

**POLICY TITLE:** Construction of Subdivision Infrastructure for Acceptance and Ownership by Washington County

**POLICY NUMBER:** S-3

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**FILING INSTRUCTIONS:**

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#### I. DEFINITIONS

**Chief Engineer** – The Chief Engineer for Washington County Division of Public Works.

**Construction** – Construction of the street in question.

**Construction Verification** – A written document, in a form approved by the Chief Engineer, that the construction meets or exceeds the requirements of the approved plans and specifications and that the as-built plans substantially reflects the actual construction.

**County** – Board of County Commissioners of Washington County, Maryland.

**Developer** – The individual or entity initiating construction of the street that is to

be offered for acceptance into the System.

**Developer Agreement** – A written document between the Developer and the County.

**Director** – The Washington County Director of Public Works.

**Division** – The Washington County Division of Public Works.

**Engineer of Record** – The Maryland Registered Professional Engineer and/or Consultant Engineering firm responsible for the original design and engineering of the plans.

**Engineering** – The Washington County Engineering Department.

**Infrastructure** – Includes the terms “highway,” “road,” and “street,” which may be used interchangeably, and shall be deemed to include all such structures built in accordance with the Washington County Division of Public Works Design Standards.

**Plans** – Includes plans, specifications and any other materials incorporated by reference into the plans approved by Engineering.

**Policy** – This policy for Construction of Subdivision Infrastructure for Acceptance and Ownership by Washington County.

**Public Works Review Committee** – The Public Works Review Committee (the Committee), which shall consist of a County Commissioner; the County Administrator, and the Director, who shall also act as Secretary to the Committee.

**Real Property Administrator** – The Real Property Administrator of Washington County.

**Security** – Valuable consideration pledged or deposited for the purpose of assuring performance of the obligations imposed under this and other County policies in a form acceptable to the County Attorney, including an irrevocable standby letter of credit, performance bond, or certified check. Sureties must be of AM Best Rating, listed as U.S. Treasury approved, licensed and certified to conduct business in the state of Maryland. The County may also require the surety to produce a Summary Balance Sheet prior to acceptance of a bond. Letters of Credit shall be drawn on a Maryland bank branch and subject to automatic renewal. Performance bonds shall also be subject to automatic renewal.

**Street Construction** – Includes without limitation pavements, shoulders, sidewalks, curb, gutter, all associated drainage utilities and appurtenances, the establishment of an acceptable stand of vegetation on all roadside slopes and swales, street illumination, traffic control devices, and all other items considered by the Chief Engineer as essential for street operations not specifically identified herein located within rights-of-way to be dedicated for public use. Street construction shall exclude stormwater management (“SWM”) unless located within the street right of way. All utilities, with the exception of drainage, are excluded from this definition. For the purpose of this policy, the term “street” shall be all inclusive.

**Surety** – A surety company approved by the U.S. Treasury for Federal projects.

**SWM** – Stormwater management.

**System** – The Washington County Highway System.

**Verifying Engineer** – The Maryland Registered Professional Engineers or Land Surveyor responsible for the on-site Construction Inspection Verification, and their designees.

## **II. PURPOSE:**

- A.** The purpose of this Policy is to define the procedures and assign responsibilities to those private entities seeking approval to construct streets for subsequent acceptance into the System.
- B.** Permits for structures served by streets subject to this policy will not be issued until said streets and associated rights-of-way are conditionally accepted in accordance with this Policy, unless exempted by the Director.
- C.** Engineering shall be charged with the approval for issuance of Grading Permits.
- D.** All notifications and approvals under this Policy shall be in writing.
- E.** The Developer shall enter into a written agreement with the County through Division prior to receiving the grading permit for street construction.

## **III. POLICY GUIDELINES:**

### **A. Execution of Developer Agreement**

- 1. Prior to issuance of any grading or building permits, the Developer shall enter into written agreement with the Division serving as the

County's authorized agent.

2. The Agreement shall be as prescribed by the County setting forth the terms under which the plans for construction are to proceed and the conditions of acceptance.
3. The Agreement in no way releases the Developer or its successors or permitted assigns from potential or future APFO obligations, including but not limited to obligations relating to transportation infrastructure, as they may arise pertaining to additions and/or modifications of the Development.

**B. Security for Performance**

1. The Developer shall provide performance security equal to 100% of the cost of the construction for all new projects unless otherwise specified by the Director.
2. The amount of the security will be based upon the total price of the construction as reflected in the Developer's contract and verified by the Division.

