymer and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Ronda R. Valentino Notary Public

My Commission Expires: June 4, 2003

**EXHIBIT A**  
STATEMENT OF  
PROPOSED WATER FACILITIES  
AND PHASING

PROJECT NAME: Hickory Hills Section 3D  
TOTAL # OF PHASES: ONE  
DEVELOPER: Liberty Homebuilder, Inc.

**PHASE I:**

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 120 EDUs

PROJECTED CONSTRUCTION START DATE: Oct 2001

PROJECTED CONSTRUCTION COMPLETION DATE: Oct 2004

FACILITIES TO BE CONSTRUCTED\*: Water distribution system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 18 Sept 2001

COMMISSION PARTICIPATION: NONE

\*The facilities listed also include FOR WATER PUMPING STATION: Wells, pumps, controls, generators, chlorinators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same; FOR WATER STORAGE TANKS: Elevated storage tanks, standpipes, ground storage tanks, hydropneumatic tanks and surge tanks as required by the Commission, together with all sites on which they are situated and 20' access to the

same: FOR DISTRIBUTION SYSTEMS: Mains, fire hydrants, valves and valve boxes, fittings, blow offs, water house connections, water house service lines, curb stops, curb stop boxes, water meter settings and appurtenances, together with 20' permanent easements over the same for maintenance and modifications of and connection to these facilities; along with any and all other facilities or appurtenances which in any way could be construed as part of the water system.

Commission: BMB  
(Initials)

Developer: \_\_\_\_\_  
(Initials)



BOOK 0000 PAGE 0070

**EXHIBIT B**  
STATEMENT OF  
PROPOSED SEWER FACILITIES  
AND PHASING

PROJECT NAME: Hickory Hills, Phase 3D  
TOTAL # OF PHASES: ONE  
DEVELOPER: Liberty Home Builder, Inc.

**PHASE I:**

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 120 EDUs

PROJECTED CONSTRUCTION START DATE: Oct. 2001

PROJECTED CONSTRUCTION COMPLETION DATE: Oct. 2004

FACILITIES TO BE CONSTRUCTED\*: Sewerage collection system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 18 Sept 2001

COMMISSION PARTICIPATION: NONE

\*The facilities also include for WASTEWATER PUMPING STATIONS: pumps, wet wells, generators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same. FOR WASTEWATER TREATMENT PLANTS: Storage lagoons, physical plants

BOOK 0052 PAGE 0071

influent and effluent lines, lift stations, generators, together with all sites on which they are situated and 20' access to the same; FOR COLLECTION SYSTEMS: Collector and lateral sewers, force mains, sewer house service lines, air release valves, together with 20' permanent easements over the same for maintenance and modifications of connection to these facilities, along with any and all other facilities or appurtenances which in any way could be construed as part of the sewerage system.

Commission: BMB

Developer: (Initials)  
(Initials)

DATE: SEPTEMBER 10, 2001

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: 3040558

BENEFICIARY  
ST. MARY'S COUNTY METROPOLITAN  
COMMISSION  
43990 COMMERCE AVE.  
HOLLYWOOD, MD 20636

APPLICANT  
HICKORY HILLS IIIB, LLC  
22501 IVERSON DRIVE  
GREAT MILLS, MD 20634

AMOUNT  
USD 197,745.00  
ONE HUNDRED NINETY SEVEN THOUSAND  
SEVEN HUNDRED FORTY FIVE AND  
00/100'S US DOLLARS

EXPIRATION  
SEPTEMBER 10, 2002 IN BALTIMORE,  
MARYLAND

WE HEREBY ESTABLISH IN YOUR FAVOR OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER 3040558 WHICH IS AVAILABLE WITH BANK OF AMERICA N.A. BY PAYMENT AGAINST PRESENTATION OF THE ORIGINAL OF THIS LETTER OF CREDIT AND YOUR DRAFTS AT SIGHT DRAWN ON BANK OF AMERICA N.A.


PAYMENT UNDER THIS LETTER OF CREDIT WILL BE EFFECTED UPON PRESENTATION OF YOUR DRAFT ACCOMPANIED BY THE REQUIRED DOCUMENT(S) (THE .DRAWING.) TO BANK OF AMERICA, N.A., BALTIMORE REAL ESTATE LOAN ADMINISTRATION, MD4-905-03-18, DULANEY CENTER I, 849 FAIRMOUNT AVENUE, BALTIMORE, MD 21286, ATTN: WILLIAM E. EYRING JR. AND A COPY OF SUCH DRAWING SENT SIMULTANEOUSLY BY FACSIMILE TO BANK OF AMERICA, N.A., LOS ANGELES FAX NUMBER (213) 345-6694. WHEN PRESENTATION IS MADE BY FACSIMILE, THE ORIGINAL LETTER OF CREDIT IS NOT REQUIRED.

WE HEREBY AGREE WITH YOU THAT THE DRAFT(S) DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION, AS SPECIFIED HEREIN.

THIS LETTER OF CREDIT IS SUBJECT TO INTERNATIONAL STANDBY PRACTICES ("ISP98"), ICC PUBLICATION NO. 590.

IF YOU REQUIRE ANY ASSISTANCE OR HAVE ANY QUESTIONS REGARDING THIS TRANSACTION, PLEASE CALL 213-345-5304.

  
-----  
AUTHORIZED SIGNATURE

  
-----  
AUTHORIZED SIGNATURE

THIS DOCUMENT CONSISTS OF 1 PAGE(S).

