

The following document is used if there is bonding for landscaping on the questionnaire and the date of the Landscape Manual is November 8, 2004, or later.

LANDSCAPE MAINTENANCE AGREEMENT

“ _____ ”

Public Works Agreement No. _____

THIS AGREEMENT, made this _____ day of _____, 20__, by and between **THE COUNTY COMMISSIONERS OF CARROLL COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (“County”); and _____ (“Owner”) (in the event this document involves two or more owners then Owner shall include and mean the plural hereafter), witnesseth:

WHEREAS, Owner is seeking to have a proposed Site Plan/Subdivision Plan finally approved by the Planning and Zoning Commission of Carroll County (or applicable town); and

WHEREAS, in accordance with Chapter 134, Landscape Enhancement of Development, of the Code of Public Local Laws and Ordinances of Carroll County (“the Code”), Owner is required to enter into a written agreement wherein Owner agrees, inter alia, to install and maintain in perpetuity certain landscape improvements; and

WHEREAS, Owner and County have consented and agreed to enter into this Agreement, believing it to be to their mutual benefit, and they intend it to be recorded among the Land Records of Carroll County.

NOW, THEREFORE, in consideration of the premises and of the covenants hereafter set forth, County and Owner, for itself, its respective heirs, successors, assigns, and personal representatives, do hereby mutually covenant, promise and agree as follows:

1. Owner shall, within **one year** from the date of execution of this Agreement by County, install or cause to be installed all of the landscape improvements (“Improvements”) as set forth in detail on the drawings entitled “ _____ ” (___ SHEETS) (“Drawings”) on file with Carroll County Department of Planning.

FYI - if you are also doing a PWA change the above expiration date to be the same as the expiration on the PWA.

2. Owner shall install the Improvements in accordance with the specifications set forth in Chapter 134 of the Code and the Carroll County Landscape Manual which was adopted

FYI - date is based on when 1st submittal was received and said date should be indicated on the questionnaire.

3. Owner agrees to the installation of landscape plantings during the first growing season after the removal of sediment control devices. Growing season is defined as January 1st through April 30th or September 1st through December 1st. Failure to comply with this provision shall constitute a breach of the Agreement, Construction Drawings, and/or Landscape Plan and may result in the County claiming the bond for landscaping. Any planting area which is located outside the approved limits of disturbance may be planted upon approval of the Landscape Plan but shall be planted no later than the first growing season after the removal of sediment control devices.

FYI – the following paragraph can be taken out of this document if we are also doing a PWA and therefore said language is a duplicate:

4. Owner shall proceed with construction of the Improvements in accordance with inspection procedures specified by County. Concurrently herewith, Owner has paid County _____ (\$ _____), representing an agreed inspection and administration fee. This fee is non-refundable.

5. Owner agrees to obtain all easements reasonably necessary for the construction and maintenance of Improvements in a form satisfactory to County, at Owner's expense.

FYI – the following paragraph can be taken out of this document if we are also doing a PWA and therefore said language is a duplicate:

6. Owner shall furnish County with a Bond or Letter of Credit in a form satisfactory to County in the amount of _____ (\$ _____) running to County as obligee, and conditioned upon the faithful performance of this Agreement and further conditioned upon the payment by Owner of all charges, liens, and indebtedness incurred in, by reason of, or due to the making of such Improvements or the execution of this Agreement. Additionally, prior to the release of any part of the Bond or Letter of Credit required hereunder, the Owner shall deliver an affidavit indicating that all contractors, subcontractors and materialmen who have performed work on Improvements to be accepted by the County within the subdivision have been paid for all work done and materials furnished in accordance with the contractual agreements with them. **In the event County is required to make or complete any of the Improvements, County shall be entitled to 15% of the amount of the bond or Letter of Credit given hereunder as administrative fees.**

7. Owner, its heirs, successors, assigns, and personal representatives, shall maintain landscape Improvements at Owner's expense in perpetuity.

8. Upon breach of this Agreement by Owner, Owner shall be liable to County for damages; in addition, County, in its sole discretion, may make or complete Improvements and Owner shall be liable for the costs incurred by County, notwithstanding any other provision herein County may at its sole discretion and upon default by Owner and upon forfeiture of the Bond, use the monies so forfeited to install landscaping on the premises.

9. Owner shall indemnify and hold harmless County from any and all claims, actions, and demands arising from the making of Improvements or this Agreement.

10. Owner warrants as an inducement for County to enter this Agreement without a title search, that Owner holds fee simple title to the property shown on the Record Plat/Site Plan *and that all parties having any right or interest of record in the property have joined herein.*

FYI - remove language in italics only if we know the owner(s) has lienholder(s) and we are waiving lienholder(s) signature(s).

11. This Agreement may not be assigned without the prior written consent of County which consent shall not be unreasonably withheld.

12. Owner and all other parties, for themselves, their personal representatives, successors or assigns, grants County, its agents and employees, an irrevocable right to enter upon those portions of property upon which landscape Improvements are to be installed.

13. Nothing herein shall be construed as creating any rights, vested, contractual, or otherwise, in excess of those conferred by law and this contract. Owner agrees that, in the event Owner for any reason undertakes to perform work or make Improvements not required by this or another Public Works Agreement whether in this or any other section of the development, Owner shall acquire no vested rights thereby.

14. Owner understands that approval of future sections and of work or improvements not covered by this Agreement shall be conditioned upon Owner's compliance with all laws, regulations, standards, and policies in effect on the date such approval is sought and granted.

15. This Agreement shall be in perpetuity, unless released by the County.

AS WITNESS the hands and seals and/or corporate names of the parties.

THE COUNTY COMMISSIONERS OF
CARROLL COUNTY, MARYLAND,
a body corporate and politic of the State of Maryland

Date:

BY: J. MICHAEL EVANS, DIRECTOR
DEPARTMENT OF PUBLIC WORKS
County

Approved as to legal sufficiency:

TERRI A. JONES
DEPUTY COUNTY ATTORNEY

BY: _____ (SEAL)
TITLE:
Owner

NEED NOTARY FOR EACH SIGNATURE EXCEPT COUNTY SIGNATURES

Form: attorney\pwa\legalpackage\LandscapeMaintenanceAgreement (September 18, 2007)

TAJ

PWA No.

date:

RETURN TO: Department of the County Attorney, 225 N. Center Street, Westminster, MD 21157