**C. Coordination of Utility Installation**

1. The Developer and/or contractor shall provide sufficient notice to the various utility companies to allow for the orderly installation of underground facilities under proposed roadways in subdivisions before the construction of the bituminous concrete base pavement course.
2. The County will not be held responsible for any additional costs incurred by the Developer or utility company as a result of the failure to follow the above requirements.
3. The County will not accept streets where the pavement surface course has been cut for the purpose of utility installation or repairs of any nature until the streets have been resurfaced with material approved by the Division.

**D. Construction Inspection**

1. The Developer shall notify the Engineering Department at least five (5) calendar days before commencing any work under the plans.

2. All construction shall be inspected and verified as having been completed in accordance with the plans.
3. Inspections shall be conducted by the Engineering Department and the Verifying Engineer, but inspections performed by the Engineering Department may not be substituted for those required of the Verifying Engineer.
4. Inspection reports shall be periodically filed by the Verifying Engineer to ensure compliance with the plans.
5. Copies of all inspection reports shall be maintained by the Engineering Department.
6. Inspection reports shall include, at a minimum:
  - a) The date and location of the inspection;
  - b) Whether the construction was in compliance with the plans;
  - c) Any variations from the plans; and
  - d) Any existing violations of this Policy or other requirements.
7. The Verifying Engineer shall determine the number, timing and nature of the required inspections, which shall at a minimum be made and documented at the following stages of construction:
  - a) Preparation of subgrade before placement of fill;
  - b) Placement of fill;
  - c) Placement of stone aggregate base;
  - d) Placement of bituminous concrete paving;
  - e) Construction of culverts and closed storm drain systems;
  - f) Construction of all structures, including without limitation retaining walls, inlets, end walls, box culverts, bridges, concrete sign and pole foundations, etc.;
  - g) Bedding and backfill for all utilities within the right of way;
  - h) Traffic signal installation; and

- i) Any other stages specified by the Engineering Department.
8. Compliance with III.D.7.g, above, is not to be construed as substitution for any other inspections required by the respective utilities.
9. The Developer, Engineering Department, Verifying Engineer, and on-site personnel shall be promptly notified of violations by the inspector discovering the violation, describing the nature of the violation and any required corrective action. No further work shall proceed until the corrective action is approved by the Engineering Department and the Verifying Engineer.
10. The County may require adjustments to address items overlooked or inappropriately addressed by the plans. Such adjustments may be required during construction or at the final inspection.

**E. Provision of Verification**

1. The Verifying Engineer need not be the designer, but shall be technically proficient and qualified to make the Verification in accordance with Maryland law.
2. All construction within the proposed rights-of-way shall be in accordance with the plans and as modified and approved by the Division.
3. Once construction is complete, as-built plans containing the Construction Verification statement provided in III.E.6, below, shall be completed and signed by the Verifying Engineer and submitted to the Engineering Department.
4. The as-built plans shall consist of the original construction plans neatly marked in red (redlined), showing all differences between designed and constructed grades, dimensions and other features. The as-built plans shall also be accompanied with an AutoCAD file with the corrections in the version specified by the Engineering Department.
5. Should the Verifying Engineer be other than the Engineer of Record, the following shall apply:
  - a) The Engineer of Record shall be responsible for revising/updating the AutoCAD file of the original design to include the as-built information provided by the Verifying Engineer. The as-built information in the AutoCAD file shall

include the Verification Statement together with the appropriate name and registration number of the Verifying Engineer.

- b) The Engineer of Record shall be responsible for delivering the revised AutoCAD file and the redlined as-built drawings to Engineering, as prescribed in III.E.4, above.

- 6. The following construction verification statement shall be included on as-built plans for all projects affected by this policy.

“I Verify and affirm that the Street Construction as performed either meets or exceeds the requirements of this plan, including all specifications and referenced standards, and has been completed in accordance with good construction practices. Construction inspection of the Street Construction has been performed in accordance with County requirements and at a level deemed necessary to assure the Verification made herein. In addition, the as-built information shown hereon has been obtained by me or by personnel under my direct supervision.”