EUNSON BAE

MANUEL BANZELOS

ORIGINAL



PUBLIC WORKS AGREEMENT

THIS PUBLIC WORKS AGREEMENT, executed this 11<sup>th</sup> day of January, 2001, by and between the ST, MARY'S COUNTY METROPOLITAN COMMISSION (hereinafter, the "Commission"), Dean Lumber and Supply Co., Inc., (hereinafter, the "Developer"), Dean Lumber and Supply Co., Inc., (hereinafter, the "Owner") and First National Bank of St. Mary's, (hereinafter, the "Lender #1", Letter of Credit holder),

RECORDING FEE 0.00  
 TOTAL 0.00  
 Rest#3082 Ropt#999999  
 EWA KAE 81K#2283  
 Sep 25, 2002 10:56 am

WITNESSETH

WHEREAS, the Commission is responsible for all water and sewerage projects in the Eighth (8th) Sanitary District of St. Mary's County, Maryland (the "County"); and,

WHEREAS, Owner is the owner in fee simple of all that lot, tract or parcel of land located in St. Mary's County, Maryland, subject to this Agreement, more particularly described at Exhibit N/A, attached hereto and incorporated herein, (hereinafter referred to as the "Property"); and,

WHEREAS, the Developer is developing the Property situated within said Sanitary District of St. Mary's County, Maryland, known and further described as Hollywood Business Park, hereinafter referred to as the "Project"; and,

WHEREAS, the Developer, either by requirement of St. Mary's County or by choice, desires to construct certain central sewage facilities and/or central water facilities (the "Facilities"), to serve the Project; and,

WHEREAS, the Developer seeks the approval of the Commission for the construction of the Facilities; and,

**WHEREAS**, the Concept Plan for the development of the Project has been submitted to and approved by the Board of County Commissioner of St. Mary's County or their duly appointed agent; and,

**WHEREAS**, Developer has designed the Facilities in accordance with the St. Mary's County Standard Specifications for Water and Sewerage Construction, the Comprehensive Water and Sewerage Plans for St. Mary's County and any other rules, regulations, directives or special instructions issued by the Commission for the State of Maryland and the Federal Government; and,

**WHEREAS**, Developer has submitted a statement(s) included as Exhibit A \_\_\_\_\_ and/or Exhibit B \_\_\_\_\_, attached hereto and incorporated herein, setting forth a proposed phasing for the construction of the Facilities and a proposed schedule of completion for said phase or phases, said statement having been approved by the Commission. The Developer has also submitted an itemized engineer's estimate which has been approved by the Commission.

**WHEREAS**, Developer has furnished a Performance and Payment bond or Irrevocable Letter of Credit which has been approved by the Commission, a copy of which appears at Exhibit C \_\_\_\_\_, payable to the Commission, its successors and assigns, in an amount of \$ 108,487.00 conditioned that the Developer shall well and truly perform and fulfill the covenants, conditions and terms of this Agreement, and shall assure payment for all materials utilized and work performed, all of which shall remain in force until the expiration of the warranty period as set forth in Paragraph EIGHTH.

**WHEREAS**, Developer has conveyed unto the Commission any and all required

interest in the real property subject to development of the Facilities within the Project, including necessary interest in fee, as well as easements, rights of entry and other rights of way, as required by the Commission, more particularly set forth in Exhibit N/A, hereinafter referred to as "Commission Property"; and,

**WHEREAS**, Lender #1 is the holder of a recorded security interest in the Property; and,

**WHEREAS**, Lender #2, if any, and Owner, if different from Developer, have joined in the execution of these presents to acknowledge the obligations of the Developer set forth herein;

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**FIRST:** The Commission shall grant unto Developer a right of entry onto the Commission Property for the purpose of construction and maintenance of the Facilities, provided, however, that Developer hold the Commission harmless for and indemnifies the Commission against any and all losses or damages incurred by the Commission during such time as Developer occupies such Commission Property, and further provided that Developer presents evidence of insurance coverage satisfactory to the Commission, including the naming the Commission as an additional insured, protecting all interests of the Commission.

**SECOND:** Developer shall construct all of the Facilities according to the schedule and in the phase or phases of construction as set forth herein, and in the case of multi-phased projects, no phase beyond the first shall be commenced until the Facilities under any of the previous phases have been approved and accepted by the Commission.

**THIRD:** Developer shall construct the Facilities in accordance with final plans and



specifications, and amendments thereto, as approved by the Commission. In the event that final plans and specifications have not been approved at the time of execution of this Agreement, no work in connection with the construction of the Facilities shall be commenced prior to the approval by the Commission of such plans and specifications. Furthermore, within sixty (60) days after the construction of any phase of the Facilities is completed and approved, a completed set of "As-Built Mylar Drawings" shall be submitted to the Commission.

**FOURTH:** Developer shall maintain the Performance and Payment Bond or Letter of Credit provided in Exhibit C, for the period of construction of the Facilities, and for the period of the required warrantee as set forth herein.

**FIFTH:** Developer shall make available the Property to duly authorized representative of the Commission at all reasonable times for purposes of inspecting construction of the Facilities.

**SIXTH:** Developer shall pay the following fees and charges:

**Review Fees:** \$150.00 based upon \$75.00 per residential lot, or EDU and N/A per commercial lot or EDU, payable upon execution of this Agreement. This Charge reflects the currently approved rate and is subject to change.

**Inspection Charges:** \$3,797.00 based upon 3.5% of the Performance and Payment Bond or Irrevocable Letter of Credit, payable upon execution of this Agreement. Said amount shall be placed in an account by the Commission and shall be drawn upon from time to time to reimburse the Commission for the direct and indirect cost of said Inspection service, and if said cost is less than the Inspection Charge initially

collected, the remaining balance shall be returned to the Developer or, if the total Inspection cost is more than the Inspection Charge initially collected, the Developer shall pay to the Commission the difference. This Charge reflects the currently approved rate and is subject to change.

