

**WEST GERMANTOWN DEVELOPMENT DISTRICT
IMPLEMENTATION AGREEMENT**

This Implementation Agreement dated as of April 1, 2002, by and between **MONTGOMERY COUNTY, MARYLAND**, a body corporate and politic and a political subdivision of the State of Maryland (the "County"), **ARCOLA INVESTMENT ASSOCIATES**, a Virginia general partnership ("Arcola"), **ARTERY HOYLES MILL, LLC**, a Maryland limited liability company ("Artery") and **WOODCLIFFE DEVELOPMENT DISTRICT, LLC**, a Maryland limited liability company ("Woodcliffe").

RECITALS

R-1. On June 21, 1996, a group of property owners in west Germantown, including Arcola, filed with the Montgomery County Council a petition (the "Petition") containing the necessary percentage of signatures required to establish a development district under the provisions of Chapter 14 and Chapter 20A, Section 20A-1, of the Montgomery County Code (collectively, the "Act"). The Petition was amended on July 30, 1997 to include Artery as a Petitioner since Artery had succeeded to the interests in certain real property proposed to be included in the development district formerly owned by West Germantown L.P., a Petitioner. Woodcliffe was formed by Arcola and Artery on March 6, 2001, to facilitate the management of the construction of the improvements contemplated to be funded through the development district as well as other privately funded improvements by Arcola and Artery. Arcola, Artery and Woodcliffe are hereinafter sometimes referred to collectively as the "Developers".

R-2. On July 23, 1996, pursuant to the provisions of the Act, the Montgomery County Council held a public hearing on the Petition, after due notice, and on July 30, 1996, the County Council adopted Resolution No. 13-636 stating its intent to create a development district in the West Germantown area, finding that intensive development of and public investment in that area during the term of the proposed district will benefit the public interest. This Resolution was approved by the County Executive.

R-3. On October 25, 1996, pursuant to the provisions of the Act, the Montgomery County Planning Board (the "Planning Board") reviewed and approved the application filed by the property owners, finding that the proposed development district complied with all applicable zoning and subdivision requirements under Section 50-30(k) of the Montgomery County Code and that the proposed district satisfied the Adequate Public Facilities Requirements of the Annual Growth Policy for a development district, subject to certain conditions. On July 31, 1997, the Planning Board amended its prior finding to remove the condition that a new elementary school was required to satisfy the Adequate Public Facilities analysis. Furthermore, on December 3, 1997, the Staff of the Planning Board issued a letter indicating that one of the roadway improvements required in the original Planning Board's approval of the proposed development district was no longer necessary with the deletion of the Kingsview Village Center project from the district.

R-4. On September 29, 1997, pursuant to the provisions of the Act, the County Executive issued a fiscal report evaluating the proposed "West Germantown Development District," in which the County Executive estimated the cost of each infrastructure improvement listed by the

Planning Board, and the amount of revenue needed to cover the proposed development district's share of all infrastructure improvements and the estimated tax rate for each form of taxation available in the proposed development district that would produce the necessary revenue. The County Executive's fiscal report recommended the creation of a development district, with certain modifications to the proposed infrastructure items to those which had been originally submitted in the Petition filed by the property owners, and certain funding and revenue raising measures to fund these improvements.

R-5. On November 6, 1997, the Montgomery County Council held a public hearing on the final resolution to create a development district, after public notice. After the November 6, 1997, public hearing, one of the property owners, GFS Realty, Inc., indicated its intention to delay the creation of the development district for its property and the properties of two other property owners, Clopper Realty Joint Venture and John N. and Mary S. Deoudes, collectively planned as the Kingsview Village Center. After further public notice, and notice to the property owners, the Montgomery County Council held a second public hearing pursuant to the Act on January 13, 1998, at which time the Montgomery County Council adopted Resolution No. 13-1135 to create the West Germantown Development District (the "District") in an area encompassing 670.71 acres in Germantown and including the properties owned by Artery and Arcola and Mr. and Mrs. Robert Sisson. Resolution No. 13-1135 identified certain infrastructure improvements to be funded through tax-exempt bonds to be issued by the County and authorized the creation of a special fund, the West Germantown Development District Special Fund, to which special assessments, special taxes, fees or charges levied under the provisions of the Act for properties located in the District were pledged. Resolution No. 13-1135 also authorized the imposition on all properties located in the District of special assessments and taxes sufficient to pay the principal of, interest on, and any redemption premium on bonds to be issued under a separate resolution of the County Council and to replenish the debt service reserve fund for the bonds, and the authority to increase the rate or amount of such taxes and assessments subject to a maximum special tax or assessment applicable to each property in the District. Resolution 13-1135 further authorized the County to enter into an Implementation Agreement with the owner or developer of any property located in the District to govern the disbursement of funds for the construction of infrastructure improvements, the mechanics for reimbursement from other sources of infrastructure costs, the handling of System Development Charge (SDC) credits that accrue for the properties located in the District, and other matters as each owner or developer and the County may agree. The County Executive approved this Resolution. Resolution 13-1135 was amended by Resolution No. 14-957, adopted by the Montgomery County Council on July 17, 2001 (Resolution No. 13-1135, as amended by Resolution No. 14-957, hereinafter referred to as the "Resolution of Formation").

R-6. On February 24, 1998, following a public hearing, the Montgomery County Council adopted a resolution amending the County's Capital Improvements Program ("CIP") and capital budget to authorize the expenditure of the proceeds of the municipal bonds to be issued by the County for infrastructure improvements which were designated by Resolution No. 13-1135. The County Executive approved this Resolution.

R-7. On August 4, 1998, pursuant to the Act, the Montgomery County Council adopted Resolution No. 13-1398 authorizing the issuance of its Special Obligation Bonds (West Germantown Development District), in the aggregate principal amount not to exceed \$20,000,000 (the

"Bonds") to finance the infrastructure improvements referenced therein and specifying the basis and methodology upon which the Special Assessments and Taxes will be levied on properties located within the District, among other matters. Resolution 13-1398 was amended by Resolution No. 14-957, adopted by the Montgomery County Council on July 17, 2001 (Resolution No. 13-1398, as amended by Resolution No. 14-957, hereinafter referred to as the "Bond Resolution").

NOW THEREFORE, in consideration of the recitals set forth above, each of which is incorporated herein by reference, and the mutual covenants of the parties set forth below, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

FUNDING OF DISTRICT COSTS; INDENTURE

Section 1.01. *County Proceedings to Issue Bonds.* The County shall conduct all necessary proceedings under the Act for the issuance, sale and delivery of the Bonds; provided, however, that nothing herein shall be construed as requiring the County to issue the Bonds. From time to time, Developers, Bond Counsel and the County staff may confer regarding the amount, timing and other material aspects of the Bonds, but the legal proceedings and the principal amounts, rates, terms and conditions and the timing of the sale of the Bonds shall be at all respects subject to the approval of the County Executive, as set forth in the Resolution of Formation and the Bond Resolution.

Section 1.02. *Bond Proceeds; Indenture.* The Developers acknowledge that a significant portion of the proceeds of the Bonds will be deposited in the Acquisition Account established under the Indenture. These proceeds shall be deposited, held, invested and reinvested and disbursed as provided in the Indenture. Moneys in the Acquisition Account shall be withdrawn therefrom in accordance with the provisions of the Indenture, and any applicable provisions of this Implementation Agreement, for payment of all or a portion of the cost of acquisition of the Improvements, as provided herein. The Developers acknowledge and agree that the funds on deposit in the funds and accounts established by or pursuant to the Indenture shall be invested as directed under the Indenture and that the Developers have no right whatsoever to direct the investments under the Indenture. The County shall have no responsibility whatsoever to the Developers with respect to any investments of funds made by the Trustee under the Indenture, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment. Any such loss may diminish the amounts available in the Acquisition Account to pay the Purchase Price of the Improvements hereunder. The Developers further acknowledge that the obligation of any owner of real property in the District, including the Developers to the extent they own any real property in the District, and their successors and assigns, to pay Special Assessments and Taxes levied in the District is not in any way dependent on (i) the availability of amounts in the Acquisition Account to pay for all or any portion of the Improvements thereunder or hereunder or (ii) the alleged or actual misconduct of the County in the performance of its obligations under this Implementation Agreement, the Indenture, or any other agreement to which the Developers and the County are signatories.

Section 1.03. *No Impact on Obligation of Developers.* The Developers acknowledge that any lack of availability of amounts in the Acquisition Account to pay the Purchase Price of Improvements hereunder shall in no way diminish any obligation of the Developers with respect to the construction of, or contributions for, the public facilities required by this Implementation Agreement, or any development or other agreement to which the Developers are a party to, or any governmental approval to which the Developers or any properties located within the District are subject.

Section 1.04. *Additional Source of Funding - Richter Farm Road.* (a) Pleasants Investment Limited Partnership and Kingsview I, LLC, the owners of certain property located outside of the District (collectively, "Pleasants"), in order to satisfy conditions required by the Montgomery County Planning Board on Pleasants for development of such property, is required to pay to the County a portion of the cost of construction of portions of the roadway known as Richter Farm Road (Route A-297), including that segment of Richter Farm Road which runs between Clopper Road and Schaeffer Road (Phases 1 through 5 of Richter Farm Road, as indicated on Exhibit "A;" hereinafter, the "Artery/Arcola Richter Farm Road Segment"). The County agrees that it will pay to the Developers any funds received by the County from Pleasants which represents his share, 5% of the cost of construction of the Artery/Arcola Richter Farm Road Segment, and subject to the limitations set forth therein, the County will reimburse the Developers in accordance with the procedures set forth in Article III hereof for 95% of the Purchase Price of the Artery/Arcola Richter Farm Road Segment.

