

THIS PUBLIC WORKS AGREEMENT NO. 14-88 made this 7<sup>th</sup> day of April, 1988, by and between FISHING CREEK FARM ASSOCIATES, INC., a Maryland corporation party of the first part; HENRY A. BERLINER, JR. and MARION J. MINNER, JR., Trustees by virtue of a Deed of Trust and a Deed of Trust Modification and Subordination Agreement, dated August 10, 1987 and recorded among the Land Records of Anne Arundel County, Maryland in Liber 4429, folios 340 and 364, respectively, parties of the second part; and ANNE ARUNDEL COUNTY, MARYLAND, a body corporate and public of the state of Maryland, party of the third part.

WITNESSETH THAT:

WHEREAS, an approved subdivision plat of the said subdivision entitled FISHING CREEK FARM appears among the Land Records of Anne Arundel County, Maryland in Plat Book 109, Pages 45-50 and Plat Book 110, Pages 1-3, which said subdivision lies in the Second Assessment District of Anne Arundel County, Maryland; and

WHEREAS, it is the requirement of Article 26, Section 3-311 of the Code for Anne Arundel County that a bond or other form of financial guarantee be furnished by the subdivider to the County before selling or contracting to sell any of the property to be subdivided or constructing any improvements for sale thereon, in order to protect the County and the residents thereof and subcontractors and materialmen from loss due to failure of the subdivider to complete in the required manner the necessary improvements or to pay obligations incurred in the premises; and

WHEREAS, it is the purpose of this Agreement to guarantee completion by the subdivider or his assigns of all required public improvements in said subdivision in conformance with the Standard Specifications for construction and the Standard Details as promulgated by the Department of Public Works of Anne Arundel County as effective on the date of execution of this Agreement, and in a timely manner according to the provisions of the

RECORDED  
APR 15 1988  
11:57 AM

4-17-88  
18-41  
RECORDED  
APR 15 1988  
11:57 AM

RECEIVED FOR TRANSFER  
State Department of  
Assessments & Taxation  
By State Notary Public  
And by *noted necessary*  
4/14/88

Subdivision Regulations of Anne Arundel County, as shown on plans listed below and attached hereto; and

WHEREAS, the party of the first part has agreed to complete the construction of said public improvements as aforesaid on or before March 31, 1990, and for the purpose of guaranteeing the timely and satisfactory completion of the said public improvements in accordance with this Agreement and the following plats marked Exhibit "A", profiles, cross section and storm drainage plans marked Exhibit "B", filed with the Department of Public Works of Anne Arundel County, Maryland, Maintenance Bond (sample) marked Exhibit "C" being filed herewith and made a part hereof, the party of the first part herewith furnishes pursuant to requirements of the State Finance and Procurement Article, Section 13-501 of the Annotated Code of Maryland, a Completion Bond in the amount of \$1,475,290.00 and a Labor and Material Bond in the amount of \$737,650.00 or to the same effect, an Irrevocable Letter of Credit in the amount of \$1,475,290.00.

THEREFORE, IT IS UNDERSTOOD AND AGREED by the parties hereto that it is the condition of the guarantees securing this Agreement that if the party of the first part fully and properly performs all the construction of public improvements required and conveys good title to all dedicated portions of the subdivision within the date specified, and satisfies all proper claims of subcontractors and materialmen timely filed according to law then the guarantees shall then and there expire, and the said parties shall be released from this Agreement, but should the party of the first part fail to construct the required improvements within the time specified herein and in accordance with the above described plans and specifications, or fail to take appropriate and effective corrective action after written notification by the County of noncompliance with specified engineering requirements during the construction of the said improvements, or otherwise

fail to perform this Agreement as herein set forth, then the party of the third part shall have the right to enforce the guarantee of this Agreement as by law provided and may decline to accept or to maintain the said roads and other improvements until same are fully completed by the party of the first part. All claims from subcontractors and materialmen to the subdivider when and if received by the County shall be referred directly to the Surety on the payment bond, or if there is no Surety, same will be reserved from guarantee funds in the hands of the County pending final acceptance of the public improvements herein provided for.