**Connection Charges: \$165.00** based upon 1" and 5/8x3/4" meters payable upon execution of this Agreement or at the time a connection permit is issued. This Charge reflects the currently approved rate and is subject to change.

**Sewer Benefit Assessment Charge: \$124.03** per month based upon N/A per EDU per month, or \$4.51 per front foot per year based on 330 front feet, payment beginning at the time capacity allocation is made (Planning Commission approval or service is made available, whichever occurs first). This Charge reflects the currently approved rate and is subject to change.

**Sewer Impact Fees: N/A** based upon \_\_\_\_\_ per lot or EDU, applied for future upgrade of the \_\_\_\_\_ Pump Station. This fee is levied because this section of the project lies entirely out of the designed service area for the above mentioned pump station. This Charge reflects the currently approved rate and is subject to change.

**Sewer Service Charge: \$37.08** per month based upon \$18.54 per month per EDU beginning when the service is utilized. This Service Charge reflects the currently approved rate and is subject to change.

**Water Service Charge: \$20.04** per month based upon \$10.02 per month per meter for service and N/A per month per meter

for Ready-to-Serve charge, beginning when the service is utilized. The meter will be read on a quarterly basis with an allowance of 18,000 gallons per quarter. \$1.67/1,000 gallons will be charged over the 18,000 gallon limit. This Service Charge reflects the currently approved rate and is subject to change.

**Water Supply Fees: \$250.00** \_\_\_\_\_ per EDU for development without supply (wells) that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed;  
or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this agreement.\* This Charge

reflects the currently approved rate and is subject to change.

**Water Storage Fees: \$450.00** per EDU for developments without storage facilities that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed;  
or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge

reflects the currently approved rate and is subject to change.



**Treatment Capacity Charge:** \$500.00 per EDU for the allocation of capacity at the Pine Hill Run Waste Water Treatment Plant, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed;  
or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge

reflects the currently approved rate and is subject to change.

\* If this option is selected, a bond in the amount of 110% of the amount due (\$2,640.00) will be required.

**SEVENTH:** No premises within the Project to be connected to the Facilities shall be occupied or used for any purpose whatsoever prior to the Facilities being accepted by the Commission without the express written prior approval of the Commission.

**EIGHTH:** Developer shall warrantee all mechanical, electrical and control Facilities for a period of twelve (12) months and all earthwork and associated underground construction for a period of eighteen (18) months after approval and acceptance by the Commission. The warranties shall cover the cost of labor, equipment and materials necessary to correct any problems with the Facilities.

**NINTH:** The Parties hereto expressly acknowledge that the following shall constitute events of Default of this Agreement:

1. Failure of Developer to construct the Facilities according to the

schedule and in the phase or phases as set forth herein.

2. Failure of Developer to construct the Facilities in accordance with the approved plans and specifications approved by the Commission, as set forth herein.
3. Failure of Developer to provide a complete set of "Mylar Drawings" pursuant to ¶ **THIRD** above.
4. Failure of Developer to maintain the required bond for the period of construction and warranty of the Facilities.
5. Failure of Developer to prosecute work according to standard specifications.
6. Failure of Developer to respond to requests to honor warranties within a reasonable time schedule, such schedule to be established by the Commission.
7. Failure of Developer to perform any of the terms and conditions of this Agreement.

**TENTH:** The parties hereto acknowledge and agree that in an event of Default the Commission may take any or all of the following actions:

1. Notify Developer to Stop Work.
2. Demand that Developer vacate Commission Property.
3. Notify Developer of intention to call bond.

The Commission may, in its sole discretion and for the benefit of the project, give Developer a reasonable period to cure an event of Default. Failure of Developer to cure Default during such cure period shall constitute an event of continuing Default, with all remedies available to the Commission. Forbearance by the Commission shall not constitute

a waiver of its rights to declare subsequent default.

**ELEVENTH:** Upon completion and acceptance by the Commission of the facilities as set forth in paragraph SECOND above, the Developer when requested to do so by the Commission, agrees to convey all of the facilities with the appropriate sites, easements, and rights-of-way to the Commission for the nominal sum of One Dollar (\$1.00) and to provide all documentation and assurances of title as are requested by the Commission in connection with said proposed conveyances.

**TWELFTH:** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives and assigns of the parties hereto.

**WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO THE DAY AND**



YEAR FIRST ABOVE WRITTEN:

WITNESS the hands and seals of the parties hereto, this 11<sup>th</sup> day of January 2001

.ATTEST:

ST.MARY'S COUNTY METROPOLITAN  
COMMISSION

Le Bryan

Secretary

ATTEST:

[Signature]

Linda J. Tyler

EXHIBITS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: [Signature]

Valentino L. Johnson, Sr.  
Chairman

DEVELOPER: Dean Lumber and Supply Co., Inc

By: [Signature]  
Mark G. Dillow, President

PROPERTY OWNER: Dean Lumber and Supply Co., Inc

By: [Signature]  
Mark G. Dillow, President

LENDER #1: First National Bank of St. Mary's

By: [Signature]  
~~Marjorie Lord, Asst. V.P.~~  
Dan Kubican, Senior Vice President

(COMMISSION)STATE OF MARYLAND

COUNTY OF ST. MARY'S,

to wit:

I HEREBY CERTIFY that on this 11<sup>th</sup> day of January 2001

before me a Notary Public in and for the County of St. Mary's aforesaid personally appeared Valentino L. Johnson, Sr. Chairman of the St. Mary's County Metropolitan Commission, and on behalf of said Commission did acknowledge the foregoing instrument to be the act and deed of the St. Mary's County Metropolitan Commission.

WITNESS my hand and Notarial Seal

Loeliana J. Bryan Notary Public

My Commission Expires: 2/1/04.