(b) By agreement with the County, dated June 2, 2000, Pleasants agreed to construct the segment of Richter Farm Road (Route A-297) between Schaeffer Road and Md. Rte. 118 (Phase 6, as indicated on Exhibit "A;" hereinafter, the "Kingsview Richter Farm Road Segment"). Pleasants has completed the construction of the Kingsview Richter Farm Road Segment, and the County has paid all amounts due to Pleasants under such Agreement pursuant to M.C. Purchase Order PO0504001011. Arcola has subsequently reimbursed the County for the amounts expended by the County thereunder. The County has agreed to disburse to Arcola out of the proceeds of issuance of the Bonds, when and if issued, \$1,721,470.00, representing the amounts paid by Arcola to the County for the Kingsview Richter Farm Road Segment. The County acknowledges that the conditions set forth in Section 3.03 of this Agreement for approval of a Payment Request submitted by the Developers for such amount paid by Arcola to the County for the Kingsview Richter Farm Road Segment have been satisfied.

ARTICLE II

CONSTRUCTION OF IMPROVEMENTS

Section 2.01. *Improvements.* The Developers and the County acknowledge that each of the Improvements which are listed on Exhibit "A" and Exhibit "B" hereto shall be constructed by the Developer indicated on Exhibit "A" and Exhibit "B" as having development responsibility for such Improvement. Each of the Developers has delivered to the County detailed cost estimates for those Improvements which it is responsible for, and with respect to such Improvements, such Developer warrants such estimates to be accurate and complete to the best of its knowledge. To the extent that the cost of any Improvement exceeds the estimated Purchase Price set forth in Exhibit "A" (and, to the extent cost savings result, Exhibit "B") hereto for that

Improvement, the responsible Developer, in order to satisfy its respective obligations to permit development of its property, shall be obligated to fund such costs with its own source of funds.

Section 2.02. *Cost Savings Realized on Improvements.* To the extent that upon the approval of each Payment Request for each Improvement by the County Representative pursuant to Section 3.03, the determination of Actual Cost (after having set aside the Retainage and the amount estimated to complete construction of the Improvement as provided in Section 3.05(d) in the case of an Improvement which has reached Substantial Completion) of such Improvement is less than the estimated Purchase Price as set forth on Exhibit "A" hereto, Woodcliffe shall be entitled to direct the County to use the amount of such cost savings to pay the Purchase Price of all or a portion of other Improvements in the priority set forth on Exhibit "B" hereto, or in the case where the Improvements represent distinct phases of a larger item of infrastructure, to apply such cost savings to pay the Purchase Price of future phases of the infrastructure as listed on Exhibit "A." The construction of any such additional Improvements shall be in accordance with the conditions of this Article and the payment of the Purchase Price of such Improvement shall be as provided in Article III hereof.

Section 2.03. *Duty of Developers to Construct.* Improvements to be acquired hereunder specified in Exhibit "A" and Exhibit "B" hereto, as amended from time to time in a manner consistent with the Resolution of Formation and the Bond Resolution, shall be constructed by or caused to be constructed by the responsible Developer in accordance with the approved Plans and Specifications and in accordance with this Implementation Agreement. Nothing in this Implementation Agreement shall alter, in any respect, any of the requirements contained in such Developer's governmental approvals with respect to the construction of the Improvements, and each of the Developers shall observe the requirements of the applicable governmental agency with respect to the construction of the Improvements for which it is responsible. Each of the Developers shall perform or cause the performance of all of its obligations hereunder and shall conduct all operations with respect to the construction of Improvements for which it is responsible in a good, workmanlike and commercially reasonable manner, with the standard of diligence and care normally employed by a duly qualified person utilizing its best efforts in the performance of comparable work and in accordance with generally accepted practices appropriate to the activities undertaken. Each of the Developers shall employ at all times adequate staff or consultants with the requisite experience necessary to administer and coordinate all work related to the design, engineering, acquisition, construction and installation of the Improvements for which it is responsible to be acquired by the County from each such Developer hereunder. The obligation of each of the Developers with respect to the construction of the Improvements hereunder shall be several and not joint.

No Developer shall be relieved of its obligation to construct each Improvement for which it is responsible listed in Exhibit "A" and Exhibit "B" hereto and to convey each such Improvement to the County (or other applicable public agency that will own such Improvement) in accordance with the terms hereof, even if there are insufficient funds in the Acquisition Account to pay the Actual Cost thereof, and, in any event, this Implementation Agreement shall not affect any obligation of any Developer under any other agreement to which such Developer is a party or any governmental approval to which such Developer or any land within the District owned by such Developer is subject, with respect to the public improvements required in connection with the development of the land within the District. Such obligation of each Developer to construct

and convey the Improvements for which it is responsible, and pay the costs thereof in excess of available moneys in the Acquisition Account, shall be the obligation of such Developer in its capacity as owner or developer of its portion of the lands within the District, and not as party to this Implementation Agreement.

Section 2.04. *Relationship to Public Works.* This Implementation Agreement is for the acquisition by the County of the Improvements listed in Exhibits "A" and "B" hereto, as amended from time to time in a manner consistent with the Resolution of Formation and the Bond Resolution, from moneys in the Acquisition Account and is not intended to be a public works contract. The County and the Developers agree that each of the Developers shall be solely responsible for awarding and administering all contracts for the construction of the Improvements for which it is responsible listed in Exhibits "A" and "B" hereto.

Section 2.05. *Independent Contractor.* In performing this Implementation Agreement, each of the Developers is an independent contractor and not the agent or employee of the County. The County shall not be responsible for making any payments to any contractor, sub-contractor, agent, consultant, employee or supplier of any of the Developers.

Section 2.06. *Performance Bonds.* The County acknowledges and agrees that all funds held in the Acquisition shall act as security for the performance of the road and parks Improvements and shall be substituted, when and to the extent available, for any requirement for Performance Bonds with respect to such facilities. With respect to the construction of water and sewer facilities, the requirements for performance bonds shall be separately agreed to by the WSSC and the Developers. The County agrees that any Performance Bonds issued for the benefit of the County with respect to the Improvements prior to the date of issuance of the Bonds shall be released to the respective Developer which posted same when the Bonds are issued.

Section 2.07. *Permitting and Inspection Fees.* Each of the Developers shall be responsible for obtaining all required County and State, if required, permits for road construction and park construction, and all required WSSC permits for water and sewer and pump station and force main construction with respect to the Improvements for which it is responsible. The County acknowledges that, as part of the acquisition of the Improvements, it will use a portion of the proceeds of the Bonds to reimburse the Developers for all permitting and inspection fees paid to County or State agencies, and to the WSSC, with respect to the Improvements for which the Developers have heretofore advanced, or may in the future advance, their own funds. The County shall use a portion of the proceeds of the Bonds deposited in the Acquisition Account under the Indenture to reimburse the Developers for such advances, as incurred, upon the submission of a Payment Request by the Developers specifying the amount of such advance and the portion of the infrastructure to which it applies.

Section 2.08. *Time for Completion.* The Developers agree that this Implementation Agreement is for the benefit of the County and the Developers and, therefore, each of the Developers represents that it expects to achieve Substantial Completion of the Improvements for which it is responsible and to have requested payment for the Improvements under this Implementation Agreement within twenty-four (24) calendar months from the date of the closing of the Bonds. Any failure of any Developer to complete the Improvements for which it is responsible within

said time period shall not, however, in itself, constitute a breach by such Developer of the terms of this Implementation Agreement.

ARTICLE III

ACQUISITION OF AND PAYMENT FOR IMPROVEMENTS

Section 3.01. *Payment Stages; Inspection.* (a) Payment for each Improvement listed on Exhibit "A" and Exhibit "B" will be made by the County in up to three (3) stages following the approval by the County Representative of a Payment Request submitted by the Developers as provided in Section 3.03. The Developers shall be entitled to submit a Payment Request for all permitting and inspection fees described in Section 2.07 with respect to an Improvement at the time such fees are due, or if incurred prior to the date of issuance of the Bonds, at the Closing Date. No further payment hereunder shall be made by the County to the Developers for an Improvement until the Improvement has been inspected and found to satisfy the conditions for either (i) Substantial Completion, or (ii) Final Acceptance, as defined herein.

(b) The determination of whether the conditions for Substantial Completion or Final Acceptance of an Improvement have been satisfied will be made by the County Representative, in reliance on the inspection by the inspector indicated below, depending upon the type of Improvement involved. In the case of road and transportation Improvements, inspections shall be made by the Department of Permitting Services, or such other County agency that is tasked with inspection of public roads and thoroughfares funded through the District; in the case of park Improvements, inspection shall be made by the Department of Parks, or such other public agency as is tasked with the development of park and recreational facilities in the County; and with respect to sewer and water Improvements, inspection shall be made by the WSSC. The Developers will contact each of the County agencies involved in the inspection of road and park Improvements, and the WSSC in the inspection of water and sewer Improvements, and coordinate the procedures for administering such inspections.

Section 3.02. *Agreement to Sell and Purchase Improvements.* Each of the Developers hereby agrees to sell the Improvements at the respective Purchase Price (or portion thereof in the case of Improvements listed on Exhibit "B") to the County (or other applicable public agency that will own an Improvement), and the County hereby agrees to use amounts in the Acquisition Account to pay the Purchase Prices (or portions thereof) to Woodcliffe, on behalf of the Developers, subject to the terms and conditions hereof.