#### **F. Final Inspection**

- 1. Upon completion of all construction within the rights-of-way and on the Developer’s request, the Division shall make a final inspection provided the following conditions have been met.
  - a) the establishment of an acceptable stand of grass within the rights-of-way proposed for acceptance
  - b) receipt of as-built plans (acceptable to the Chief Engineer’s)
  - c) receipt of the Construction Verification Statement in accordance with III.E.6, above.
- 2. The Engineering Department shall coordinate the final inspection as determined by the Division’s representatives. Attendees shall include the following individuals and/or their authorized representatives:
  - a) The Chief Engineer
  - b) The Director of Highways
  - c) The Verifying Engineer\*

d) The Developer.

\* May also act as the Developer's representative if so authorized by the latter.

3. For purposes of acceptance, the minimum length of a subdivision street shall be 600 linear feet, unless the entire length or remaining length is less, in which case the actual length will be accepted.
4. The Division representatives are satisfied that the street is satisfactory for acceptance, the Chief Engineer shall inform the Verifying Engineer, Developer and the Real Property Administrator, accordingly. Should the streets not be acceptable, the Chief Engineer shall formally notify the Director as to the reasons for rejection.

**G. Document Acceptance Procedure**

1. Upon notification that the project has passed final inspection, the Developer shall cause the following documents to be delivered to the Real Property Administrator: deeds to the streets, including rights-of-way in fee simple; maintenance security; payment for signs and pavement markings; completed real estate intake sheets for recordation; seven (7) copies of any recorded subdivision plats; and proof of recordation of the associated subdivision plats.
2. Should the Developer fail to satisfactorily submit the documents described in III.G.1, above, the Director may, in the interest of public safety, withhold the issuance of building permits until appropriate corrections have been made.
3. The Real Property Administrator shall notify the Director within thirty (30) business days of acceptance of the above documents.
4. The Real Property Administrator shall notify the Developer within ten (10) business days of any documents that are not accepted.
5. The required maintenance security shall guarantee all work performed for the prescribed period of time.
6. The deed for the street bed shall be in a form approved by the County Attorney and contain the following information:
  - a) election district number, subdivision plat name and record number;



- b) name of street(s) being accepted;
  - c) approximate length and width of the right of way;
  - d) legal description of the right of way; and
  - e) total area of the right of way.
7. The maintenance security shall be in a form approved by the County Attorney and shall provide for:
- a) a maintenance period of two years, beginning on the date of acceptance by the Committee; and
  - b) maintenance security of the greater of: 1) 20% of the performance surety established in III.B.1, above, or 2) fifteen thousand dollars (\$15,000.00). The Division reserves the right to establish an amount in excess of the minimums established herein.
  - c) Pavement markings and street signs shall be installed by the Division at the Developer's expense, based upon an estimate from the Highway Department.
8. Upon satisfactory completion of the above requirements, the Division will release the performance security. The Highway Department will then erect all required street and traffic signs and install all associated pavement markings.
9. All defects discovered in the rights-of-way accepted by the County during the period of the maintenance security, shall be repaired at the expense of the Developer or surety. The County may perform all necessary repairs and charge the costs to the developer.
10. The Developer shall notify the Engineering Department at least thirty (30) calendar days before the end of the maintenance period for the purpose of another inspection by the County. If the affected streets and rights-of way meet the approval of the Division, the Division shall release the Developer's security, which shall be deemed a final, unconditional acceptance.
11. The Developer will be notified of a refusal to accept the project and any corrective action required within ten (10) business days of the inspection. Any corrective action will be the responsibility of the Developer.

12. The above procedures shall include the satisfactory construction by the Developer of all items located within the subject rights-of-way including without limitation pavements, shoulders, sidewalks, curb/gutter, all associated drainage facilities (excluding SWM unless specifically located within the street right of way), utilities and the establishment of an acceptable stand of grass on all roadside slopes and swales, street illumination, and traffic control devices.
13. As terms of the conditional acceptance and during this maintenance period, the Developer is fully responsible for any and all damage that may occur within the rights-of-way regardless of cause.
14. During the maintenance period, the County shall have complete control over the rights-of-way with respect to speed limits, law enforcement, driveway locations and construction, on-street parking, and other matters of public safety and welfare.
15. During the maintenance period, the County will address snow removal and maintain roadside vegetation in accordance with normal County practices.

#### **H. Advance Certificates of Occupancy**

1. Certificates of occupancy may be issued before final acceptance of public streets provided the following conditions are met.
  - a) All work shall be substantially complete which, for the purposes of this section, shall be defined as:
    - (1) completion of a pavement section as approved by the Chief Engineer;
    - (2) satisfactory completion of all rough grading;
    - (3) substantial completion of the entire drainage system, including functional SWM structures;
    - (4) satisfactory installation of all traffic barriers; and
    - (5) a written Verification Statement of Compliance by the Verifying Engineer that the project is suitable for use, having been constructed in accordance with the approved plans, though incomplete.