(DEVELOPER)STATE OF

Maryland

COUNTY OF

St. Mary's to wit:

I HEREBY CERTIFY that on this 28<sup>th</sup> day of December, 2000 before me,

the subscriber, a Notary Public in the county aforesaid, personally appeared MARK

G. DILLOW and that he/she/they acknowledged the foregoing Public Works

Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Toby E. Ogle Notary Public

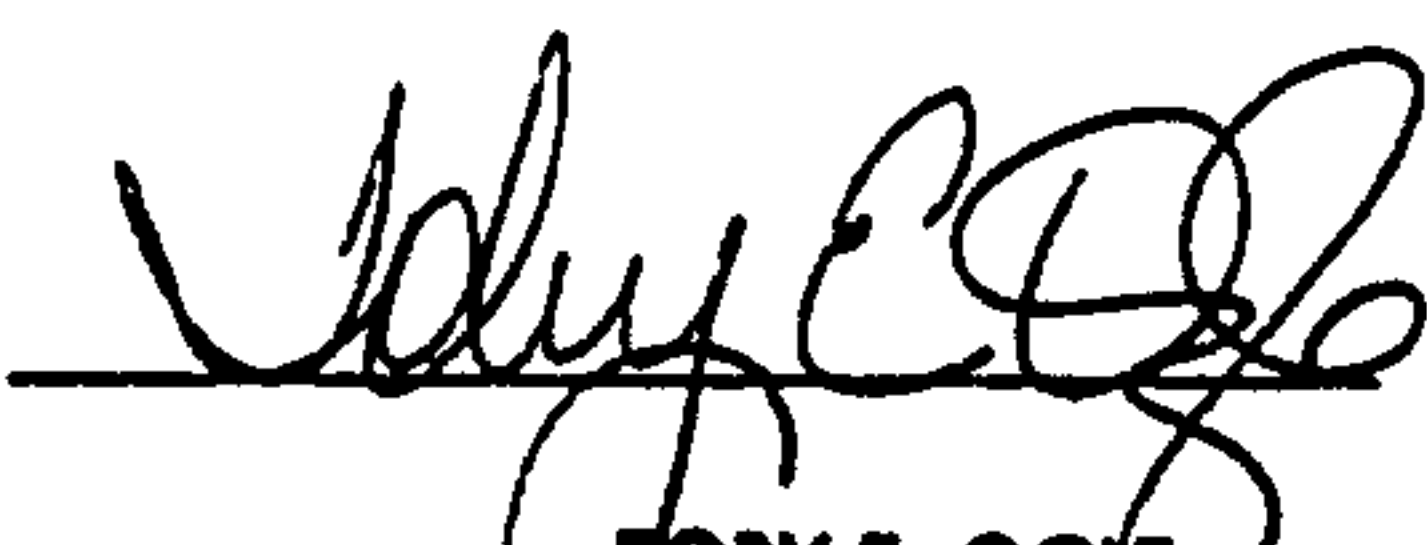
My Commission Expires: 10/31/04

TOBY E. OGLE  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires October 31, 2004

(OWNER)STATE OF Maryland  
COUNTY OF St. Mary's to wit:

I HEREBY CERTIFY that on this 28<sup>th</sup> day of December, 2000 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared MARK G. DILLON and that he she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

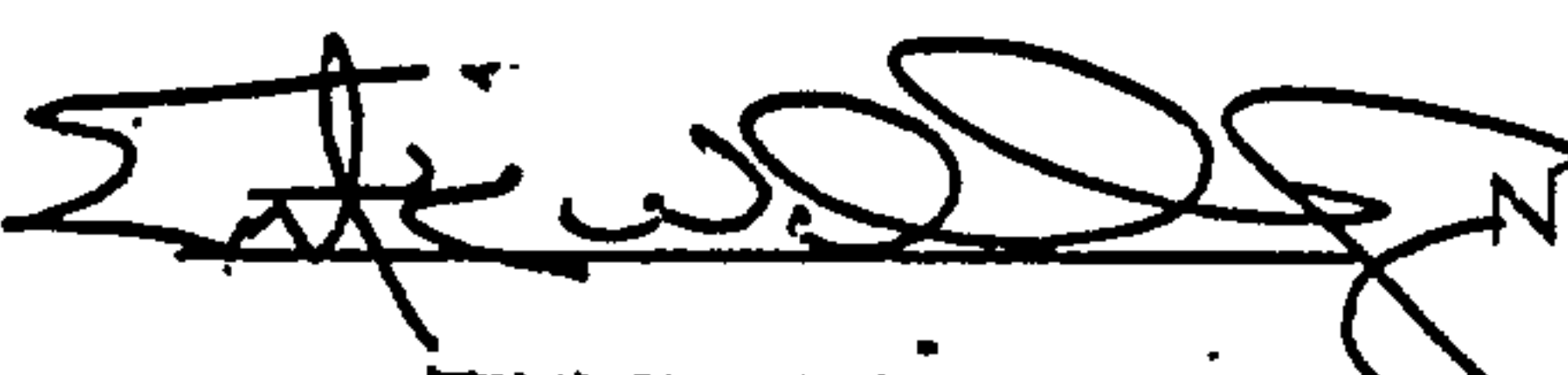
 Notary Public  
TOBY E. OGIE  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires October 31, 2004

My Commission Expires: 10/31/04

(LENDER #1)  
STATE OF Maryland  
COUNTY OF St. Mary's to wit:

I HEREBY CERTIFY that on this 28<sup>th</sup> day of December, 2000 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Dan Kubican and that ~~he/she/they~~ acknowledged the execution of the foregoing Public Works Agreement to be his/~~her~~/their act.

