

**ANCILLARY AGREEMENT
(75% Occupancy Requirement)**

THIS AGREEMENT, made this _____ day of _____, 20____, by and between _____, party of the first part, hereinafter referred to as the “Owner”, and the CITY OF CHESAPEAKE, VIRGINIA, a municipal corporation, party of the second part, hereinafter referred to as the “City”.

WHEREAS, the Owner has caused to be subdivided into lots, a certain tract or parcel of land situated in the _____ Borough of the City of Chesapeake, Virginia, as shown on a certain plat entitled _____, dated _____, _____, _____, and has previously entered into a Subdivision Agreement with bond dated _____, _____, _____, guaranteeing the installation of physical improvements as required by the Chesapeake Subdivision Ordinance; and

WHEREAS, the construction of certain improvements, as shown on the approved development plan for the subdivision entitled _____, and as required by the above-mentioned agreement and the Chesapeake Subdivision Ordinance, have not yet been completed; and

WHEREAS, said Owner desires that its original Subdivision Agreement and bond be cancelled; and

WHEREAS, said Owner is willing to execute an Ancillary Agreement with bond or other security (the “Bond”) to guarantee the installation of said improvements;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH: That for and in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. The said Owner hereby covenants and agrees that they will within _____ (____) months, from the date of this agreement, or at the discretion of the City when seventy-five percent (75%) of home construction has been completed on the recorded lots, whichever comes first, install or cause to be installed,

as required by the Chesapeake Department of Development and Permits, and further agrees to comply with all provisions of the Chesapeake Subdivision Ordinance as it relates to the subject development. The said Owner further agrees that it will provide the City with a bond or other security in the amount of _____ and no/100ths Dollars (\$_____.00) with surety or other security acceptable to the City Attorney's Office, to guarantee the installation of said improvements for said period of time guarantee faithful compliance with all the provisions of the Chesapeake Subdivision Ordinance.

2. The City hereby agrees to release the Subdivision Agreement and bond heretofore entered into with the Owner.

3. It is mutually understood and agreed that in the event the Owner fails to complete the physical improvements provided hereinabove in the time designated, the Owner will be deemed to be in default unless an amendment is approved by the City extending the time. The City may complete the physical improvements or cause the same to be completed, and the Owner as principal, and/or the surety shall be jointly and severally liable to pay to the City the entire cost necessary to complete said improvements. It is understood that the Bond may be used to complete said improvements.

4. It is further understood by the parties to this Agreement that in the event of default by the Owner, as described above, the City may, at its option, collect the total cost for the

completion of the improvements from the Owner as principal and/or the surety prior to the actual construction of same, which cost is to be determined by estimates prepared by the Department of Public Works of the City of Chesapeake. In the event the estimated cost is greater than the actual cost necessary to complete the construction, the City will refund to the Owner and/or the surety the difference; in the event the estimated cost is less than the actual cost necessary to complete the construction, the Owner as principal, and/or the surety will furnish to the City upon demand an amount equal to the difference in cost.

5. In the event that the Owner defaults in any of the terms of this agreement, the City shall have the right to refuse the issuance of building permits and/or to withhold all City services in the subdivision.

6. It is mutually understood and agreed that if the Owner shall faithfully execute each and all requirements of the said Subdivision Ordinance and the provisions of this agreement, then the aforementioned Bond shall be released by the City to the Owner.

BOND AGREEMENT OR OTHER SECURITY ATTACHED AS EXHIBIT "A"

WITNESS the following signatures and seals:

Principal

By: _____

Title: _____

STATE OF VIRGINIA,
CITY OF _____, to-wit:

The foregoing, instrument bearing date of _____, _____, 20____, was
acknowledged before me this _____ day of _____, 20____, by
_____, _____, (title)
of _____.

Notary Public

My commission expires: _____ Registration No: _____

ATTEST: CITY OF CHESAPEAKE, VIRGINIA

City Clerk

Director of Development and Permits

STATE OF VIRGINIA,
CITY OF CHESAPEAKE, to-wit:

The foregoing, instrument bearing date of _____, _____, 20____,
was acknowledged before me this _____ day of _____, 20____, by
_____, Director of Development and Permits and
_____, City Clerk, respectively, of the City of Chesapeake.

Notary Public

My commission expires: _____ Registration No: _____

Approved as to form:

City Attorney