

Town of Boonsboro
PUBLIC WORKS AGREEMENT: SYCAMORE RUN, PHASE III
NO.2016-03

THIS PUBLIC WORKS AGREEMENT 2016-____, made and entered into the _____ day of _____, 20__ by and between the Mayor and Council of Boonsboro, 21 N. Main St., Boonsboro, MD 21713, a body corporate and politic of the State of Maryland, herein called "**Town**" and King Road Associates Limited Partnership, c/o Lester G. "Ruff" Fant, III, located at 1054 31st Street NW, Suite 340, Washington, DC 20007, herein called "**Applicant**".

WHEREAS, the Applicant desires a permit to improve the land known as Sycamore Run, Phase III in the Town of Boonsboro, Washington County, Maryland, herein call the "Property" owned by the Applicant; and

WHEREAS, the Applicant in furtherance of its effort to obtain building permits has agreed to make certain improvements pertaining to streets, sidewalks, curbs and gutters, sediment and erosion controls, streetlights, stormwater management, water and sewer infrastructure, storm drains, and landscaping in accordance with the requirements of Boonsboro and shown on the approved preliminary plans for the development; and

WHEREAS, Town has approved the cost of construction of improvements mentioned above, either by a sum referenced in a contract between the Applicant and a contractor to perform the work contemplated hereby or by an engineering estimate; and

WHEREAS, Applicant and Town have consented and agreed to enter into this Agreement believing it to be to their mutual

benefit.

NOW, THEREFORE, in consideration of the premises, and in order to carry out the requirements of the Town, it is agreed by and between the parties as follows:

SECTION I

The Applicant agrees:

1. To construct within two (2) years from the date of final execution of this Agreement, with extensions as necessary due to delays beyond the control of the Applicant, the following Public Works facilities according to the standards and specifications heretofore established; streets, sidewalks, curbs and gutters, sediment and erosion controls, streetlights, stormwater management, water and sewer infrastructure, storm drains, and landscaping in accordance with the approved plans marked as Exhibit A, attached hereto and made a part hereof.

2. As security for said improvements and facilities, the Applicant has posted with the Town, Irrevocable Letters of Credit and/or Bonds in amounts as set forth in Exhibit B attached hereto and make a part hereof, which amounts have been determined based upon One Hundred Ten Percent (110%) of the contract sum or engineering estimate, whichever the case may be.

SECTION II

Once the improvements are completed by the Applicant and are accepted by the Town, the Town agrees:

1. To provide continuous water and sewer service to the Property, subject to normal interruptions for repair and maintenance.
2. To provide public services to the Property.
3. To maintain streets as public streets.
4. To maintain public stormwater facilities and open spaces.

SECTION III

It is understood and agreed by the parties hereto that this Agreement and security obligation shall terminate upon the timely and faithful performance of each and every term and condition hereinbefore set forth.

It is further understood and agreed by the parties hereto that the failure, neglect or refusal of the Applicant to perform the terms and conditions of this Agreement, in addition to any other remedies which the Town may have against the Applicant, shall also entitle the Town to the following:

1. Forfeiture to the Town of the funds posted in guarantee of performance and the Town may enter into and upon the Property to be improved to construct said improvements, the Applicant to be responsible for any costs and expenses incurred which are not paid for by the Performance Bond and/or the Letters of Credit posted to guarantee performance by the Applicant.

2. Any balance remaining out of the forfeited funds after completion of required improvements may be recovered by the Applicant.

It is further understood and agreed by the parties hereto that the Town is obligated to maintain improvements after the improvements are acquired pursuant to this Agreement. Upon final acceptance of the improvements by Boonsboro after the expiration of a one (1) year maintenance period applicable to the improvements to be accepted, the Town will accept title to the same unless specifically set forth herein or by separate agreement.

SECTION IV

Applicant acknowledges that the Town shall have the right to enter upon the Property at any time within one hundred twenty (120) days prior to the termination date of the Performance Bond or Letter of Credit and at such time, the Town shall have the right to cite Applicant for any failure to complete the construction of the improvements in accordance with this Public Works Agreement executed in conjunction with the development. The intent of the Section IV being to allow the Town to file a claim in order to preserve its rights against the surety of the Applicant.

SECTION V

In the event of any default hereunder the part of the Applicant, a written statement of the particular facts showing

default and date thereof which shall act as a notice of default, shall be mailed by the Town to the Applicant, certified mail, and the Applicant shall have twenty (20) days to commence to cure such default and shall complete such cure within sixty (60) days commencing to cure the default. In the event the default is not cured within said sixty (60) days, the Town may elect to draw upon the Letter of Credit or Bond for the above-described improvements in accordance with its terms.

WITNESS the hands and seals of the Applicants and the Town.

Attest:

Applicant:
King Road Associates
Limited Partnership

Lester G. Fant, III
General Partner (SEAL)

Attest:

Town:
Mayor and Council of Boonsboro

Howard W. Long
Mayor (SEAL)

EXHIBIT B

PUBLIC WORKS PERFORMANCE AMOUNTS

<i>SEDIMENTATION AND EROSION CONTROLS</i>	<i>\$23,884.83</i>
<i>SANITARY SEWER SYSTEM</i>	<i>\$93,006.81</i>
<i>STORM DRAINAGE SYSTEM</i>	<i>\$120,273.06</i>
<i>SWM WATER QUALITY FACILITIES</i>	<i>\$244,276.18</i>
<i>WATER SYSTEM</i>	<i>\$241,169.97</i>
<i>ROADS</i>	<i>\$371,061.99</i>
<i>MISCELLANEOUS- Walls, street trees, property corners, street signs, street lights</i>	<i>\$130,350.11</i>
<i>CONTINGENCY</i>	<i>\$122,402.29</i>
<i>TOTAL</i>	<i>\$1,346,425.24</i>

The amounts listed above in this section of Exhibit B may be reduced by Applicant by fifty percent (50%) as to each of the above items when such item is fifty percent (50%) complete and by a total of seventy-five percent (75%) as to each item when such item is seventy-five (75%) complete, based upon the Town's independent inspector's report. The above amounts shall be further reduced by a total of ninety-five percent (95%) as to each such item when such item has been completed, with the remaining five percent (5%) (or a replacement bond of 5%) to be held pursuant to a One-Year Maintenance Agreement to be executed between the parties in the form of Exhibit C attached hereto and made a part hereof.