WITNESS my hand and Notarial Seal.

 Notary Public  
ERNEST C. WILLIAMS JR.  
NOTARY PUBLIC STATE OF MARYLAND  
My Commission Expires July 1, 2003

My Commission Expires: July 1, 2003



(LENDER #2)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

to wit:

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ before me, the subscriber, a Notary Public in the county aforesaid, personally appeared \_\_\_\_\_ and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

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

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

EXHIBIT A

STATEMENT OF  
PROPOSED WATER FACILITIES  
AND PHASING

PROJECT NAME: Hollywood Business Park  
TOTAL # OF PHASES: TWO  
DEVELOPER: Dean Lumber and Supply Co., Inc.

PHASE I:

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 2 EDUs

PROJECTED CONSTRUCTION START DATE: 01 Jan 01


PROJECTED CONSTRUCTION COMPLETION DATE: 30 May 01

FACILITIES TO BE CONSTRUCTED\*: Water distribution system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 2/28/01

COMMISSION PARTICIPATION: NONE

\*The facilities listed also include FOR WATER PUMPING STATION: Wells, pumps, controls, generators, chlorinators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same; FOR WATER STORAGE TANKS: Elevated storage tanks, standpipes, ground storage tanks,

hydropneumatic tanks and surge tanks as required by the Commission, together with all sites on which they are situated and 20' access to the same: FOR DISTRIBUTION SYSTEMS: Mains, fire hydrants, valves and valve boxes, fittings, blow offs, water house connections, water house service lines, curb stops, curb stop boxes, water meter settings and appurtenances, together with 20' permanent easements over the same for maintenance and modifications of and connection to these facilities; along with any and all other facilities or appurtenances which in any way could be construed as part of the water system.

Commission:   
(Initials)


Developer:   
(Initials)



EXHIBIT B  
STATEMENT OF  
PROPOSED SEWER FACILITIES  
AND PHASING

PROJECT NAME: Hollywood Business Park

TOTAL # OF PHASES: TWO

DEVELOPER: Dean Lumber and Supply Co., Inc.

PHASE I:

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 2 EDUs

PROJECTED CONSTRUCTION START DATE: 01 Jan 01



PROJECTED CONSTRUCTION COMPLETION DATE: 31 May 01

FACILITIES TO BE CONSTRUCTED\*: Sewerage collection system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on 2/28/01

COMMISSION PARTICIPATION: NONE

\*The facilities also include for WASTEWATER PUMPING STATIONS: pumps, wet wells, generators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same. FOR

WASTEWATER TREATMENT PLANTS: Storage lagoons, physical plants influent and effluent lines, lift stations, generators, together with all sites on which they are situated and 20' access to the same; FOR COLLECTION SYSTEMS: Collector and lateral sewers, force mains, sewer house service lines, air release valves, together with 20' permanent easements over the same for maintenance and modifications of connection to these facilities, along with any and all other facilities or appurtenances which in any way could be construed as part of the sewerage system.

Commission:   
 (Initials)  
 Developer:   
 (Initials)



THE FIRST NATIONAL BANK OF ST. MARY'S

December 18, 2000

BOOK 0000 PAGE 0090

Exhibit C

**IRREVOCABLE LETTER OF CREDIT**

St. Mary's County Metropolitan Commission  
43990 Commerce Avenue  
Hollywood, MD 20653

Letter of Credit Number: A1-12-18-00  
Expiration Date: 12/18/01

Gentlemen:

We hereby authorize you to draw on The First National Bank of St. Mary's, P. O. Box 655, Leonardtown, MD 20650 for the account of Dean Lumber & Supply Co., Inc. (the Developer"), up to an aggregate amount, not in excess of One Hundred Eight Thousand Four Hundred Eighty Seven Dollars and 00/100 (\$108,487.00) available by your drafts at sight.

Each draft must state that it is drawn under The First National Bank of St. Mary's Letter of Credit #A1-12-18-00. The amount thereof must be endorsed by us on this Letter of Credit. This Letter of Credit is irrevocable.

Each draft must be accompanied by a written statement signed by an official of St. Mary's County Metropolitan Commission (METCOMM) specifying that: The Developer has failed to perform and fulfill a material covenant, condition, stipulation or term, under the Public Works Agreement dated December 18, 2000 between the Developer and METCOMM.

We hereby agree with the drawer, endorsers, and bonafide holders of all such drafts under and in compliance with the terms of this Letter of Credit that such drafts will be duly honored, upon presentation to the drawee.

Very truly yours,

Marjorie A. Lord  
Assistant Vice President



**PUBLIC WORKS AGREEMENT**

**THIS PUBLIC WORKS AGREEMENT**, executed this 8<sup>th</sup> day of August, 2002, by and between the **ST. MARY'S COUNTY METROPOLITAN COMMISSION** (hereinafter, the "Commission"),  
Alva V. Watson, (hereinafter, the "Developer"),  
Alva V. Watson, (hereinafter, the "Owner") and  
Maryland Bank and Trust, (hereinafter, the "Lender #1", Letter of Credit holder),

RECORDING FEE 0.00  
TOTAL 0.00  
Rest#002 Rcpt#999999  
EWA KAE 31k#2203  
Sep 25, 2002 10:57 am

**WITNESSETH**

**WHEREAS**, the Commission is responsible for all water and sewerage projects in the Eighth (8th) Sanitary District of St. Mary's County, Maryland (the "County"); and,

**WHEREAS**, Owner is the owner in fee simple of all that lot, tract or parcel of land located in St. Mary's County, Maryland, subject to this Agreement, more particularly described at Exhibit N/A, attached hereto and incorporated herein, (hereinafter referred to as the "Property"); and,