Section 3.03. *Payment Requests.* Payments for the Improvements shall be made by the County in up to three installments, the first for the payment of permitting and inspection fees, the second upon satisfaction of the conditions for Substantial Completion, and the third upon satisfaction of the conditions for Final Acceptance, each as defined herein. Each Payment Request submitted by the Developers shall be in the form of Exhibit "C" hereto, shall be accompanied by (i) a detailed preliminary cost estimate which indicates the source and expected price of the major components of the Improvement, which cost estimate shall, to the extent practicable, be substantially consistent for each segment of the Improvements and for similar types of Improvements, (ii) the invoices from the contractors which constructed the Improvement indicating the "as built" cost, and (iii) where the "as built" cost deviates from the preliminary cost esti-

mate by more than 5% with respect to any component, a detailed narrative of the bases for such deviation, and shall be submitted as follows:

(a) *Payment for Permitting and Inspection Fees.* In order to receive payment for permitting and inspection fees, the Developers must submit a Payment Request to the County detailing the amount of the payment. To substantiate these Payment Requests, the Developers shall present invoices from the WSSC or the County or State agency requiring the permit or inspection or other evidence of the amount of such fee.

(b) *Payment for Improvement which is Substantially Complete.* In order to receive the Purchase Price for an Improvement which has been Substantially Completed, inspection thereof under Section 3.01(b) shall have been completed, and the Developers shall deliver to the County Representative a Payment Request for the installment due upon Substantial Completion, and together therewith, the Developers shall deliver a statement indicating the estimated cost to fully complete the Improvement, together with a projected completion date (the "Substantial Completion Cost Estimate").

(c) *Payment for Improvement which is Finally Accepted.* In order to receive the Purchase Price for an Improvement which has been Finally Accepted, inspection thereof under Section 3.01(b) shall have been completed, and the Developers shall deliver to the County Representative a Payment Request for the installment due upon Final Acceptance for such Improvement, together with the written evidence indicating Final Acceptance.

(d) *Procedures for County and Developers upon Submission of a Payment Request.* Upon receipt of a Payment Request (and all accompanying documentation), the County Representative shall conduct a review in order to confirm that such request satisfies the conditions required in Subsections 3.03(a), (b), or (c) above, as applicable, to verify if the "as built" cost conforms to the preliminary cost estimate, and if greater than a 5% deviation with respect to any major component of an Improvement, whether the narrative submitted by the Developers adequately explains the reasons for such deviation, and to verify and prove the Actual Cost of such Improvement specified in such Payment Request. The County Representative shall also conduct such review as is required in its discretion to confirm the matters certified in the Payment Request. The Developers agree to cooperate with County Representative in conducting each such review and to provide the County Representative with such additional information and documentation as is reasonably necessary for the County Representative to conclude each such review. Within thirty (30) days of receipt of the initial Payment Request pursuant to this Section 3.03, the County Representative shall either (i) approve and execute the Payment Request (including in the case of a submission of a Payment Request for Substantial Completion of an Improvement, the approval of the Substantial Completion Cost Estimate) or (ii) in the event the County Representative disapproves the Payment Request, give written notification to Developers of the County Representative's disapproval, in whole or in part, as applicable, of such Payment Request, specifying the reasons for such disapproval and the additional requirements to be satisfied for approval of such Payment Request. The Developers shall thereafter be entitled to resubmit the Payment Request to the County Representative together with such corrective items as they deem necessary to address the requirements noted for approval. Within fifteen (15) days following the receipt of the submission by the Developers of a revised Payment Request which includes such additional items as noted to the County Representative pursuant to this Section

3.03, the County Representative shall either (i) approve and execute the revised Payment Request or (ii) in the event the County Representative disapproves the revised Payment Request, give written notification to the Developers of the County Representative's disapproval, in whole or in part, as applicable, of such Payment Request, specifying the reasons for such disapproval and any further additional requirements to be satisfied for approval of such Payment Request. If a Payment Request seeking reimbursement for more than one Improvement is approved only in part, the County Representative shall specify the extent to which the Payment Request is approved and complete for any one or more Improvements described therein, and any such Improvements shall be processed for payment under Section 3.04 notwithstanding such partial denial. To the extent that the County Representative has not approved or disapproved any Payment Request within such thirty (30) day period (in the case of an initial Payment Request) or fifteen (15) day period (in the case of a revised Payment Request), the Payment Request shall be deemed approved.

Section 3.04. *Payment.* Upon the approval of a Payment Request pursuant to Section 3.03, the County shall promptly direct the Trustee in accordance with the terms of the Indenture to make payment to Woodcliffe, on behalf of the Developers, of any approved Payment Request under the applicable provisions of the Indenture, to the extent of available monies then on deposit in the Acquisition Account.

Section 3.05. *Restrictions on Payments.* Notwithstanding any other provisions of this Implementation Agreement, the following restrictions shall apply to any payments made to Woodcliffe under this Article III:

(a) *Joint or Third Party Payments.* The Trustee may make any payment jointly to Woodcliffe and to any mortgagee or deed of trust beneficiary, contractor or supplier of materials, as their interests may appear, or solely to any such third party, if Woodcliffe so requests the same in writing, or as the County Representative otherwise determines such joint or third-party payment is necessary to obtain lien releases.

(b) *Lien Release.* The County Representative on behalf of the County shall be entitled to cause the Trustee to withhold any payment hereunder for an Improvement (other than payment for permitting and inspection fees as described in Section 3.03(a)), if at the time of such Payment Request there remains any claims for labor and material from a contractor hired directly by the Developers with respect to such Improvement, the provision for payment of which has been previously approved and for which no lien releases have been provided by the Developers. The forms of lien release that the Developers will provide to the County are attached hereto as Exhibit "D". The County Representative shall waive this limitation upon the provision by the Developers of sureties, undertakings, securities and/or the posting of performance or payment bonds in accordance with the provisions of the Montgomery County Code.

Nothing in this Implementation Agreement shall be deemed to prohibit the Developers from contesting in good faith the validity or amount of any mechanic's or material-man's lien and/or judgment nor limit the remedies available to the Developers with respect thereto so long as such delay in performance shall not subject the Improvements to foreclosure, forfeiture, or sale. In the event that any such lien and/or judgment is contested, the Developers shall be required to post or cause the delivery of a bond in an amount determined by the County.

(c) *Insufficient funds in Acquisition Account.* To the extent that the Payment Request has been approved for any Improvement, in whole or in part, at a time when there are insufficient funds in the Acquisition Account held by the Trustee under the Indenture, the County shall direct the Trustee in accordance with the terms of the Indenture to make payment to Woodcliffe on behalf of the Developers the amount available in the Acquisition Account. The County shall subsequently direct the Trustee at such time as sufficient funds are available in the Acquisition Account to promptly make payment to Woodcliffe of the unpaid amount of any such Payment Request at such time.

(d) *Final Acceptance; Retainage.* At the time of the approval of the Payment Request for the Substantial Completion of an Improvement, the County Representative shall cause the Trustee to withhold as Retainage in the Acquisition Account an amount equal to 5% of the Actual Cost of the Improvement (which shall be computed on the basis of the Actual Cost as shown on the approved Payment Request, plus the funds needed to complete the construction of Improvement from the point of Substantial Completion to the point of Final Acceptance, as indicated on the approved Substantial Completion Cost Estimate), unless otherwise reduced upon approval of the County Representative. Such Retainage will be paid by the Trustee out of funds available in the Acquisition Account to Woodcliffe at the time of Final Acceptance of the Improvement promptly following the receipt of an approved Payment Request from the County for the related Improvement.

Section 3.06 [Intentionally deleted]

Section 3.07. *Defective or Nonconforming Work.* If any of the work done or materials furnished for an Improvement are found by the inspector identified in Section 3.01 to be defective or not in accordance with the Montgomery County Code, applicable County standards, and/or applicable laws and standards of the entities that will own, operate or maintain the Improvements when completed or acquired and applicable Plans and Specifications, and such finding is made any time within ninety (90) days following Final Acceptance of such Improvement, the Developers hereby agree to correct such defect or nonconformance. In such event, the County shall set aside the amount needed to correct such defect or nonconformance and such amount shall not be available to pay the Purchase Price of other Improvements until such defect or nonconformance is corrected to the satisfaction of the inspector as directed by the County Representative.

Section 3.08. *Modification of Improvements.* Upon written request of the Developers and the satisfaction of all other applicable governmental approvals relating to the Improvements, the County Representative may permit modification of the description of any Improvements in a manner consistent with the Resolution of Formation, the Bond Resolution and the Indenture. Any such modification shall not diminish the overall Improvements to be provided by the Developers hereunder (in a material way such that the change invalidates any of the assumptions used in the appraisal conducted to sell the Bonds) or in any way increase the total Purchase Price identified in Exhibit "A" and Exhibit "B".

ARTICLE IV

OWNERSHIP AND TRANSFER OF IMPROVEMENTS

Section 4.01. *Improvements To Be Owned by the County—Conveyance of Land and Easements to County.* To the extent title to property on, in or over which each Improvement to be acquired by the County will be located, is to be deeded over to the County by way of grant deed, quitclaim or dedication of such property, or easement thereon, other than through the subdivision process as set forth in the Montgomery County Code, the Developers agree to provide to the Authorized Officer or the Authorized Officer's designee whatever assistance is necessary in obtaining such documents as are required to obtain such title.

Section 4.02. *Improvements Constructed on County Land.* If the Improvements to be acquired are on land owned by the County, the County hereby grants to each of the Developers, and its respective contractors, subcontractors, and materialmen, an easement and a license to enter upon such land for purposes related to the construction (and maintenance pending acquisition) of the Improvements for which it is responsible. The provisions for inspection and acceptance of such Improvements otherwise provided herein shall apply.

Section 4.03. *Improvements To Be Owned by Other Public Agencies.* With respect to any Improvement to be owned by a public entity other than the County, each of the Developers shall comply with any applicable laws, rules and regulations regarding the construction of such Improvement for which it is responsible and, upon request, shall provide the County Representative and the Authorized Officer with evidence of such compliance.