- b) Payment for all signs and pavement markings has been made. The Highway Department will determine and install those signs and pavement markings that it deems appropriate during this period. The cost estimate for this work may be higher than that done under III.G.7.c, above, due to the temporary and/or repetitive effort required to accommodate both final construction as well as this period. The Developer will be financially responsible for any and all damage, regardless of the cause, to the signs and markings installed and maintained during this period.
  - c) The Developer has provided written verification of the recordation of the associated subdivision plats.
- 2. The County will not be responsible for snow removal or maintenance during this period.
- 3. The Developer shall at all times ensure that:
  - a) all pavement areas remain free of building materials, debris, and equipment not licensed with the Motor Vehicle Administration of Maryland;
  - b) traffic lanes remain free and clear to the motoring public except where construction activities necessitate the use of proper signs, flaggers, detours, and/or other actions as may be required by the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD) to provide protection to the public; and
  - c) stormwater management ponds are fenced in accordance with the plans and maintained.
- 4. Should the Developer consistently fail to comply with III.H.3, above, the Director may suspend issuance of building permits and/or Certificates of Occupancy.
- 5. Once construction is complete, acceptance will proceed in accordance with III.F and III.G of this policy.
- 6. The Developer may intentionally delay the placement of the final pavement wearing surface on the street, provided the following conditions are satisfied.

- a) Approval shall be obtained from the Chief Engineer, including without limitation the following:
  - (1) a description of the minimum interim pavement section that must be in place during this period
  - (2) a description of the final pavement section including the requirements of the final wearing surface;
  - (3) a placement schedule, which normally shall be within three (3) years from the date of this approval or before issuing 75% of the certificates of occupancy for the structures served by the affected streets, whichever occurs first;
  - (4) security requirements for the placement of the pavement and all remaining work, which normally will be covered by the security identified in III.B.1, above, or a separate security as determined by the Chief Engineer at an amount equal to 150% of the cost of the final wearing surface and drainage adjustments as based on prevailing construction costs;
  - (5) direction regarding any interim provisions that may be required for proper functioning of the drainage systems; and
  - (6) any other provision(s) considered necessary by the Chief Engineer to protect the County's interests.
- b) The provisions and conditions contained within paragraphs III.H.1 through III.H.3, above, apply for all streets constructed in the manner described.
- c) This procedure is not to be considered a substitute for the requirements of Coordination of Utility Installation. Excessive repairs/patches, as determined by the Chief Engineer, to the interim pavement section may require the placement of an overlay during this delayed placement period. Such overlay shall be considered an addition to and not a replacement for the final wearing surface.

## **I. Public Works Review Committee**

- 1. Unless otherwise instructed by the Board of County Commissioners, the Committee will meet quarterly to consider

action relevant to street acceptance and any other time it deems appropriate to address outstanding issues such as appeals. The Director shall be responsible for coordinating meeting times and locations.

2. The Committee shall maintain written records of its meetings, which shall be kept on file in the Director's office.
3. The Chief Engineer shall recommend either conditional acceptance of the streets into the System or postponement thereof. Justification must be provided for postponement or rejection.
4. The Committee will consider the Chief Engineer's recommendations as well as the documentation status presented by the Real Property Administrator and act as it deems appropriate.
5. The Director shall notify the Developer as to the Committee's actions.

**J. Appeal.**

Any appeal to this policy, in whole or in part, shall be made in writing to the Committee who shall render its decision within 45 calendr days of receipt of a written appeal. The Committee decision shall be made in writing and is subject to appeal to the Board of County Commissioners.

**IV. PENALTIES**

**A. Penalties.**

Failure to comply with the requirements set forth herin may result in one or more of the following actions by the County:

1. Claim against the performance security to complete the street construction;
2. Claim against the maintenance security to perform necessary maintenance and repairs;
3. The County's refusal to issue building permits or certificates of occupancy for dwellings served by the improvements in question;
4. The County's refusal to accept the street into its highway system; and

5. Whatevery action, consistent with this policy, determined necessary by the Committee to protect the interests of the County.

Revision adopted October 21, 2003

Revision effective December 1, 2003 for all street/road construction plans for which the Washington County Engineering Department has not granted approval.

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