IT IS FURTHER AGREED in conformance with Article 26, Section 3-313 of The Code of Anne Arundel County that, in the event of default by the developer in performance of this Agreement, the County shall give the developer and his surety, if any, written notification of said default, and the surety shall, within sixty (60) days of such notice, make his election in writing (a) to complete the required public improvements in conformance with the original plans and specifications within such reasonable period as the Department of Public Works may specify; or, (b) pay over within thirty (30) days of demand by the County, such sum as may be necessary to defray the cost to the County, for engineering, inspection, overhead and administration as well as direct production expenses arising out of the failure to the Principal to complete said improvements as required by the terms of this Agreement. If the required corrective action is not forthcoming as above set out, it is hereby stipulated that any construction or conveyance privileges granted to the subdivider or his assigns in way of the improvements guaranteed by this Agreement may be suspended by Order of the County Executive as may be necessary to protect the public interest in the premises pending completion of the required improvements.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

(a) The subdivider shall be responsible for maintaining public access on all streets, roads and rights-of-way in a subdivision in accordance with the standard County policies where certificates of use and occupancy have been issued and the streets, roads and right-of-ways have not been accepted by the County.

(b) The County may take any necessary action to maintain public access on streets, roads and rights-of-way in a subdivision if the developer fails to do so; and thereafter, the developer shall reimburse the County for any costs attendant thereto.

FURTHER, the party of the first part in addition to recovery against it under the guarantee shall, nevertheless, remain liable to Anne Arundel County, Maryland, for such additional costs as may necessarily be incurred in order to complete the required improvements herein described in accordance with the applicable plans and specifications; and

FURTHER, the subdivider and his surety hereby agree to waive all right of appeal as to the issue of the necessity and requirement for construction or installation or maintenance of any public improvement shown on the plans or specifications made part of this Agreement.

AND the party of the first part, in and by deed concurrent with this Agreement undertakes to convey to Anne Arundel County, Maryland, its successors and/or assigns, the following described parcels of land in the said subdivision, as described in attachments referred to as Exhibit "D". however, the recordation of such deed shall not of itself constitute a release of the guarantees for compliance with engineering requirements which are to be reviewed pursuant to engineering specifications.

IT IS FURTHER UNDERSTOOD AND AGREED that no Certificate of Occupancy shall be issued without the prior concurrence of the

Department of Public Works that the basic improvements have been completed in accordance with Article 25, Section 3-101 of the Anne Arundel County Code. For the purposes of this agreement, the offsite obstruction relocations along Arundel on the Bay Road, as required by Waiver #2634, are considered to be basic improvements and no Certificate of Occupancy shall be issued until these offsite improvements are completed.

IT IS UNDERSTOOD AND AGREED by the parties that the issuance of building permits pursuant to this Agreement is subject to possible interruption or suspension by reason of state or federal action, such as a moratorium imposed for environmental health reasons. The parties further agree that the execution of this Agreement does not grant or create in any manner a vested right of either party to have access to public water and sewage facilities.

IT IS FURTHER UNDERSTOOD AND AGREED that public water or sewer capacity to be created by expansion of current facilities or construction of new facilities is contingent on the availability of state and federal funds for water and sewer capital programs. The County disclaims any responsibility to provide sewer allocations due to the inability of the County to obtain necessary federal or state funds or to acquire, in a reasonable time, rights-of-ways necessary for construction of water and sewer projects or for Federal or State action, including operational moratoria, which may suspend, delay, or otherwise affect the allocation. It is understood that an allocation of capacity is not assignable or transferable from one development or section of development to another. The party of the first part hereby acknowledges that the conditions imposed in this paragraph are established by Article 26, Sections 2-409 through 2-420 of the Anne Arundel County Code, otherwise known as the "Adequate Facilities Ordinance", as applicable to the property of the party of the first part.