Section 4.04. *Maintenance and Warranties.* Each of the Developers shall maintain each Improvement for which it is responsible in good and safe condition until the Acceptance Date of the Improvement, or in the case of water and sewer Improvements, the connection of the Improvement to the operating water and sanitary system, if earlier. Prior to such date, each of the Developers shall be responsible for performing any required maintenance on any completed Improvement for which it is responsible. On or before such date, each of the Developers shall assign to the County all of such Developer's rights in any applicable legally required warranties, guarantees, maintenance obligations or other evidence of contingent obligations of third persons with respect to such Improvement for which it is responsible, and its rights (to the extent legally assignable) in the Plans and Specifications with respect to such Improvement. Each of the Developers agree to collaterally assign its rights to such Plans and Specifications (to the extent assignable) to the County on the Closing Date in the case of an Event of Default under this Agreement.

ARTICLE V

LETTERS OF CREDIT FOR SPECIAL ASSESSMENTS AND TAXES

Section 5.01. *Irrevocable Letters of Credit for Special Assessments and Taxes.* Arcola covenants to maintain a Letter of Credit (as defined below) meeting the requirements of this Section (or cash deposit in the full Stated Amount (as defined below) of the Letter of Credit in the Special Assessments Escrow Fund as provided in Section 5.03 in lieu thereof) until such

obligation terminates under Section 5.04. Pursuant to the terms of the loan agreement dated November 6, 2000 with Arcola, Ohio Savings Bank has agreed to establish an Irrevocable Letter of Credit in the form attached hereto as Exhibit "G" in the amount provided below, to be available to pay the Special Assessments and Taxes projected on properties located in the District owned by Arcola for a period of one year, rolling forward from year-to-year. Toll MD II, Limited Partnership, a limited purpose entity controlled by Toll Brothers, Inc. ("Toll Brothers"), the purchaser of 223 lots located in the District from Artery, has agreed to provide a Letter of Credit with substantially the same terms in the form set forth in Exhibit "H" from a Bank with respect to its properties (hereafter, the letters of credit issued on behalf of Arcola and Toll Brothers in the forms attached hereto as Exhibits "G" and "H" are referred to individually herein as a "Letter of Credit" and collectively as the "Letters of Credit"). The obligation of each of Arcola and Toll Brothers to renew their respective Letters of Credit shall continue until the earlier of (i) the respective date provided under Section 5.04 hereunder for each of such parties when the obligation to maintain such Letter of Credit shall terminate, (ii) the date the Stated Amount (as defined below) of its respective Letter of Credit is reduced to zero, or (iii) until its respective Letter of Credit is drawn upon by the County. Each Letter of Credit will be issued with Arcola and Toll Brothers, respectively, as the account party ("Account Party") and the County as the beneficiary. Each of the Letters of Credit will be in an amount, subject to adjustment each year (the "Stated Amount"), equal to the following: (i) during the period of time following the issuance of the Bonds until such time as it is reduced, as provided below, the Stated Amount shall be an amount equal to the projected maximum annual Special Assessments and Taxes due from the respective Account Party in order to meet debt service for the Bonds in the following taxable year, which amount shall be \$374,344.00 for Arcola and \$157,600.00 for Toll Brothers, and (ii) thereafter, the Stated Amount will be automatically and permanently reduced to (I) the amount shown on the Certificate of Reduction of Stated Amount as submitted to the issuing Bank by the County, as provided in Paragraph 5 of the Letters of Credit, or (II) commencing with the taxable year commencing July 1, 2003, if a Certificate of Reduction of Stated Amount (attached as Exhibit D to the Letter of Credit) has not been submitted to the issuing Bank by the County prior to November 1 of such taxable year, the amount of the Special Assessments and Taxes actually paid by the Account Party for the preceding tax year, provided that (a) the Account Party is current in the payment of all Special Assessments and Taxes then due and owing to the County, as reflected on the tax bill submitted to the Account Party by the County and (b) the Account Party sends a copy of such tax bill to the issuing Bank, which copy shall be certified as correct by the County.

Section 5.02. *Draw by County under Letters of Credit.* Each of the Letters of Credit shall provide the County with the right to draw upon presentation of a sight draft to the issuing Bank in an amount not exceeding the Stated Amount as follows: (a) in the case of a drawing upon any failure by the Account Party to pay all or a portion of any Special Assessments or Taxes on any properties located within the District owned by such Account Party on or before September 30 of any year, upon submission to the issuing Bank of a Certificate of Unpaid Tax Liability (attached as Exhibit B to the Letter of Credit), the County shall be entitled to draw the amount of the Special Assessment and Taxes owed by the Account Party with respect to that taxable year (*i.e.*, the taxable year ending on June 30, for which payment in full is due by September 30); and (b) in the case of a drawing for any other circumstance, as provided in Paragraph 3(b)(ii) of the Letters of Credit, upon the submission to the issuing bank of a Certificate of Final

Drawing (attached as Exhibit C to the Letter of Credit), the County shall be entitled to draw the Stated Amount.

Section 5.03. *Application of Amounts Drawn by County pursuant to Letters of Credit.* The County covenants and agrees with each of the Account Party and the issuing Banks that upon any drawing by it pursuant to any Letters of Credit due to the failure of an Account Party to pay Special Assessments and Taxes, provided the following conditions of this paragraph are satisfied, it will promptly apply the amounts so drawn against the liability of the Account Party for unpaid Special Assessments and Taxes and interest or late payment penalties owing to the County on properties owned by such Account Party in the District, and will consider such Special Assessments and Taxes as have been paid on a timely basis, with no further interest or late payment penalties thereon owing. Such Account Party (or successor party, including the issuing Bank) shall, on or before the date on which the County first advertises the property to which the delinquent Special Assessments and Taxes relate for tax sale in accordance with County and State law and duly adopted County procedures, either (i) post a substitute letter of credit with the County in an amount equal to the Special Assessments and Taxes as are projected by the County to be owing by the Account Party for the ensuing taxable year commencing on the next July 1 (the "Projected Tax Liability"), or (ii) pay to the County the full amount of the Projected Tax Liability, and thereafter, on a monthly basis, in installments calculated by dividing the Projected Tax Liability by the number of months remaining from the commencement of such payments to the next ensuing July 1, pay an amount equal to the Projected Tax Liability into a Special Assessments and Taxes escrow fund ("Special Assessment Escrow Fund") to be established by the County from time to time. Amounts paid into such Special Assessment Escrow Fund shall be held by the County and applied to the payment of such Account Party's Special Assessments and Taxes in future taxable years, to the extent not otherwise timely paid; provided that if the amount on deposit in the Special Assessment Escrow Fund is less than the Special Taxes and Assessments owed by the Account Party, such Account Party will remain liable for such deficiency. In the event that an Account Party fails to comply with either (i) or (ii) above, the County shall have the right to exercise all remedies as are available under the Montgomery County Code and this Agreement with respect to the Account Party's failure to pay Special Taxes and Assessments. In the case of a draw on a Letter of Credit made at a time when there is no liability for Special Assessments and Taxes owing by the Account Party, the County shall promptly deposit such proceeds into the Special Assessment Escrow Fund, to be applied in the same manner under this Agreement as amounts drawn under that Letter of Credit may be applied.

Section 5.04. *Termination of Obligation of Account Parties under this Article V.* The obligation of each Account Party to maintain a Letter of Credit, and meet the obligations set forth in Section 5.03 to pay amounts into the Special Assessment Escrow Fund, will terminate at such time that the amount of Special Assessments and Taxes paid by such Account Party in any taxable year is less than 10% of the annual debt service on the Bonds. In the event that this obligation terminates with respect to an Account Party at a time when such Account Party's Letter of Credit remains outstanding, or when amounts deposited with respect to such Account Party remain in the Special Assessment Escrow Fund, the County shall promptly return such Letter of Credit, or such amounts on deposit in the Special Assessment Escrow Fund (together with all earnings thereon), to the issuing Bank, or if the issuing Bank has been paid in full, to the Account Party or to any other mortgagee or trust deed beneficiary, in each case as specified in

writing by the Account Party to the County, which shall apply such amounts to the account of such Account Party.

Section 5.05. *Letter of Credit Provisions Govern.* To the extent that there is any conflict between the description of the Letters of Credit in this Article V and the terms of such Letters of Credit, the terms of such Letters of Credit shall govern.

ARTICLE VI

WSSC SYSTEM DEVELOPMENT CHARGE CREDITS

Section 6.01. *Agreement Regarding Allocation of System Development Charge Credits.* Artery and Arcola have agreed with the Washington Suburban Sanitary Commission ("WSSC") through separate agreements relating to the construction of the Hoyles Mill Wastewater Pumping Station and Hoyles Mill Force Main Improvements, that any credits on the WSSC System Development Charge ("SDC") accruing to Artery and Arcola or any builders or developers purchasing properties located within the District from Artery and Arcola, will be allocated in accordance with the following percentages: 30.10% to the units within the Artery development until the Artery units receive \$1,000,000 in the aggregate, and 69.90% to the units within the Arcola development and all of the SDC credits after the Artery units receive \$1,000,000 in the aggregate. The SDC credits shall be allocated by the Developers on a pro rata basis across all of the units developed by Artery and Arcola. Each unit will receive an SDC credit allocation, irrespective of the date when application for such allocation of SDC credit is made, provided that the allocation does not cause the actual amount of SDC credit to be exceeded.

