

CASH PERFORMANCE AND PLEDGE OF MONIES AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20____ between Cross Valley Water District, a municipal corporation ("District"), and _____, ("Developer").

I. RECITALS

1.1 The District and the Developer are parties to a _____ (Water/Sewer) Developer Extension Agreement dated _____, 20____ ("Extension Agreement"), regarding the construction, and acceptance by and conveyance to the District, of certain extension improvements for the project known as _____ ("Project") referenced therein.

1.2 Pursuant to paragraph 11, "Performance Bond/Maintenance Bond", of the Extension Agreement, the Developer is required to furnish the District with a performance guarantee to guarantee the completion and acceptance of the extension improvements within twenty-four (24) months of the date of the District's acceptance of the Developer's application for the Extension Agreement in accordance with the provisions of the Extension Agreement, and shall also secure payment by the Developer of all persons furnishing labor or materials. Pursuant to such provision, the Developer desires to furnish the District a cash bond in lieu of a corporate surety performance bond as the required performance guarantee.

1.3 The District will accept, hold, and disburse such cash bond as set forth below.

1.4 Therefore, the parties, in consideration of the terms and conditions herein stated, now agree as follows:

II. CASH PERFORMANCE BOND

2.1 The Developer shall provide the District cash funds ("Funds") in the amount of U.S. _____ Dollars (\$_____) to guarantee the Developer's performance of the Extension Agreement referenced in paragraph 1.1 above and to secure payment by the Developer of all persons furnishing labor or materials for said work.

2.2 The District shall hold and deposit such funds in an interest-bearing account in the _____ Bank ("Bank"), such account to be in the sole name of the District.

2.3 The conditions under which the District will disburse or utilize such Funds for the completion of the Developer's obligation under the Extension Agreement are such that:

a. If the extension improvements which are the subject to the Extension Agreement are completed and are given final acceptance by the District within twenty-four (24) months of the date of the Extension Agreement, and all persons furnishing labor or materials for said work have been paid, the District shall disburse the Funds together with interest thereon, less charges for District administrative and other costs referenced in this Agreement, to the Developer within thirty (30) days of such acceptance; or

b. If the extension improvements which are the subject of the Extension Agreement are not completed and accepted by the District within twenty-four (24) months of the date of the Extension Agreement, or all persons furnishing labor or materials for said work have not been paid, the District shall have the right to use the Funds, including any interest thereon, to complete such Extension improvement to the District's satisfaction and specifications referenced in the Extension Agreement or pay such persons furnishing labor or materials for the work; in such event,

the District shall return any unused Funds and/or interest thereon to the Developer within thirty (30) days of the completion and acceptance of the extension improvement by the District.

III. PLEDGE AND SECURITY AGREEMENT

3.1 Developer hereby grants to the District, its successors and assigns, a security interest in the Funds, which Funds will be delivered to the District and place in the District's possession and control. The Developer further grants to the District a security interest in all proceeds of the Funds, whether in the form of profits, dividends, accrued interest, or otherwise.

3.2 For purposes of the security interest granted herein, the Bank shall be the agent of the District for possession of the Funds such that possession of the Funds by the Bank shall be deemed to be possession of the Funds by the District.

3.3 The Developer warrants that, except as provided for herein, the Developer has full title to the Funds and the Funds are free and clear of any other security interest, encumbrance, or claim of right, title, or ownership. "The Developer will not create or permit the existence of any lien or security interest other than that hereby created in the Funds without the express written consent of the District nor shall Developer assign any interest in the Funds without said written consent, such consent to be in the District's sole discretion.

3.4 The Developer agrees to repay to the District all sums which the District may expend or incur in conserving or protecting the Funds, or in enforcing its security interest herein, including without limitation such sums as may be charged by Bank or any governmental entity with respect to the Funds. The sums agreed to be paid herein shall be secured by this Agreement.

3.5 The District shall have the right to enforce and collect on its security interest in the Funds in accordance with the terms and provisions contained in this Agreement. Enforcement and collection of the District's security interest in the Funds shall be in addition to all other rights and remedies granted by law, equity, or contract to the District to seek reimbursement of additional damages incurred and/or to enforce the provisions of the Extension Agreement and this Agreement, should the Funds be insufficient to discharge the Developer's obligations to the District.

IV. GENERAL PROVISIONS

4.1 This Agreement shall serve as an addendum to the Extension Agreement and shall supersede and amend such Extension Agreement to the extent provided herein.

4.2 All time limits set forth herein are of the essence. All parties agree to perform all obligations under this Agreement with due diligence.

4.3 In the event that this Agreement or any obligation secured by it is referred to an attorney for protecting or defending the priority of the District's interest in the Funds, or for collection or realization procedures, Developer agrees to pay a reasonable attorneys' fee, including fees incurred in both trial and appellate courts or fees incurred without suit, and all court costs and costs of the public officials. The sums agreed to be paid herein shall be secured by this Agreement.

4.4 The District will cause to be performed certain services by its legal counsel, engineers, and District personnel to carry out the foregoing purposes, including but not limited to, the preparation and administration of this and any related agreements and documents. The Developer agrees to pay the cost of such services as a condition of the District's agreement herein.

CROSS VALLEY WATER DISTRICT
("District")

("Developer")

By _____

By _____

Its _____

Its _____

FIRST FINANCIAL NORTHWEST BANK hereby consents and agrees that it is the agent of CROSS VALLEY WATER DISTRICT ("District") for purposes of possession by CROSS VALLEY WATER DISTRICT of cash funds in the amount of (\$), which funds the District has a security interest in pursuant to this Agreement and pursuant to RCW 62A.9-304.

DATED this _____ day of _____, 20_____.

FIRST FINANCIAL NORTHWEST BANK ("BANK")

Clearview Branch

By _____

Its _____

STATE OF WASHINGTON)
) ss
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that _____ signed this instrument, on oath stated that _____ was authorized to execute the instrument and acknowledged it as the _____ of the _____ **BANK** to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated _____

Notary Public in and for the State of
Washington, residing at _____

My appointment Expires: _____

STATE OF WASHINGTON)
) ss
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the **Cross Valley Water DISTRICT**, a municipal corporation, to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated _____

Notary Public in and for the State
of Washington, residing at _____

My Appointment Expires: _____

STATE OF WASHINGTON)
) ss
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledge it as the _____ to be the free and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

Dated

Notary Public in and for the State of

Washington, residing at

My Appointment Expires: