

**AMENDMENT TO
CITY OF COLUMBUS, INDIANA
SUBDIVISION IMPROVEMENT AGREEMENT**

(Revising a Construction and Future Dedication Agreement
to provide Performance Security for Incomplete Public Improvements)

Section A - General Provisions

1. **Parties:** The parties to this subdivision improvement agreement amendment ("the amendment") are as follows:

_____ ("the developer")
(developer's complete business name)

and

the City of Columbus, Indiana ("the city").

2. **Effective Date:** The effective date of this amendment will be the date that this amendment is signed and approved by the City of Columbus Board of Public Works & Safety ("the board"). In no instance shall the board accept an amendment which has not previously been signed by the developer.

Section B - Recitals

WHEREAS, on _____ the initial subdivision improvement agreement was approved by the Columbus Board of Public Works & Safety for:

_____ ("the subdivision"); and
(complete subdivision name, including section, as titled on the final plat)

WHEREAS, that agreement provided for the construction and future dedication of the required public improvements; and

WHEREAS, the developer has completed some of the required improvements and now seeks to provide performance security for the yet incomplete improvements; and

WHEREAS, the city, through the City Engineering Department, has verified the completeness of the required improvements, consistent with the developer's assertions.

THEREFORE, the previous subdivision improvement agreement is converted from a construction and future dedication of public improvements agreement to a performance security agreement through the inclusion of the amendments indicated below.

Section C – Amendments

1. Exhibit A attached to the previously approved subdivision improvement agreement is replaced with the Revised Exhibit A attached to this amendment. Those improvements that are (1) incomplete, (2) complete but not yet to be accepted, and (3) being accepted for perpetual maintenance in coordination with this amendment are respectively detailed and indicated as such on the attached Revised Exhibit A.
2. Item 9 is added to Section C – Developer's Obligations as follows:

9. **Performance Security:** To secure the performance of their remaining obligations under the previously approved subdivision improvement agreement, the developer will deposit with the city on or prior to the effective date of this amendment a financial guarantee acceptable to the city. The guarantee for these yet incomplete improvements consists of the following:

A financial guarantee from:

_____ (full name of financial institution providing the security)

in the amount of:

\$ _____ (performance security amount)

This amount being \$ _____ (125% of the estimated construction cost of the yet incomplete public improvements) plus \$ _____ (25% of the construction costs of the completed but not yet to be accepted for perpetual maintenance public improvements). In no instance shall the inclusion of a financial guarantee amount for these completed improvements constitute or be interpreted as the acceptance of these improvements by the city or the start of the required maintenance period. The financial guarantee is attached to this amendment and shall be included as Exhibit C of the subdivision improvement agreement.

The developer shall be responsible for maintaining the required performance security until the public improvements are accepted for perpetual maintenance by the city. The developer's responsibility includes providing renewed or replacement security to the city a minimum of 30 days prior to the expiration of any existing security for the subdivision. Any renewed or replaced security shall be accompanied by an updated cost estimate, upon which the city engineer may base a request to increase in the security amount. In no instance shall this obligation be interpreted as prohibiting the reduction of security as improvements are completed consistent with the provisions of the Subdivision Control Ordinance and the policies of the city engineer and the board.

Section D - Acceptance of Certain Improvements for Perpetual Maintenance (if applicable)

It is acknowledged that, in some cases, improvements in the subdivision are being accepted by the city for perpetual maintenance in association with, but separately from, this agreement.

At this time, specific improvements in this subdivision are are not (check box as appropriate) being accepted. If so, a corresponding maintenance guarantee in the amount indicated below has been provided to be administered by the City Engineering Department for a maintenance period consistent with the provisions of the Subdivision Control Ordinance.

\$ _____ (maintenance guarantee amount)

This amount being 25% of the construction costs of the completed and accepted public improvements.

Section E – Amendment Approval

Signed and approved by the undersigned as developer this _____ day of _____, 20____.

Signed: _____

Printed: _____

State of Indiana

SS:

County of _____

Subscribed and sworn to me this ____ day of _____, 20____.

Notary Public

My Commission expires: _____.

Signed and approved by the City of Columbus Board of Public Works & Safety this _____ day of _____, 20____.

Mary K. Ferdon, Mayor

John C. Pickett, Member

Eric A. Frey, II, Member

Melanie V. Henderson, Member

Brenda Sullivan, Member

Attested by:

Luann Welmer, Clerk