**WHEREAS**, the Developer is developing the Property situated within said Sanitary District of St. Mary's County, Maryland, known and further described as Short Acres, Lots 5, 6 and 7, hereinafter referred to as the "Project"; and,

**WHEREAS**, the Developer, either by requirement of St. Mary's County or by choice, desires to construct certain central sewage facilities and/or central water facilities (the "Facilities"), to serve the Project; and,

**WHEREAS**, the Developer seeks the approval of the Commission for the construction of the Facilities; and,

**WHEREAS**, the Concept Plan for the development of the Project has been submitted to and approved by the Board of County Commissioner of St. Mary's County or their duly appointed agent; and,

**WHEREAS**, Developer has designed the Facilities in accordance with the St. Mary's County Standard Specifications for Water and Sewerage Construction, the Comprehensive Water and Sewerage Plans for St. Mary's County and any other rules, regulations, directives or special instructions issued by the Commission for the State of Maryland and the Federal Government; and,

**WHEREAS**, Developer has submitted a statement(s) included as Exhibit     **A**    , attached hereto and incorporated herein, setting forth a proposed phasing for the construction of the Facilities and a proposed schedule of completion for said phase or phases, said statement having been approved by the Commission. The Developer has also submitted an itemized engineer's estimate which has been approved by the Commission.

**WHEREAS**, Developer has furnished a Performance and Payment bond or Irrevocable Letter of Credit which has been approved by the Commission, a copy of which appears at Exhibit     **B**    , payable to the Commission, its successors and assigns, in an amount of \$ 6,000.00 conditioned that the Developer shall well and truly perform and fulfill the covenants, conditions and terms of this Agreement, and shall assure payment for all materials utilized and work performed, all of which shall remain in force until the expiration of the warranty period as set forth in Paragraph



EIGHTH.

**WHEREAS**, Developer has conveyed unto the Commission any and all required interest in the real property subject to development of the Facilities within the Project, including necessary interest in fee, as well as easements, rights of entry and other rights of way, as required by the Commission, more particularly set forth in Exhibit     N/A    , hereinafter referred to as "Commission Property"; and,

**WHEREAS**, Lender #1 is the holder of a recorded security interest in the Property; and,

**WHEREAS**, Lender #2, if any, and Owner, if different from Developer, have joined in the execution of these presents to acknowledge the obligations of the Developer set forth herein;

**NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:**

**FIRST:** The Commission shall grant unto Developer a right of entry onto the Commission Property for the purpose of construction and maintenance of the Facilities, provided, however, that Developer hold the Commission harmless for and indemnifies the Commission against any and all losses or damages incurred by the Commission during such time as Developer occupies such Commission Property, and further provided that Developer presents evidence of insurance coverage satisfactory to the Commission, including the naming the Commission as an additional insured, protecting all interests of the Commission.

**SECOND:** Developer shall construct all of the Facilities according to the schedule and in the phase or phases of construction as set forth herein, and in the case of multi-phased projects, no phase beyond the first shall be commenced until the Facilities under any of the previous phases have been approved and accepted by the



Commission.

**THIRD:** Developer shall construct the Facilities in accordance with final plans and specifications, and amendments thereto, as approved by the Commission. In the event that final plans and specifications have not been approved at the time of execution of this Agreement, no work in connection with the construction of the Facilities shall be commenced prior to the approval by the Commission of such plans and specifications. Furthermore, within sixty (60) days after the construction of any phase of the Facilities is completed and approved, a completed set of "As-Built Mylar Drawings" shall be submitted to the Commission.

**FOURTH:** Developer shall maintain the Performance and Payment Bond or Letter of Credit provided in Exhibit B, for the period of construction of the Facilities, and for the period of the required warrantee as set forth herein.

**FIFTH:** Developer shall make available the Property to duly authorized representative of the Commission at all reasonable times for purposes of inspecting construction of the Facilities.

**SIXTH:** Developer shall pay the following fees and charges:

**Inspection Charges:** \$210.00 based upon 3.5% of the Performance and Payment Bond or Irrevocable Letter of Credit, payable upon execution of this Agreement. Said amount shall be placed in an account by the Commission and shall be drawn upon from time to time to reimburse the Commission for the direct and indirect cost of said Inspection service, and if said cost is less than the Inspection Charge initially collected, the remaining balance shall be returned to the Developer or, if the total Inspection cost is more than the Inspection Charge initially collected, the Developer shall pay to the Commission the difference. This Charge reflects the

currently approved rate and is subject to change.

**Connection Charges:** N/A based upon \_\_\_\_\_ per connection payable upon execution of this Agreement or at the time a connection permit is issued.

This Charge reflects the currently approved rate and is subject to change.

**Sewer Benefit Assessment Charge:** \$137.36 per month based upon N/A per EDU per month, or \$2.04 per front foot per year based on 808 front feet, payment beginning at the time capacity allocation is made (Planning Commission approval or service is made available, whichever occurs first).

This Charge reflects the currently approved rate and is subject to change.

**Sewer Service Charge:** \$55.62 per month based upon \$18.54 per month per EDU beginning when the service is utilized. This Service Charge reflects the currently approved rate and is subject to change.

**Water Service Charge:** N/A per month based upon \_\_\_\_\_ per month per meter for service and \_\_\_\_\_ per month per meter for Ready-to-Serve charge, beginning when the service is utilized. The meter will be read on a quarterly basis with an allowance of 18,000 gallons per quarter. \$1.67/1,000 gallons will be charged over the 18,000 gallon limit. This Service Charge reflects the currently approved rate and is subject to change.

**Water Supply Fees:** N/A per EDU for development without supply (wells) that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed;  
or
2. Payment in full anytime between the date of this Agreement and  
up to 365 days thereafter with a deferment charge of 10% per annum pro



rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this agreement.\* This Charge reflects the currently approved rate and is subject to change.

