

ROAD CONSTRUCTION AGREEMENT

THIS AGREEMENT, made this 27th day of Sept, 1994, by and between the Board of County Commissioners of Calvert County, Maryland (the "County"), and Drum Point Property Owners Association (DPPOA) is entered into pursuant to the provisions of the Calvert County Road Ordinance pertaining to privately maintained roads in subdivisions.

WITNESSETH:

WHEREAS, Section 5.5 of the Calvert County Road Ordinance provides that under certain specified conditions a homeowner association may enter into a road construction agreement with the County allowing maintenance and/or construction by the homeowner association of an unpaved or paved road meeting certain standards specified by the County; and

WHEREAS, DPPOA represents the property owners of Drum Point subdivision, and by a deed from Drum Point Road and Community Services, Inc., recorded in the Land Records of Calvert County on August 3, 1993, at Liber A.B.F. No. 683, folio 266, DPPOA became the grantee of certain interests in recorded covenants, deeds and documents affecting property in Drum Point. As a result of this action, DPPOA is a homeowner association for these purposes as defined by said ordinance, and having met said specified conditions, DPPOA desires to enter into a road construction agreement with the County; and

WHEREAS, the County hereby acknowledges that the conditions of Section 5.5 have been met by DPPOA and further acknowledges its willingness to allow DPPOA to maintain the roads within the Drum Point subdivision.

NOW, THEREFORE, in consideration of the premises, mutual covenants and obligations herein set forth, the parties hereto agree as follows:

ROAD MAINTENANCE (EXISTING ROADS)

1. The County will issue a grading permit to the DPPOA allowing drainage and maintenance construction in the existing serviceable roadways within the platted portions of Drum Point subdivision upon receipt and approval of an application to the County requesting approval. The application will include a work specification plan outlining the sediment control practices to be applied, the road typical sections, if applicable, and description of the intended road project.

2. DPPOA shall maintain existing surfaced roads to their present level of maintenance and widths, which are hereby deemed a serviceable road by the County Public Works Department, and newly constructed roadways within the Drum Point subdivision to the minimum standard, meeting the County's definition of a serviceable road, including snow removal.

3. DPPOA acknowledges that the County will not accept maintenance of said roadways until such time as all property owners are notified by DPPOA and have given their approval in accordance

with applicable covenants, and said roadways will meet all County specifications (including paving) or have been completed as a road construction district created under the authority of Section 155A, Article 25, of the Annotated Code of Maryland.

NEW ROADWAYS

1. The County may issue grading permits to developers and/or builders, with the approval of DPPOA, to construct **new roadways** within the platted portions of the Drum Point subdivision when the new roadways are being funded by the developers and/or builders. The developers and/or builders shall submit plans and all other documents as required by the County for **new roadways** meeting current County standards. Construction shall be inspected and approved by the County using the same criteria for **new roadways** being accepted into the County road system.

2. Upon completion of said permitted work, DPPOA will be allowed to maintain the new roadways as set forth in the work specification or plan.

3. All new road construction on platted roadways within the Drum Point subdivision will be done in accordance with County standards with respect to both engineering and construction. Upon completion of construction, the work will be inspected by the County for compliance with the approved plans. After County inspection and approval, DPPOA will maintain the new roads (including snow removal) consistent with the other existing roadways in the subdivision.

4. The County shall provide inspection services for the construction of new roadways, the same as required for County roads, and shall make good faith efforts to coordinate its inspections with representatives of DPPOA.

HOME BUILDING AND GRADING PERMITS

1. In accordance with existing ordinances and policies of the County, the following criteria will be used in consideration of the issuance of building permits in Drum Point subdivision:

a. The County may issue a permit in Drum Point for any construction other than a new residence or road construction without the approval of DPPOA.

b. The County will only issue building permits for new residences on existing roads which are deemed serviceable by the County Engineering Department with the prior approval of DPPOA, provided that if the County does not receive notice of approval or disapproval of the permit from DPPOA within seven (7) calendar days after DPPOA receives a copy of the building permit application package which is complete to County standards, the permit may be issued by the County if it otherwise meets County criteria. In order to facilitate processing of application by both parties, DPPOA will stamp incoming applications with the date, time and acknowledgment of receipt and will provide a copy of the application with said information to the applicant on request. The County

may rely on the indicated date for purposes of calculating the above time period, but if an applicant alleges to the County that DPPOA failed or refused to give the applicant a stamped copy, the County may act independently to confirm receipt by DPPOA and shall not withhold its own approval unreasonably.

c. The County will only issue building permits for new residences on roads requiring improvements after the applicant has received approval of the permit package from DPPOA. At issuance of the building permit for a new residence to be serviced by a new roadway, the serviceable roadway (12 feet in width and surfaced with 4 inches of gravel) will be required to service the property during construction of the residence. As a condition of issuance of a use and occupancy permit for the residence by the County, the new roadway shall be brought up to the County's standard typical section, including the paving requirement, by DPPOA or its agents.

2. The County will make reasonable efforts to notify DPPOA of a Builder/Owner's request for a use and occupancy permit so that a DPPOA representative may accompany the inspectors to assure that the approved site plan, driveway entrance, grading and elevations have been faithfully followed and constructed.

SUSPENSION FOR INSOLVENCY

The County's obligations under this agreement are suspended if

DPPOA becomes insolvent. For purposes of this agreement, insolvent means that DPPOA has debts which exceed the fair value of its assets, or alternatively, that DPPOA is unable to meet its debts as they mature in the ordinary course of its business.

INDEMNIFICATION

DPPOA agrees to indemnify and hold the County harmless for any loss or liability, including reasonable attorney and other costs incurred in defending any claim for loss or liability, incurred as a result of any act or omission of DPPOA pursuant to this agreement.

RIGHT TO ENFORCE COVENANTS

This agreement is not intended to supersede, preempt or otherwise affect in any way any existing or future rights DPPOA or property owners may have to enforce covenants pertaining to lands in Drum Point subdivision.

IN WITNESS WHEREOF, the parties have executed this agreement in triplicate this day and year above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF CALVERT COUNTY, MARYLAND

Mary L. Watson

BY: Regina R. Micks

DRUM POINT PROPERTY OWNERS
ASSOCIATION

Ann E. Cooper

BY: James J. [Signature]