ARTICLE VII

CONDITIONS OF ISSUANCE OF BONDS

Section 7.01. *Conditions to Issuance of Bonds.* The County and the Developers agree that the satisfaction of each of the following shall be a condition precedent to the issuance of the Bonds by the County; provided that notwithstanding the satisfaction of these conditions, the County shall not be obligated to issue the Bonds:

- (i) Artery and Arcola have consented to the declaration of Special Assessments and Taxes as required by the Bond Resolution;
- (ii) The representations and warranties made by the Developers herein shall be true and correct as of the Closing Date; and
- (iii) Such other conditions as the County shall specify in writing to the Developers.

ARTICLE VIII

REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 8.01. *Representations, Covenants and Warranties of the Developers.* Each Developer, as to itself, represents and warrants for the benefit of the County as follows:

- (a) *Organization.* Each Developer is duly organized and validly existing under the laws of the jurisdiction of its formation, is in compliance with the laws of the State, and has the power and authority to own its properties and assets and to carry on its business in the State as now being conducted and as hereby contemplated.
- (b) *Authority.* Each Developer has the power and authority to enter into this Implementation Agreement, and has taken all action necessary to cause this Implementation Agreement to be executed and delivered, and this Implementation Agreement has been duly and validly executed and delivered by each Developer.
- (c) *Binding Obligation.* This Implementation Agreement is a legal, valid and binding obligation of each Developer, enforceable against each Developer in accordance with its terms, subject to bankruptcy and other equitable principles.
- (d) *Compliance with Laws.* Each Developer shall not with knowledge commit, suffer or permit any act to be done in, upon or to the lands of the Developer in the District or the Improvements in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the lands in the District or the Improvements.
- (e) *Requests for Payment.* Each Developer represents and warrants as to itself that (i) it will not request payment from the County for (A) the acquisition of any improvements that are not part of the Improvements or (B) the costs that are not Actual Costs of an Improvement, and (ii) it will diligently follow all procedures set forth in this Implementation Agreement with respect to the Payment Requests.
- (f) *Financial Records.* Until the Final Acceptance of the Improvements and for thirty-six months thereafter, each Developer covenants to maintain proper books of record and account for the construction of the Improvements and all costs related thereto. Such accounting books shall be maintained in accordance with generally accepted accounting principles, and shall be available for inspection by the County or its agent at any reasonable time during regular business hours on reasonable notice.
- (g) *Plans and Specifications.* Each Developer represents that it has or will use its best efforts to obtain approval of the Plans and Specifications for the Improvements to be acquired from each Developer hereunder from all appropriate departments of the County and from any other public entity or public utility from which such approval must be obtained. Each Developer further agrees that the Improvements to be acquired from such Developer hereunder have been, or will be, constructed in full compliance with such approved Plans and Specifications and any supplemental agreements thereto (change orders) consistent with the Resolution of Formation and the Bond Resolution, as approved in the same manner.

(h) *Land Sales.* Each of the Developers agree that it will not transfer title to any property owned by it within the District unless, on or before the date of transfer, either (I) the County receives a letter of credit satisfactory to the County in its sole discretion (it being agreed that a letter of credit containing the same terms and conditions as the Letter of Credit from a financial institution which is "well capitalized" and which has net assets in an amount at least equal to those of Ohio Savings Bank shall be satisfactory) in a stated amount equal to the maximum liability of the transferee for Special Assessments and Taxes on the properties transferred to it in the District, or (II) the County has consented to the transfer. The foregoing covenant shall not apply to any transfer made in connection with a Developer's sale of lots in the District to home builders in the ordinary course of business. For purposes of this paragraph, any sale or sales made within a period of twelve months which do not exceed one hundred and seventy-five (175) lots by a Developer to any single home builder, which builder has indicated, to the best knowledge of the Developer, an intent to construct houses on such lots, shall be considered a sale in the ordinary course of business. Each Developer agrees that in the event it sells any property located in the District, such Developer will provide the purchaser with all information required by law and, in the case of any sale which is not in the ordinary course of business, will notify the County Representative in writing of the sale, indicating the legal description(s) and tax account number(s) of the property sold and the identity of the purchaser of the property. Artery has sold, and the County has approved the sale of, 223 lots in the Artery development to Toll Brothers, and Toll Brothers has agreed to post a Letter of Credit with the County in the form set forth in Exhibit "H" as referenced in Article V.

(i) *Litigation.* There are no pending or, to the best of such Developer's knowledge, threatened actions, suits, or proceedings before any court, arbitrator or governmental or administrative body or agency which may materially adversely affect the properties, business or condition, financial or otherwise, of the Developer.

Section 8.02. *Indemnification and Hold Harmless.* Each of the Developers shall assume the defense of, indemnify and save harmless the County, the County Representative, the County Executive, members of the County Council, officers, employees and agents of the County, the County Executive, and the County Council, and each of them (each an "Indemnified Party"); from and against all actions, damages, claims, losses or expense of every type and description to which they may be subjected or put, by reason of, or resulting from the breach of any provision of this Implementation Agreement by such Developer, the Developer's or any other entity's negligent design, engineering and/or construction of any of the Improvements acquired from such Developer hereunder, the Developer's nonpayment under contracts between such Developer and its consultants, engineers, advisors, contractors, subcontractors and suppliers in the provision of the Improvements, or any claims of persons employed by such Developer or its agents to construct the Improvements for which it is responsible, except that the Developer's obligations for negligent design, engineering and construction of the Improvements shall be as provided under Section 3.07 hereunder. Notwithstanding the foregoing, no indemnification is given hereunder by any Developer with respect to any breach of any provision hereunder which is solely the responsibility of another Developer, nor for any action, damage, claim, loss or expense directly attributable to the intentional acts or gross negligence of any Indemnified Party.

No provision of this Implementation Agreement shall in any way limit any Developer's responsibility for payment of damages resulting from the operations of such Developer, its agents, employees or its contractors.

Section 8.03. *Enforcement of Remedies.* So long as it owns any property in the District, each of the Developers agree as follows:

(a) The County may in its discretion provide in the Indenture for the collection of any Special Assessments and Taxes on any properties owned, optioned or controlled by any of the Developers or any Affiliate by direct billing by the County to the Developer or such Affiliate, as owner of the property (or to the applicable owner with a copy to the Developer to the extent of parcels optioned or controlled, but not owned, by the Developer); and

(b) Each of the Developers acknowledge that the County Treasury shall commence proceedings for the collection of delinquent Special Assessments and Taxes as provided in the Indenture.

(c) In order to reduce the likelihood of any prolonged collection actions, each of the Developers will provide for facilitated service of process with respect to any collection action in respect of delinquent Special Assessment and Taxes levied on properties owned by it in the District, and will waive affirmative defenses to any such collection action pertaining to the formation of the District and its financing structure, including the methodology for determining the Special Assessments and Taxes as set forth in the Bond Resolution, the validity of the Bonds and the priority of the District liens to collect delinquent Special Assessments and Taxes; provided, however, that each of the Developers may challenge any levy not made in accordance with the terms of the Bond Resolution.

ARTICLE IX

TERMINATION

Section 9.01. *No Bonds.* If, for any reason, the County does not issue any of the Bonds for the District by December 31, 2002, this Implementation Agreement shall terminate and be null and void and of no further effect.

Section 9.02. *Mutual Consent.* This Implementation Agreement may be terminated by the mutual, written consent of the County and the Developers (with the consent of the Bank to the extent that the Bank has a Letter of Credit or other loan proceeds outstanding to any Developer), in which event the County may either execute contracts for or perform any remaining work related to the transportation and parks Improvements not accepted by the County (in the case of Improvements which are to be accepted by the County) or provide written notice to the WSSC and cooperate with the WSSC in the execution by WSSC of contracts for or to perform any remaining work related to the Improvements not accepted by the WSSC (in the case of Improvements which are to be accepted by the WSSC) and use all or any portion of funds in the Acquisition Account or other amounts transferred to the Acquisition Account under the terms of the Indenture to pay for same, and the Developers shall have no claim or right to any further pay-

ments for the Purchase Price of Improvements hereunder, and shall have no further responsibility to the County for construction of the Improvements, except as otherwise may be provided in such written consent.

Section 9.03. *County Election to Terminate for Cause.* The following events shall constitute an event of default under this Implementation Agreement:

(a) Any of the Developers shall voluntarily file for reorganization or other relief under any federal or State bankruptcy or insolvency law.

(b) Any of the Developers shall have any involuntary bankruptcy or insolvency action filed against it, or shall suffer a trustee in bankruptcy or insolvency or receiver to take possession of its assets, or shall suffer an attachment or levy of execution to be made against the property it owns within the District unless, in any of such cases, such circumstance shall have been terminated or released within 90 days thereafter.

(c) Any of the Developers shall abandon construction of the Improvements in the aggregate. Failure for a period of six consecutive months to undertake substantial work related to the construction of the Improvements in the aggregate at a time when such construction is scheduled to occur, other than for a reason specified in Section 9.04 hereof, shall constitute a nonexclusive example of such abandonment.

(d) Any of the Developers shall breach any material covenant or default in the performance of any material obligation hereunder.

(e) Any of the Developers shall have made any material misrepresentation or omission in any written materials furnished in connection with any offering document or bond purchase contract used in connection with the sale of the Bonds.

(f) Any of the Developers or any of their respective Affiliates shall at any time challenge the validity of the District or any of the Bonds or the levy of the Special Assessments and Taxes within the District, other than on grounds that such levy was not made in accordance with the terms of the Bond Resolution.