**Water Storage Fees:** N/A per EDU for developments without storage facilities that utilize the public water system, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed; or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge reflects the currently approved rate and is subject to change.

**Treatment Capacity Charge:** \$500.00 per EDU for the allocation of capacity at the Pine Hill Run Waste Water Treatment Plant, payable as set forth below:

1. Payment in full at the time this Public Works Agreement is executed; or
2. Payment in full anytime between the date of this Agreement and up to 365 days thereafter with a deferment charge of 10% per annum pro rated per diem to the date of payment. Payment date not to exceed 365 days after date of execution of this Agreement.\* This Charge reflects the currently approved rate and is subject to change.

\* If this option is selected, a bond in the amount of 110% of the amount due (\$1,650.00) will be required.

**SEVENTH:** No premises within the Project to be connected to the Facilities shall



be occupied or used for any purpose whatsoever prior to the Facilities being accepted by the Commission without the express written prior approval of the Commission.

**EIGHTH:** Developer shall warrantee all mechanical, electrical and control Facilities for a period of twelve (12) months and all earthwork and associated underground construction for a period of eighteen (18) months after approval and acceptance by the Commission. The warranties shall cover the cost of labor, equipment and materials necessary to correct any problems with the Facilities.

**NINTH:** The Parties hereto expressly acknowledge that the following shall constitute events of Default of this Agreement:

1. Failure of Developer to construct the Facilities according to the schedule and in the phase or phases as set forth herein.
2. Failure of Developer to construct the Facilities in accordance with the approved plans and specifications approved by the Commission, as set forth herein.
3. Failure of Developer to provide a complete set of "Mylar Drawings" pursuant to ¶ **THIRD** above.
4. Failure of Developer to maintain the required bond for the period of construction and warranty of the Facilities.
5. Failure of Developer to prosecute work according to standard specifications.
6. Failure of Developer to respond to requests to honor warranties within a reasonable time schedule, such schedule to be established by the Commission.
7. Failure of Developer to perform any of the terms and conditions of this Agreement.

**TENTH:** The parties hereto acknowledge and agree that in an event of Default

the Commission may take any or all of the following actions:

1. Notify Developer to Stop Work.
2. Demand that Developer vacate Commission Property.
3. Notify Developer of intention to call bond.

The Commission may, in its sole discretion and for the benefit of the project, give Developer a reasonable period to cure an event of Default. Failure of Developer to cure Default during such cure period shall constitute an event of continuing Default, with all remedies available to the Commission. Forbearance by the Commission shall not constitute a waiver of its rights to declare subsequent default.

**ELEVENTH:** Upon completion and acceptance by the Commission of the facilities as set forth in paragraph SECOND above, the Developer when requested to do so by the Commission, agrees to convey all of the facilities with the appropriate sites, easements, and rights-of-way to the Commission for the nominal sum of One Dollar (\$1.00) and to provide all documentation and assurances of title as are requested by the Commission in connection with said proposed conveyances.

**TWELFTH:** This Agreement shall be binding upon and inure to the benefit of the heirs, successors, personal representatives and assigns of the parties hereto.

**WITNESS THE HANDS AND SEALS OF THE PARTIES HERETO THE DAY**

AND YEAR FIRST ABOVE WRITTEN:

WITNESS the hands and seals of the parties hereto, this      day of      20

.ATTEST:

ST. MARY'S COUNTY METROPOLITAN  
COMMISSION

*Li Bryan*

Secretary

ATTEST:

By: *Bryan M. Barthelme*

Bryan M. Barthelme  
Chairman

DEVELOPER

By: *Alva V. Watson*  
Alva V. Watson

PROPERTY OWNER

By: *Alva V. Watson*  
Alva V. Watson

LENDER #1

By: *G.T. Daugherty* Pres.  
Maryland Bank and Trust  
G.T. Daugherty, Pres.

LENDER #2

By: \_\_\_\_\_

EXHIBITS: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



(COMMISSION)STATE OF MARYLAND

COUNTY OF ST. MARY'S,

to wit:

I HEREBY CERTIFY that on this 8<sup>th</sup> day of August 2002.

before me a Notary Public in and for the County of St. Mary's aforesaid personally appeared Bryan M. Barthelme Chairman of the St. Mary's County Metropolitan Commission, and on behalf of said Commission did acknowledge the foregoing instrument to be the act and deed of the St. Mary's County Metropolitan Commission.

WITNESS my hand and Notarial Seal

Li Bryan Notary Public

My Commission Expires: 2/1/2004.

(DEVELOPER)STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

to wit:

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ before me, the subscriber, a Notary Public in the county aforesaid, personally appeared \_\_\_\_\_ and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

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

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

(OWNER)STATE OF Md

COUNTY OF St Marys to wit:

I HEREBY CERTIFY that on this 2 day of August, 2002 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared Alvin Watson and that he/she/they acknowledged the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Valerio L. Buchner Notary Public  
Notary Public State of Maryland  
My Commission Expires May 1, 2003

(LENDER #1)

STATE OF Md

COUNTY OF St Marys to wit:

I HEREBY CERTIFY that on this 2 day of August, 2002 before me, the subscriber, a Notary Public in the county aforesaid, personally appeared G.T. Daugherty Pres. and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

Valerio L. Buchner Notary Public

My Commission Expires: Valerio L. Buchner  
Notary Public State of Maryland  
My Commission Expires May 1, 2003

(LENDER #2)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_ to wit:

I HEREBY CERTIFY that on this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_ before me, the subscriber, a Notary Public in the county aforesaid, personally appeared \_\_\_\_\_ and that he/she/they acknowledged the execution of the foregoing Public Works Agreement to be his/her/their act.

