

11/17/08

EXTENSION AGREEMENT
- SURETY INCREASE -

This Extension Agreement, dated this (A) _____ day of _____, 20___, by and between (C) _____, (hereinafter called "Owner"), and the **BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA**, a body politic (hereinafter called the "Board").

WITNESSETH:

WHEREAS, by Agreement dated (B) _____, and in consideration of the approval by the Board of the plat, plans and profiles of the subdivision/site plan known as "(D) _____", designated as County application number CPAP/STPL (P) _____, and any and all revisions thereof however such revisions may be designated, the Owner agreed to complete certain work and improvements within (E) _____ months from the date of said Agreement; and

WHEREAS, the performance of the obligations of Owner under the Agreement is secured by Bond/Letter of Credit No. (F) _____, issued by (G) _____, currently in the amount of (H) _____ (\$ _____); and

WHEREAS, Owner has requested an extension of the time for performance of the obligations under the said Agreement; and

WHEREAS, the Director of Building and Development, upon recommendation by the Loudoun County Bond Committee, on behalf of the Board, has determined that the security provided is inadequate to complete the work and improvements required by the Agreement;

10/30/08

NOW, THEREFORE, the Owner hereby agrees that the amount of the security is hereby increased from \$ _____, to \$ _____, such increase being evidenced by the Bond Rider/Letter of Credit Amendment attached hereto; and

It is further agreed that, in consideration of the foregoing and the continuation and extension of the Bond/Letter of Credit Number (F) _____ which extension is evidenced by the Consent to Extension and the Bond Rider/Letter of Credit Amendment which are attached hereto and made a part hereof by reference, the time for the performance of the obligations set forth in the aforesaid Agreement dated (B) _____, is hereby extended from (M) _____ to (J) _____.

In all other respects, the provisions of the Agreement dated (B) _____, including all prior extensions and amendments thereto, which are not inconsistent with this Extension Agreement shall remain in full force and effect, and Owner reaffirms its commitments and obligations as contained therein.

The undersigned warrants that this Agreement is made and executed pursuant to authority properly granted by the [partnership agreement] [charter, bylaws and action of the Board of Directors] [articles of organization, operating agreement or majority vote of the members] of the Owner.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

AMS 08/08

IN WITNESS WHEREOF, Owner has caused its name and seal to be affixed hereto by its authorized representative.

OWNER: _____(C)
By: _____(SEAL)
Name: _____
Title: _____

STATE OF _____,
COUNTY OF _____, to-wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that _____, as _____ of (C) _____ whose name is signed to the foregoing Extension Agreement-Surety Increase, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, the Board has caused this Extension Agreement to be executed on its behalf, and its seal affixed.

**BOARD OF SUPERVISORS OF
LOUDOUN COUNTY, VIRGINIA**

By: _____
Director, Building and Development

**STATE OF VIRGINIA,
COUNTY OF LOUDOUN, to-wit:**

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that _____, as _____ of _____ whose name is signed to the foregoing Extension Agreement-Surety Increase, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____

03/08/08

CONSENT TO EXTENSION

(G) _____ issued (F) _____ on
(O) _____, to guarantee construction of the
improvements for (D) _____,
(P) _____, in accordance with the Agreement dated
(B) _____, between (C) _____ and the
Board of Supervisors of Loudoun County, Virginia.

(G) _____ hereby consents to an extension of the time for
performance of the aforesaid Agreement by (C) _____ from
(M) _____ to (J) _____. All other
provisions of the Agreement dated (B) _____, and
(F) _____ shall remain in full force and effect.

A (I) _____ is attached hereto and made a part
hereof by reference.

The persons executing this Consent to Extension on behalf of the (G) _____
and (C) _____ warrant that they have authority to act for the
respective parties.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

10/08/08

DATED THIS (N) _____ day of _____ 20__.