If any such event of default occurs, the County shall give written notice of its knowledge thereof to the Developers (with a copy to (i) the Bank to the extent that the Bank has a Letter of Credit or other loan proceeds outstanding to finance the cost of the Improvements to any Developer, and (ii) to Toll Brothers, or any other builder which has posted a letter of credit with the County pursuant to Section 8.01(h) which is still outstanding, and provided the County Representative with a notice address), specifying the event which is deemed to be a breach by the County, and the Developers agree to meet and confer with the County Representative and other appropriate County staff and County Representatives as to options available to assure timely completion of the Improvements (with such meeting open to the Bank and to Toll Brothers, Inc., or any other builder which has posted a letter of credit with the County pursuant to Section 8.01(h) which is still outstanding). Such options may include, but not be limited to, the termination of this Implementation Agreement by the County. If the County elects to terminate this Implementation Agreement, the County shall first notify the Developers (and Ohio Savings Bank or, if Ohio Savings Bank has been paid in full, any other mortgagee or trust deed beneficiary

specified in writing by the Developers to the County to receive such notice, and Toll Brothers, Inc., or any other builder which has posted a letter of credit with the County pursuant to Section 8.01(h) which is still outstanding and provided the County Representative with a notice address) of the grounds for such termination and allow the Developers a minimum of 30 days to eliminate or mitigate to the satisfaction of the County the grounds for such termination (with such additional time to cure with respect to Ohio Savings Bank as may be permitted under the provisions of Section 11.10). Such period may be extended, at the sole discretion of the County, if the Developers or the Bank, to the satisfaction of the County, are proceeding with diligence to eliminate or mitigate such grounds for termination. If at the end of such period (and any extension thereof), as determined solely by the County, the Developers or the Bank have not eliminated or completely mitigated such grounds to the satisfaction of the County, the County may then terminate this Implementation Agreement and cease making payments for the Purchase Price of the Improvements hereunder.

In the event that this Implementation Agreement is terminated by the County for cause, in addition to other remedies available to it, including the redemption of the Bonds under the Indenture, the County may execute contracts for or perform any remaining work related to the transportation and parks Improvements not accepted by the County (in the case of Improvements which are to be accepted by the County) or provide written notice to the WSSC and cooperate with the WSSC in the execution of contracts for or to perform any remaining work related to the Improvements not accepted by the WSSC (in the case of Improvements which are to be accepted by the WSSC) and use all or any portion of the funds in the Acquisition Account or other amounts transferred to the Acquisition Account for such purposes, and the Developers shall have no claim or right to any further payments for the Purchase Price of Improvements hereunder, except as otherwise may be provided upon the mutual written consent of the County and the Developers, it being agreed that after the County and/or the WSSC completes the remaining work relating to the unfinished Improvements with amounts in the Acquisition Account, to the extent that there are funds remaining in the Acquisition Account, the County shall reimburse Woodcliffe for all amounts actually expended which have not been reimbursed, subject to the delivery by the Developers of evidence similar to that described in Section 3.03 hereof of the amount of such costs.

Section 9.04. *Force Majeure.* Whenever performance is required of a party hereunder, that party shall use all due diligence and take all necessary measures in good faith to perform, but if completion of performance is delayed by reasons of floods, earthquakes or other acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, damage to work in progress by casualty, labor and materials shortages which affect the Washington D.C. metropolitan region, governmental action or inaction which renders performance impossible in the case of performance by a private party (provided that the private party has in fact complied with all requirements that are a precondition to such governmental action) or by other cause beyond the reasonable control of the party (financial inability excepted), then the specified time for performance shall be extended by the amount of the delay actually so caused.

ARTICLE X

DEFINITIONS

The following terms shall have the meanings ascribed to them in this Article X for purposes of this Implementation Agreement. Unless otherwise indicated, any other terms, capitalized or not, when used herein shall have the meanings ascribed to them in the Indenture (as hereinafter defined).

"Acceptance Date" means the date the County (or other public entity which is to own a Improvement) takes final action to accept dedication of or transfer of title to an Improvement.

"Actual Cost" means the substantiated costs with respect to the Improvements, which costs generally include:

- (i) the actual cost of all materials and labor to grade and clear the site and to construct the Improvements;
- (ii) costs of rental of leased machinery and equipment needed to construct the Improvements;
- (iii) field engineering, geotechnical services, field inspections, and design amendments required by County agencies or field conditions after permit issuance;
- (iv) all permitting, inspection and reforestation fees;
- (v) the cost of a construction supervisor hired by the Developers in overseeing the construction or acquisition of the Improvements; and
- (vi) other expenses as may be reasonably necessary or incident to the construction and acquisition of the Improvement, subject to the approval of the County Representative.

"Affiliate" means any entity owned, controlled or under common ownership or control by or with, as applicable, any of the Developers and includes all general partners of any entity which is a partnership or members of any entity which is a limited liability company. Control shall mean ownership of 50% or more of the voting power of or ownership interest in the respective entity.

"Authorized Officer" means such officer as shall be designated by the County for the purposes of reviewing, approving, accepting and executing, as applicable, any conveyancing or other documents delivered in connection with the acceptance of the dedication of or the transfer of title to the County of any land or Improvement acquired by the County pursuant to this Implementation Agreement.

"Bank" means any commercial bank or other financial institution from which any Developer borrows funds to finance the cost of construction of the Improvements, including Ohio

Savings Bank, or which issues a Letter of Credit on behalf of an Account Party as provided in Article V hereof and which is well capitalized and which meets the reasonable approval of the County.

"Bond(s)" means the Montgomery County, Maryland Special Obligation Bonds (West Germantown Development District) \$11,600,000 Senior Series 2002A and \$4,315,000 Junior Series 2002B, at any time Outstanding under the Indenture or any Supplemental Indenture, except where preceded by the term "Performance" or the term "Payment" in which case "Bond(s)" shall refer to Performance Bond(s) or Payment Bond(s), respectively as defined in the Montgomery County Code.

"County Conditions" shall have the meaning set forth in the Indenture.

"County Representative" means the County Director of Finance, the person or persons appointed by the County Director of Finance to perform the tasks of County Representative under this Implementation Agreement or a designee of such person.

"Developers" shall have the meaning set forth in Recital R-1.

"Final Acceptance" means with respect to each Improvement, that such Improvement has been completed in accordance with the approved Plans and Specifications submitted to the applicable County agency or the WSSC and that the County (or other public agency which owns the Improvement) has taken final action to accept such Improvement, as evidenced by a written statement to that effect.

"Improvements" means the public Improvements and related costs described in Exhibit "A" and Exhibit "B" hereto which are eligible be financed by the District. The Improvements may consist of designated portions of a larger item of infrastructure, with each portion treated as a separate Improvement.

"Indenture" means the Indenture of Trust by and among Montgomery County, Maryland and Wachovia Bank, National Association, as Trustee dated as of April 1, 2002, and any Supplemental Indenture adopted pursuant to the provisions of the Indenture relating to the Bonds.

"Letter of Credit" or *"Letters of Credit"* shall have the meaning set forth in Section 5.01 hereof.

"Payment Request" means a document, substantially in the form of Exhibit "C" hereto, to be used by the Developers in requesting payment of a Purchase Price.

"Plans and Specifications" means the plans, specifications, schedules and related construction contracts for the Improvements approved pursuant to the Montgomery County Code and applicable standards and directives of the County, the General Conditions and Standard Specifications of the WSSC or the applicable laws, standards and directives of the other entity that will own, operate or maintain the Improvements when completed and acquired.

"Purchase Price" means the amount paid by the County for an Improvement determined in accordance with Article III hereof, being an amount equal to the Actual Cost of such Improvement, which amount shall not exceed in any event the estimated cost for such Improvement, indicated on Exhibit "A" and Exhibit "B", but subject to the limitations and reductions provided for in Article III. The amount of the Purchase Price may be amended from time to time in a manner consistent with the Resolution of Formation, and the Bond Resolution, and as further provided in this Agreement.

"Retainage" means moneys withheld at the time of Substantial Completion of each Improvement in an amount equal to 5% of the total direct construction costs related to the Purchase Price of each Improvement to be paid hereunder, plus the estimated cost to complete said Improvement, unless otherwise reduced upon approval of the County pursuant to Section 3.05(d) of this Implementation Agreement.

"Special Assessments and Taxes" means those special assessments and special taxes that shall be levied by the County on the properties located in the District to the extent provided in the Resolution of Formation and the Bond Resolution.

"Substantial Completion" means with respect to each Improvement, that such Improvement has been completed to a point of being operable (if connected to a working system) or having general usage for the purposes to which it is designed, which shall mean the following with respect to the particular type of Improvement:

- (i) With respect to roads and transportation Improvements, the work shall be completed to a base course, with curbs and gutters installed, adjacent sidewalks poured or paved, and interim stormwater management facilities in functioning condition; with the following items excluded: the final landscaping, including seeding, street lights and street trees, traffic signals, the final stormwater management facilities and the final top coat shall not be required to be installed; and
- (ii) for the park facilities, for the initial phase of completion, all rough grading shall have occurred and for the final stage of completion, all paving for paths and the tennis courts shall have been completed, all park equipment shall have been installed, all signage and fencing shall be in place and all fields shall have been seeded (grass need not be actually growing or decorative planting completed); and
- (iii) for sewer and water facilities, the segment of the facility shall have been completed in accordance with the approved Plans and Specifications.

"Substantial Completion Cost Estimate" shall have the meaning set forth in Section 3.03 hereof.

"Supplement" means a written document agreed upon by the Developers and the County amending, supplementing or otherwise modifying this Implementation Agreement and any Exhibit hereto, including any amendments to the list of Improvements in Exhibit "A" and Exhibit "B" in a manner consistent with the Resolution of Formation and the Bond Resolution.

"WSSC" means the Washington Suburban Sanitary Commission, a public agency of the State of Maryland.