NOTHING herein shall be construed to waive the right of the County to exercise its guarantee against the principals and/or surety on the performance bond nor to assign the right to recover pursuant to the same as herein provided in whole or in part.

AND the parties of the second part, Trustees under a Deed of Trust and/or Mortgage, join in this Agreement for the purpose of releasing the land, easements and/or rights herein described from the operation and effect of any Deed of Trust, Mortgage and/or lien which they hold upon the property of the party of the first part, retaining such rights as Trustees, Mortgagees and/or lienors in and to the remainder of the land not affected by this Agreement.

WITNESS the signature of Fishing Creek Farm Associates, Inc., a Maryland corporation, by the hand of Mark E. Vogel, President, duly attested by the Secretary with the corporate seal hereunto affixed.

WITNESS ALSO, the signatures of Henry A. Berliner, Jr. and Marion J. Minker, Jr., Trustees.

WITNESS ALSO, the signature of Anne Arundel County, Maryland, a body corporate and public of the state of Maryland, by the hand of James Lighthizer, County Executive, duly attested by the Secretary with the corporate seal hereunto affixed.

ATTEST:

FISHING CREEK FARM ASSOCIATES, INC.

Linda Warner

Mark E. Vogel  
Mark E. Vogel, (SEAL)  
President

Judy Horan

Henry A. Berliner, Jr.  
Henry A. Berliner, Jr., (SEAL)  
Trustee

Judy Horan

Marion J. Minker, Jr.  
Marion J. Minker, Jr., (SEAL)  
Trustee

CONTINUATION OF PUBLIC WORKS AGREEMENT NO. 14-88

ATTEST:

ANNE ARUNDEL COUNTY, MARYLAND

Barbara A. Snyder

James B. Lightizer 4/14/88  
James Lightizer, (SEAL)  
County Executive

Approved for form  
and legal sufficiency

John W. [Signature]  
Office of Law

April 14, 1988  
Date

STATE OF MARYLAND,

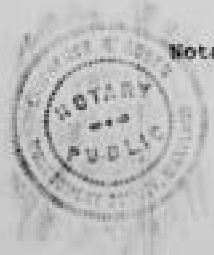
TO WIT:

I HEREBY CERTIFY, that on this 30 day of March,  
1988, before the subscriber, a Notary Public of the state of  
Maryland, in and for Montgomery County, personally  
appeared Mark E. Vogel, President of Fishing Creek Farm  
Associates, Inc., a Maryland corporation, and acknowledged the  
foregoing Agreement to be the act of said corporation.

AS WITNESS my hand and Seal Notary

Lawrence R. Rosen  
Notary Public  
LAURENCE R. ROSEN

my commission expires 7-1-90



Notary Seal

CONTINUATION OF PUBLIC WORKS AGREEMENT NO. 14-88

STATE OF MARYLAND,

TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 1988, before the subscriber, a Notary Public of the state of Maryland, in and for \_\_\_\_\_, personally appeared Henry A. Berliner, Jr., Trustee and acknowledged the foregoing Agreement to be his act.

AS WITNESS my hand and Seal Notarial.

*Richard R. Muelholland*

Notary Public

Notary Seal



STATE OF MARYLAND,

TO WIT:

I HEREBY CERTIFY, that on this \_\_\_\_\_ day of \_\_\_\_\_, 1988, before the subscriber, a Notary Public of the state of Maryland, in and for \_\_\_\_\_, personally appeared Marion J. Minker, Jr., Trustee and acknowledged the foregoing Agreement to be his act.

AS WITNESS my hand and Seal Notarial.

*Richard R. Muelholland*

Notary Public

Notary Seal





CONTINUATION OF PUBLIC WORKS AGREEMENT NO. 14-88

STATE OF MARYLAND, ANNE ARUNDEL COUNTY, TO WIT:

I HEREBY CERTIFY that on this 14<sup>th</sup> day of April, 1988, before the subscriber, a Notary Public of the state of Maryland, in and for Anne Arundel County, personally appeared ~~James Lighthizer~~ James Lighthizer, County Executive of Anne Arundel County, Maryland, a body corporate and public of the state of Maryland, and acknowledged the foregoing Agreement to be the act of said body corporate.