Surety: _____ BANK
By: _____ (SEAL)
Name: _____
Title: _____

Subdivider/Principal: _____
By: _____ (SEAL)
Name: _____
Title: _____

STATE OF _____,
COUNTY OF _____, to-wit:

I, the undersigned, a Notary Public in and for the State and County aforesaid, do hereby certify that _____, as _____ of _____ whose name is signed to the foregoing Consent to Extension dated this ____ day of _____, 20__, has signed and acknowledged the same before me in my State and County aforesaid.

GIVEN under my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____
My Notary Registration Number: _____

STATE OF _____,
COUNTY OF _____, to-wit:

I, the undersigned, a Notary Public in and for the State and County aforesaid, do hereby certify that _____, as _____ of _____ whose name is signed to the foregoing Consent to Extension dated this ____ day of _____, 20__, has signed and acknowledged the same before me in my State and County aforesaid.

GIVEN under my hand and seal this ____ day of _____, 20__.

Notary Public

My Commission Expires: _____
My Notary Registration Number: _____



Loudoun County, Virginia

Department of Building and Development
Bonds Management

1 Harrison Street, S.E., P.O. Box 7000, Mailstop 60, Leesburg, VA 20177-7000

Main Telephone: (703) 777-0220 | Bonds Information Line: (703) 737-8942

Email: bonds@loudoun.gov

www.loudoun.gov/bonds

Please complete the below contact information in reference to the attached agreement and submit this with your completed agreement and bond packet.

Project Name: _____

Bond Number: _____

Please provide contact information for the PRINCIPAL/CO-PRINCIPAL of the bond:

Name: _____

Title: _____

Address: _____

Phone No.: _____

Email: _____

Please provide contact information for the Developer/ Owner. This individual will keep the Performance Agreement/Bond current with Loudoun County:

Name(s): _____

Title(s): _____

Address(es): _____

Phone No(s): _____

Email(s): _____

Thank you for your help.
Bonds Management Team

QUICK REFERENCE FOR PERFORMANCE BOND PROCESS WITH LOUDOUN COUNTY

Now that your agreement has been accepted by Loudoun County, its life has begun and may consist of Bond Maintenance prior to Bond Release.

This is only the beginning. You are not done.

Per [Facilities Standards Manual \(FSM\)](#) Section 8.302, “If construction of the subject project is not completed within the initial Performance Agreement term (12, 24, or 36 months), the performance bond amount may require *adjustment* (increase in bond amount) and subsequent *reconsideration* (new owner or surety substitution) and review by the Bond Committee”.

Until the Bond Committee recommends approval of release of the bond, the performance agreement must be extended every year with a new set of completed extension documents and a \$300.00 extension fee per year(s) extended. (See [FSM](#) Section 8.305.E for release requirements).

To keep your agreement *current* (not expired and out of default), you may need to take one or more of the following actions:

- 1) ***When would I need an Extension Agreement?*** This is the most common action that needs to be taken every year in order to keep your agreement current. Submit the required completed extension documents and a \$300.00 fee per year. Except for the 1st extension, all extensions are for one (1) year.

Please note, when extending a State Maintained Roads Agreement, a Preliminary Street Acceptance Package is also required. (See [Checklist for Preliminary Street Acceptance Package \(aka PSAP\)](#)).

Documents required:

- | | | |
|---------------------------|-------------------------|-------------------------------------|
| 1) Extension Agreement | 2) Consent to Extension | 3) Rider/Letter of Credit Amendment |
| 4) Extension Request Form | 5) Fee | |

Please note, if your agreement is not extended by the expiration date, your agreement will be in DEFAULT (No reduction, release, permits, or inspections for project will be authorized) (See Loudoun County’s website for documents/information: [LC Perf Agree Extension](#)). Per [FSM](#) Section 8.305.B, submit an extension agreement approximately sixty (60) days prior to the agreement expiration. Upcoming expiration letters are generally emailed to owner/developer ninety (90) days from the expiration date of the agreement.

- 2) ***When would I need a New Owner Substitution?*** If the ownership of the property has changed, request a New Owner Substitution.