ARTICLE XI

MISCELLANEOUS

Section 11.01. *Limited Liability of County.* The Developers agree that any and all obligations of the County arising out of or related to this Implementation Agreement are special obligations of the County, and the County's obligations to make any payments hereunder are restricted entirely to the moneys, if any, in the Acquisition Account and from no other source. No member of the County Council, the County Representative, the County Executive or any County employee or agent shall incur any liability hereunder to the Developers or any other party in their individual capacities by reason of their actions hereunder or execution hereof.

Section 11.02. *Audit.* The County Representative shall have the right, during normal business hours and upon the giving of prior written notice to the Developers, to review all books and records of the Developers pertaining to costs and expenses incurred by the Developers with respect to any of the Improvements and any bids taken or received for the construction thereof or materials therefor.

Section 11.03. *Notices.* Any notice, payment or instrument required or permitted by this Implementation Agreement to be given or delivered to either party shall be deemed to have been received when personally delivered, with signed receipt, sent by commercial overnight courier which requires a signed receipt upon delivery, or transmitted by telecopy or facsimile transmission (which shall be immediately confirmed by telephone and shall be followed by mailing an original of the same within 24 hours after such transmission) or 72 hours following deposit of the same in any United States Post Office, registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

County: **Montgomery County**
101 Monroe Street, 15th Floor
Rockville, Maryland 20850
Attention: Director of Finance

County Representative: **Debt Manager**
Montgomery County
101 Monroe Street, 15th Floor
Rockville, Maryland 20850

Developers: **Arcola Investment Associates**
c/o Cylburn, Inc.
Prince George's Metro Center, Inc.
6525 Belcrest Road, Suite 300
Hyattsville, Maryland 20782
Attn: Mr. Herschel Blumberg and Chris Hannessian

Artery Hoyles Mill, LLC
7200 Wisconsin Avenue
Suite 1000
Bethesda, Maryland 20814-5228
Attn: Mr. B. Hayes McCarty

Woodcliffe Development District, LLC
c/o Arcola Investment Associates
c/o Cylburn, Inc.
Prince George's Metro Center, Inc.
6525 Belcrest Road, Suite 300
Hyattsville, Maryland 20782
Attn: Mr. Chris Hanessian

and

c/o Artery Hoyles Mill, LLC
7200 Wisconsin Avenue
Suite 1000
Bethesda, Maryland 20814-5228
Attn: Mr. B. Hayes McCarty

With copies to:

Stephen Z. Kaufman, Esquire
John R. Orrick, Jr., Esquire
Linowes and Blocher LLP
1010 Wayne Avenue, Suite 1000
Silver Spring, Maryland 20910

Each party may change its address or addresses for delivery of notice by delivering written notice of such change of address to the other party.

Section 11.04. *Severability.* If any part of this Implementation Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Implementation Agreement shall be given effect to the fullest extent possible.

Section 11.05. *Successors and Assigns.* This Implementation Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto. This Implementation Agreement shall not be assigned by any of the Developers, except in whole to an Affiliate, or collaterally assigned to a Bank, without the prior written consent of the County, which consent shall not be unreasonably withheld or delayed. In connection with any such consent of the County, the County may condition its consent upon the acceptability of the financial condition of the proposed assignee, upon the assignee's express assumption of all obligations of the assignor Developer hereunder and/or upon any other reasonable factor which the County deems relevant in the circumstances. In any event, any such assignment shall be in writing, shall clearly identify the scope of the rights and/or obligations assigned and shall not be effective until approved by the County. Any assignment of this Implementation Agreement shall not relieve the assignor of

its obligations hereunder and such assignor shall remain liable for all of the respective Developer's obligations under this Implementation Agreement.

Section 11.06. *Other Agreements.* The obligations of the Developers hereunder shall be those of a party hereto and not as an owner of property in the District. Nothing herein shall be construed as affecting the County's or the Developers' rights or duties to perform their respective obligations under other agreements, use regulations or subdivision requirements relating to the development of the lands in the District. This Implementation Agreement shall not confer any additional rights, or waive any rights given, by either party hereto under any development or other agreement to which they are a party.

Section 11.07. *Waiver.* Failure by a party to insist upon the strict performance of any of the provisions of this Implementation Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Implementation Agreement thereafter.

Section 11.08. *Merger.* No other agreement, statement or promise made by any party or any employee, officer or agent of any party with respect to any matters covered hereby that is not in writing and signed by all the parties to this Implementation Agreement shall be binding.

Section 11.09. *Parties in Interest.* Nothing in this Implementation Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the County, the Developers, Toll Brothers, and Ohio Savings Bank (but solely to the extent set forth in the Joinder of Toll Brothers and Ohio Savings Bank, attached hereto) any rights, remedies or claims under or by reason of this Implementation Agreement or any covenants, conditions or stipulations hereof, and all covenants, conditions, promises and agreements in this Implementation Agreement contained by or on behalf of the County or the Developers shall be for the sole and exclusive benefit of the County and the Developers.

Section 11.10. *Intercreditor Agreement.* The County (a) agrees to give written notice to Ohio Savings Bank of any default by Arcola which would entitle the County to suspend payment from the Acquisition Account or to terminate this Agreement, grant Ohio Savings Bank the opportunity to cure Arcola's default (to the extent curable by that Bank) under Section 9.03 hereof (provided that in the case of a nonmonetary default by Arcola, such Bank shall have an additional 15-day period beyond the period provided therein to cure) and accept such cure in lieu of cure by Arcola, (b) agrees that it will forebear from exercising its remedies under this Agreement, including its right to terminate this Agreement, for a period of 150 days from the date which it would otherwise be entitled to do so in the event of a default by Arcola provided that such Bank is diligently pursuing foreclosure proceedings against Arcola or is otherwise diligently taking action to substitute itself or its successors and assigns, and/or any foreclosure purchaser (collectively, a "Successor"), as a successor-in-interest to the rights of Arcola hereunder under the loan documents entered into between Arcola and the Bank, and (c) agrees to recognize the Successor in the event of a default by Arcola such that the Successor shall be entitled thereafter to succeed to the rights of Arcola including, without limitation, the right to payment from the Acquisition Account with respect to completion of Improvements as contemplated herein. It is agreed that during the time period that a Developer default remains uncured under this Agree-

ment the County shall not be required to make any payments from the Acquisition Account with respect to submitted Payment Requests. Furthermore, the County is in no way precluded from exercising other remedies that it has at law in the event of any delinquencies in Special Assessments and Taxes owing to the extent that the provisions of Article V hereof are not satisfied. A memorandum setting forth the foregoing agreements may be recorded in the Land Records of the County if Ohio Savings Bank so requests.

Section 11.11. *Amendment.* This Implementation Agreement may be amended, from time to time in a manner consistent with the Resolution of Formation and the Bond Resolution, by written Supplement hereto and executed by both the County and the Developers; provided, however, that in the event an amendment only has an impact on the rights or obligations of one of the Developers, and the other Developer does not object thereto after receipt of prior written notice by the County which notice reasonably details the scope and nature of the proposed amendment, such Supplement may be entered into by the County and the affected Developer only, and provided further that so long as Ohio Savings Bank has a Letter of Credit outstanding and has not failed to honor a draw thereunder made strictly in accordance with the terms thereof or has loan proceeds outstanding to finance the cost of the Improvements to any Developer, no amendment may be made to Sections 5.01, 5.02, 5.03, 5.04, 5.05, 9.03, 11.09, or 11.10 which would materially adversely change the rights or obligations of Ohio Savings Bank under this Implementation Agreement or any outstanding Letter of Credit without the prior written consent of Ohio Savings Bank..

Section 11.12. *Assistance with Application for Development Impact Tax Credits.* The County agrees that Development Impact Tax Credits will be granted for the Special Assessments and Taxes which are levied on the West Germantown Development District properties to the extent available under the Act and other County law. The County Representative will use diligent efforts to assist the Developers in applying for such development impact tax credits and in processing refunds of development impact taxes previously paid with the Department of Permitting Services of the County.

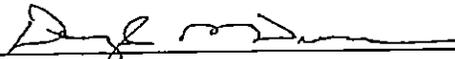
Section 11.13. *Obligation of Developers.* The obligation of the Developers hereunder shall be several and not joint and several. The County agrees to give notice of any default hereunder by any Developer to all Developers and to allow any Developer to cure such default, subject to receiving reasonable assurances of future ability to perform by such Developer.

Section 11.14. *Counterparts.* This Implementation Agreement may be executed in any number of counterparts, each of which shall be deemed an original.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Implementation Agreement as of the day and year first above written.

MONTGOMERY COUNTY, MARYLAND

By: 
Name: Douglas M. Duncan
Title: County Executive

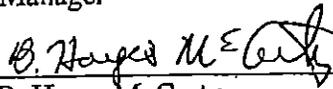
ARCOLA INVESTMENT ASSOCIATES

By: Cylburn, Inc., General Partner

By: 
Name: Herschel Blumberg
Title: President

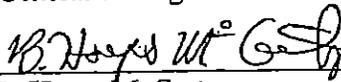
ARTERY HOYLES MILL, LLC

By: Artery Group, LLC,
Manager

By: 
Name: B. Hayes McCarty
Title: Authorized Person

WOODCLIFFE DEVELOPMENT
DISTRICT, LLC

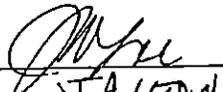
By: 
Name: Chris Hanessian
Title: General Manager

By: 
Name: B. Hayes McCarty
Title: General Manager

JOINDER OF OHIO SAVINGS BANK

Ohio Savings Bank hereby joins as a party to this Agreement solely for the purposes of consenting to the rights and obligations set forth in Sections 5.01, 5.02, 5.03, 5.04, 5.05 9.03, 11.09 and 11.10 hereof.