WITNESS my hand and Notarial Seal.

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

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



**EXHIBIT A**

STATEMENT OF  
PROPOSED SEWER FACILITIES  
AND PHASING

PROJECT NAME: Short Acres, Lots 5, 6 and 7

TOTAL # OF PHASES: \_\_\_\_\_

DEVELOPER: \_\_\_\_\_

**PHASE I:**

PLAT REF: \_\_\_\_\_ # LOTS TO BE SERVED: 3

PROJECTED CONSTRUCTION START DATE: \_\_\_\_\_

PROJECTED CONSTRUCTION COMPLETION DATE: \_\_\_\_\_

FACILITIES TO BE CONSTRUCTED\*: Water distribution system with all appropriate appurtenances in accordance with the definition below and per the approved construction plans as signed by the Metropolitan Commission's Chief Engineer on

COMMISSION PARTICIPATION: NONE

\*The facilities listed also include FOR WATER PUMPING STATION: Wells, pumps, controls, generators, chlorinators, compressors, meters, valves, interior and exterior piping and appurtenances, together with all sites on which they are situated and 20' access to the same; FOR WATER STORAGE TANKS: Elevated storage tanks, standpipes, ground storage tanks, hydropneumatic tanks and surge tanks as required by the Commission, together with all sites on which they are situated and 20' access to the

same: FOR DISTRIBUTION SYSTEMS: Mains, fire hydrants, valves and valve boxes, fittings, blow offs, water house connections, water house service lines, curb stops, curb stop boxes, water meter settings and appurtenances, together with 20' permanent easements over the same for maintenance and modifications of and connection to these facilities; along with any and all other facilities or appurtenances which in any way could be construed as part of the water system.

Commission: BB

Developer: (Initials)  
CW

(Initials)

# Maryland Bank & Trust

EXHIBIT  
B

Company, N.A.

BOOK 0000 PAGE 0105

POST OFFICE BOX 248 WALDORF, MARYLAND 20604-0248

TELEPHONE (301) 645-5644  
<http://www.mdbank.com>

August 2, 2002

St. Mary's County Metropolitan Commission  
43990 Commerce Ave  
Hollywood MD 20636

Re: IRREVOCABLE LETTER OF CREDIT NO 678  
Water & Sewer Construction  
Short Acres Lots 5, 6 & 7  
Eighth Sanitary District of St. Mary's

Dear Sir:

We hereby authorize you or your transferee to draw on us at sight up to an aggregate amount of Six Thousand and 00/100 dollars (US\$6,000.00) to insure compliance with the Water & Sewer Construction Agreement by and between Al Watson and the St. Mary's County Metropolitan Commission.

This Letter of Credit is irrevocable and transferable. It may be transferred without charge one or more times upon receipt of your written instructions. It will expire, unless renewed upon your written request, on August 2, 2003.

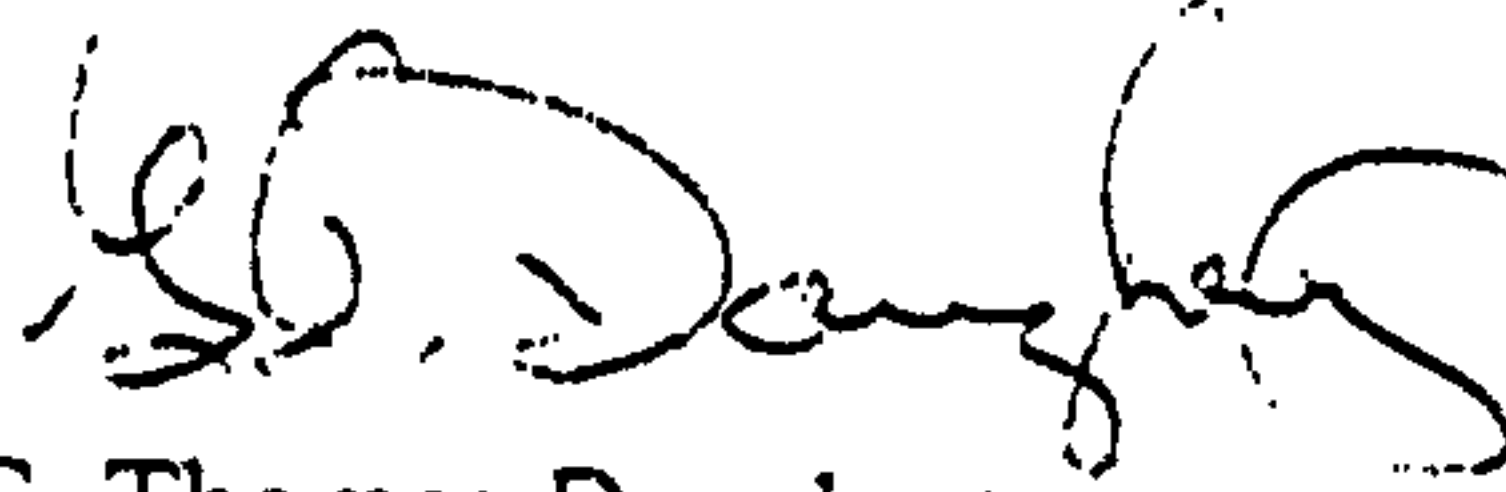
This Letter of Credit sets forth in full the terms of our obligation to you and such undertakings shall not in any way be modified or amplified by any agreement to which this letter relates, and any such reference shall not be deemed to incorporate herein by reference, any agreement.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation.

Very truly yours,

MARYLAND BANK & TRUST COMPANY

By:

  
G. Thomas Daugherty  
President

GTD/mh