Please note, if the original agreement is expired, the agreement is in DEFAULT. When submitting a New Owner Substitution agreement on an expired performance agreement, a \$300.00 fee is required, per year(s) in default, to bring the expired agreement current. (See Loudoun County’s website for documents/information: [LC Substitutions](#)).

Documents required:

- | | |
|--------------|--|
| 1) Agreement | 2) Bond (Preferred Collateral Discussion: Cash, Letters of Credit, Surety Bonds) |
|--------------|--|

- 3) ***When would I need a Surety Substitution?*** If the bank or surety company no longer meets the requirements of [FSM](#) Section 8.303, request a Surety Substitution. (See Loudoun County’s website for documents/information: [LC Substitutions](#))

Documents required:

- | | |
|--------------|--|
| 1) Agreement | 2) Bond (Preferred Collateral Discussion: Cash, Letters of Credit, Surety Bonds) |
|--------------|--|

- 4) ***When would I need a Reduction?*** If you have completed 30% of the improvements, request a bond reduction and submit a \$785.00 fee. (See Loudoun County’s website for documents/information: [LC Reductions](#)).

Documents required:

- | | | | |
|-----------------------------|-------------------------|---------|------------------------------|
| 1) Reduction request letter | 2) Bond Unit Price List | 3) Fees | 4) Geo-tech certified letter |
|-----------------------------|-------------------------|---------|------------------------------|

- 5) ***When would I need a Release?*** If improvements have been completed, request a bond release and submit a \$500.00 release fee and a \$300.00 fee for as-built plans. (See Loudoun County’s website for documents/information: [LC Street Acceptance / Bond Release](#)).

Documents required:

- | | |
|---------------------------|---|
| 1) Release request letter | 2) Items Requested on Public Street Acceptance OR |
| 3) Fees | Items requested on Private Street/Site Plan/Proffer Release Checklist |

If after reviewing the website links above you have further questions or need clarifications, please contact:

Contact Infrastructure Compliance Team for PSAP Questions	
Contact:	Issue:
Rick Hoffman / 703-737 8625 richard.hoffman@loudoun.gov	PSAP Submission

Contact Infrastructure Compliance Team for RELEASE and REDUCTION Questions	
Contact:	Issue:
Ilona McGee / 571-258-3216 ilona.mcgee@loudoun.gov	Project Manager Assignments
Rick Karle / 703-771-5129 rick.karle@loudoun.gov	Street Acceptance Process

Contact Bonds Management Team for Extension, New Owner Substitution, or Surety Substitution Questions	
Contact:	
Michael Baggett – project names beginning with A-D	703-771-5043 / michael.baggett@loudoun.gov
Will Himel – project names beginning with E-O	703-737-8765 / will.himel@loudoun.gov
Diana Larson – project names beginning with P – Z	703-771-5345 / diana.y.larson@loudoun.gov
Bonds Information Line	703-737-8942 / bonds@loudoun.gov

COMMONLY MADE ERRORS

- The Agreement must be dated on or prior to the date of the Corporate Surety Bond or Letter of Credit.
- Application name and number must be correct and agree across all documents.
- Common Typos on the Rider/Continuation/Verification Certificate for application types (ex.: SPTL versus STPL, APAP versus CPAP).
- The Corporate Surety Bond or Letter of Credit Number must be filled in on Agreement.
- Owner of the property must be party to the Performance Agreement even if the Corporate Surety Bond is provided by a different entity or party.
- Incorrect or Missing Dates on the Consent to Extension.
- Notary Attestation cannot be before the date of the agreement.
- Signers' names must agree exactly across all documents (signature block and notary).
- Corporate Surety Bond Number must be on the upper left corner of the face of the bond and in the upper right corner of each subsequent page of the bond.
- Power of Attorney must be dated before bond, but within six (6) weeks of date on bond and is required for each time someone signs (ex.: rider + Consent to Extension = 2 POAs).
- Not using the EXACT template language if re-typed.