AS WITNESS my hand and Seal Notarial.



Notary Seal

David Paulson Carter

Notary Public

My Commission Expires 7/1/90

*Blind to  
Dev Ser. Division  
AKO*

## Exhibit "C"

## MAINTENANCE BOND

THIS MAINTENANCE BOND made, entered and given this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between Fishing Creek Farms Associates, Inc., as principal (hereinafter called "Principal"), \_\_\_\_\_, a body corporate of the State of \_\_\_\_\_, whose address is \_\_\_\_\_, as surety (hereinafter called "Surety") and ANNE ARUNDEL COUNTY, MARYLAND, a body corporate and politic of the State of Maryland (hereinafter called "Obligee").

WHEREAS, the above named Principal has undertaken to construct certain public improvements, to wit: roadways and other facilities in Anne Arundel County, Maryland, according to certain agreements, plans and specifications of Anne Arundel County, Maryland, under Public Works Agreement No. 14-88, dated \_\_\_\_\_, copies of which shall be or have been recorded among the Land Records of Anne Arundel County and which are also on file with the Obligee, and

WHEREAS, Principal has completed said construction but one of the conditions of the aforesaid Public Works Agreement with Obligee, was that the Principal shall warrant the aforementioned public improvements for one year and shall cause this instrument to be executed and delivered to the said Obligee before the Obligee accepts, takes over and/or maintains said public improvements.

NOW, THEREFORE, the said Principal and said Surety are held and firmly bound unto the Obligee in the sum of Sixty thousand four hundred sixty---Dollars (\$ 60,460.00 ) lawful money of the United States of America, for the payment of which said sum of money the Principal and Surety do bind themselves, their heirs, personal representatives, legal representatives, successors and assigns, jointly and severally firmly by this Maintenance Bond.

The conditions of this bond are that:

1. If the Principal shall indemnify and protect the Obligee and save the Obligee harmless from any and all damages, loss, costs or expenses which the Obligee may or shall suffer before the end of one year from the date of acceptance of the public improvements warranted by this bond and resulting from defective design, construction, materials or workmanship in said public improvements so accepted by the Obligee, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

2. In the event of any default hereunder on the part of the Principal which may be the subject of any claim herein, a written statement of the particular facts showing default and the date thereof which shall act as a notice of claim but not as a condition precedent, shall be mailed to the surety, certified mail, at the Surety's address above listed prior to the end of one year from the date of acceptance as above noted. Failure of the surety to notify the Obligee of any change of corporate name or address prior to the end of the aforementioned one year period shall relieve the Obligee of any further responsibility to notify the Surety.

3. No claim shall be made against the surety more than one year from the date the said roads or facilities are accepted by the Obligee; and for the purposes of this instrument, the date of claim shall be the date that a claim was mailed to the Obligee as required above.

4. The obligation of the Surety herein is, and shall be construed strictly as one of Suretyship only, unless otherwise agreed to in writing by the parties.

TEST:

\_\_\_\_\_ BY: \_\_\_\_\_ (SEAL)  
Surety

TEST:

\_\_\_\_\_ BY: \_\_\_\_\_ (SEAL)  
Principal

TEST:

\_\_\_\_\_ BY: \_\_\_\_\_ (SEAL)  
Principal

**Dewberry & Davis**

Architects Engineers Planners Surveyors



2084 Egan Road  
Annapolis, MD 21401  
301 841 6011  
telex 261 3707

November 17, 1987

BOOK 4580 PAGE 786

DESCRIPTION OF A PORTION OF THOMAS POINT ROAD  
CHERRY TREE LANE AND HIDDEN RIVER VIEW ROAD  
FISHING CREEK FARM  
PLAT ONE OF NINE  
SECOND ASSESSMENT DISTRICT  
ANNE ARUNDEL COUNTY, MARYLAND

ALL those strips or parcels of land situate in the Second Assessment District of Anne Arundel County, Maryland, and being a sixty (60) feet wide right-of-way for Thomas Point Road and being more particularly described as follows:

**BEGINNING** 30.00 feet from the terminus of the South  $76^{\circ}09'42''$  West 60.00 feet plat line as shown on the plat entitled "Fishing Creek Farm, Plat One of Nine, a Cluster Subdivision" and recorded among the Plat Records of Anne Arundel County, Maryland in Plat Book 109 at Page 45; thence with the beginning point so fixed and departing said plat line bearing in a northwesterly direction 1220 feet more or less with the centerline of Thomas Point Road, 60 feet in width; to intersect the North  $76^{\circ}09'42''$  East 66.03 feet plat line as shown on said plat; Containing 73,178 square feet or 1.6799 acres of land more or less;

**BEING** all of Thomas Point Road, 60 feet wide, as shown on the Plat entitled "Fishing Creek Farm, Plat One of Nine, a Cluster Subdivision" and recorded among the Plat Records of Anne Arundel County, Maryland in Plat Book 109 at Page 45;

**TOGETHER** with all that portion of land shown and designated as Cherry Tree Lane, 40 feet wide and 50 feet wide as shown on said plat and more particularly described as follows:

Florida, VA  
Annapolis, MD  
Baltimore, MD  
Baltimore, VA  
Baltimore, VA  
Baltimore, MD

London, MD  
London, VA  
Manassas, VA  
Manassas, VA

Manassas, VA  
Manassas, MD  
Manassas, VA  
Woodbridge, VA

Desc. of a portion of Thomas Point Road

November 17, 1987

Page Two

BOOK 4580 PAGE 787

BEGINNING 20.00 feet from the beginning of the North  $10^{\circ}32'21''$  West 40.00 feet plat line as shown on the aforementioned Plat; thence with the point of beginning so fixed and binding in a northeasterly direction 650 feet more or less with the centerline of Cherry Tree Lane, 40 feet wide; thence continuing with the centerline of Cherry Tree Lane, 50 feet wide, in a northeasterly direction 577 feet more or less to the westerly right-of-way line of Thomas Point Road at a point 50.00 feet from the beginning of the South  $13^{\circ}50'18''$  East 395.00 feet line of Thomas Point Road as shown on said plat; Containing in all for Cherry Tree Lane 54,831 square feet or 1.2587 acres of land more or less;

BEING all of Cherry Tree Lane 40 feet wide and 50 feet wide as shown on the plat entitled "Fishing Creek Farm, Plat One of Nine, a Cluster Subdivision" and recorded among the Plat Records of Anne Arundel County, Maryland in Plat Book 109 at Page 45;

TOGETHER with all that portion of land shown and designated as Hidden River View Road, 50 feet wide, as shown on said plat and more particularly described as follows:

BEGINNING 25.00 feet from the terminus of the North  $72^{\circ}15'40''$  West 216.73 feet plat line as shown on the aforementioned plat; thence with the point of beginning so fixed and binding in a northerly direction 748 feet more or less with the centerline of Hidden River View Road terminating at the 53.00 feet radius point of said road; Containing 37,394 square feet or 0.8584 acre of land more or less;

BEING all of Hidden River View Road, 50 feet as wide, as shown on the plat entitled "Fishing Creek Farm, Plat One of Nine, a Cluster Subdivision" and recorded among the Plat Records of Anne Arundel County, Maryland in Plat Book 109 at Page 45;

ALSO BEING a portion of the land described in a deed dated August 10, 1987 from Margaret E. Haguely, George W. Haguely, III, Trustee, and Geoffrey A. Haguely, Trustee, and American Security Bank, N.A., to Fishing Creek Farm Associates, Inc. and recorded among the Land Records of Anne Arundel County, Maryland in Liber 4429 at folio 303.