OHIO SAVINGS BANK

By: 
Name: J.A. LEDIN
Title: VICE PRESIDENT

Notice Address:

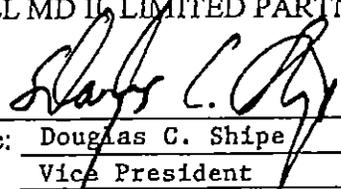
Ohio Savings Bank
Ohio Savings Plaza
Cleveland, Ohio 44114

Attn: Frank Bologna

JOINDER OF TOLL BROTHERS

Toll MD II, Limited Partnership, a limited purpose entity controlled by Toll Brothers, Inc., hereby joins as a party to this Agreement solely for the purposes of consenting to the rights and obligations set forth in Sections 5.01, 5.02, 5.03, 5.04, 5.05, 8.01(h) and 9.03 hereof.

TOLL MD II, LIMITED PARTNERSHIP.

By: 
Name: Douglas C. Shipe
Title: Vice President

Notice Address:

Toll MD II, Limited Partnership
c/o Toll Brothers, Inc.
3103 Philmont Avenue
Huntington Valley, Pennsylvania 19006
Attn: Legal Department

WEST GERMANTOWN DEVELOPMENT DISTRICT
IMPLEMENTATION AGREEMENT

LIST OF EXHIBITS

- Exhibit "A" - Development District Improvements and Developer Responsibility
- Exhibit "B" - District Funded Improvements and Developer Responsibility if Cost Savings Result on an Exhibit "A" Line Item
- Exhibit "C" - Form of Payment Request
- Exhibit "D" - Forms of Partial and Final Release of Liens
- Exhibit "E" - Intentionally Deleted
- Exhibit "F" - Intentionally Deleted
- Exhibit "G" - Form of Ohio Savings Bank Letter of Credit
- Exhibit "H" - Form of Toll Brothers Letter of Credit

EXHIBIT "A"

Development District Improvements and Developer Responsibility

Richter Farm Road (A-297) - COST BREAKDOWN BY PHASE		Responsible Developer
PHASE 1 (Clopper to Autumn Crest Road)	\$ 1,354,260	Arcola
PHASE 2 (Autumn Crest Road to Kings Crossing Blvd.)	\$ 729,217	Arcola
PHASE 3 (Kings Crossing Blvd. to Ashleigh Greene Rd.)	\$ 1,387,777	Arcola
PHASE 4 (Ashleigh Greene Rd. to Avatar Lane)	\$ 1,227,528	Artery
PHASE 5 (Avatar Lane to Schaeffer Rd.)	\$ 526,084	Artery
PHASE 6 (Schaeffer Rd. to Rte. 118)	\$ 2,156,047	Arcola
TOTAL Richter Farm Road (A-297)	\$ 7,380,913	
Hoyles Mill Wastewater Pumping Station/Force Main -		Responsible Developer
COST BREAKDOWN BY PHASE		
PHASE 1 (Sewer Force Main - pump station to A-297)	\$ 800,000	Arcola
PHASE 2 (Sewer Force Main - within A-297 right-of-way)	\$ 370,000	Arcola
PHASE 3 (Sewer Force Main - A-297 to Pleasants property)	\$ 305,020	Artery
PHASE 4 (Sewer Force Main - through Pleasants property)	\$ 683,000	Both
PHASE 5 (Pump Station - 2 pumps)	\$ 350,000	Arcola
PHASE 6 (Pump Station - generator and electric service)	\$ 150,000	Arcola
PHASE 7 (Pump Station - water line service)	\$ 130,000	Arcola
PHASE 8 (Pump Station - construction)	\$ 975,000	Arcola
PHASE 9 (Pump Station - access road, gate and parking lot)	\$ 75,000	Arcola
TOTAL - Hoyles Mill Wastewater Pumping Station/Force Main	\$ 3,838,020	
Schaeffer Road	\$ 992,244	Artery
Local park (Arcola Property)	\$ 310,000	Arcola
Local Park (Artery Property)	\$ 310,000	Artery
TOTAL EXHIBIT "A"	\$ 12,831,177	

Note: Each Phase and line item above includes permitting and inspection fees, geotechnical and survey work and other related work, such as grading, water, sewer, storm drain, curb, sidewalk, seed, sod, street trees, street lights, street signals, construction supervisor and other miscellaneous construction expenses.

EXHIBIT "B"

District Funded Improvements and Developer Responsibility if Cost Savings Result on an Exhibit "A" Line Item

<u>IMPROVEMENT</u>	<u>COST</u>	<u>RESPONSIBLE DEVELOPER</u>
Clearing, Grading for Force Main Installation	\$ 615,445	Arcola
18" Outfall Sewer	\$ 376,104	Arcola
15" Outfall Sewer	\$ 530,480	Arcola
12" Outfall Sewer	\$ 488,526	Artery
Clopper Road-Acceleration, Deceleration and Left Turn Lane onto A-297	\$ 121,161	Arcola
Clopper Road-Left Turn and Bypass Lane at Hopkins Road	\$ 49,818	Arcola
Great Seneca Highway (S)-Right Turn Lane to West Clopper Road	\$ 100,000	Arcola
Great Seneca Highway (S)-Acceleration Lane from Eastbound A-297	\$ 32,715	Arcola
Great Seneca Highway (N)-Second Left Turn Lane to West A-297	\$ 79,626	Arcola
Great Seneca Highway (S)-Second right Turn Lane to West A-297	\$ 74,731	Arcola
Hoyles Mill Road - Richter Farm Road to Schaeffer Road	\$ 283,012	Artery
Kings Crossing Boulevard - A-297 to Park Property	\$ 675,305	Arcola
Kings Crossing Boulevard Blasting - A-297 to Park Property	\$ 90,000	Arcola
TOTAL EXHIBIT "B"	\$ 3,516,923	

Note: Each line item above includes permitting and inspection fees, geotechnical and survey work and other related work, such as grading, water, sewer, storm drain, curb, sidewalk, seed, sod, street trees, street lights, street signals, construction supervisor and other miscellaneous construction expenses.

EXHIBIT "C"

PAYMENT REQUEST

WEST GERMANTOWN DEVELOPMENT DISTRICT

TO: Debt Manager
Montgomery County
101 Monroe Street, 15th Floor
Rockville, Maryland 20850

Date: _____

Pursuant to the Implementation Agreement dated as of April 1, 2002 (the "Implementation Agreement") by and between Montgomery County, Maryland, a body politic and corporate and a charter county organized and existing under the Constitution and laws of the State of Maryland (the "County"), and Arcola Investment Associates, a Virginia general partnership ("Arcola"), Artery Hoyles Mill, LLC, a Maryland limited liability company ("Artery") and Woodcliffe Development District, LLC, a Maryland limited liability company ("Woodcliffe"), we request that you approve the disbursement of funds held by Trustee under the Indenture with respect to this Payment Request, to the following payee in the following amount:

Payee: Woodcliffe Development District, LLC
Payee's Address: Woodcliffe Development District, LLC
c/o John R. Orrick, Jr.
Linowes and Blocher LLP (escrow agent)
1010 Wayne Avenue, Suite 1000
Silver Spring, Maryland 20910

Cost of Improvement(s) listed under Exhibit "A" or "B": \$ _____
Amount of prior reimbursements: \$ _____
Amount held for Final Acceptance: \$ _____
5% Retainage (if applicable): \$ _____
Amount of this Payment Request: \$ _____

Description of Exhibit "A" or Exhibit "B" item(s):

We hereby certify that:

(a) none of the items for which funds are being requested has formed the basis for any disbursement heretofore made pursuant to an approved Payment Request by the County;

(b) each item for which funds are being requested is an Improvement and the amount of funds which are being requested are Actual Costs of an Improvement as set forth in the Implementation Agreement; and

(c) no written notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable under this requisition to any of the persons named herein has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been bonded off, released or discharged, or will be released or discharged upon the payment of this requisition as evidenced by the attached Release of Liens in the form required by the Implementation Agreement.

By: Woodcliffe Development District, LLC

General Manager

This Payment Reimbursement Request is for:

Substantial Completion _____ Permit Number(s) _____

Final Acceptance _____ Contract Number(s) _____

Approved: _____ Date: _____

By: MCDPS, M-NCPPC, or WSSC representative

Name: _____ Phone Number: _____

Note: The approval of this Payment Request by the representative referenced under Section 3.01 of the Implementation Agreement is required for all Substantial Completion and Final Acceptance payments under the Implementation Agreement.

Note: Attached AIA Form G702, together with all purchase orders, invoices and other appropriate documentation supporting the payments or reimbursements herein requested must be delivered to the County Representative (initially, Jennifer E. Barrett) with this Payment Request. If Payment Request is for Substantial Completion of Improvement or other infrastructure included as Additional County Costs, Substantial Completion Cost Estimate must be attached. If Payment Request is for Final Acceptance of Improvement or other infrastructure included as Additional County Costs, evidence of written acceptance of such Improvement or other infrastructure item must be attached.

Exhibit "D"

PARTIAL RELEASE OF LIENS
(for Subcontractors and Trade Contractors)

Date: _____

Owner: _____

General Contractor/
Construction Manager: _____

Subcontractor/Trade Contractor: _____

Project: _____

In consideration of \$ _____ [amount of requisition to be paid, less retainage] paid to Subcontractor/Trade Contractor, Subcontractor/Trade Contractor releases General Contractor/Construction Manager and Owner, and their successors and assigns, and any property that could be subjected to a mechanic's or materialman's lien in connection with the Project, from all liens and claims through _____ [last date covered by requisition] that Subcontractor/Trade Contractor has in connection with the Project, except liens and claims to recover any amounts retained by General Contractor/Construction Manager or Owner.

Subcontractor/Trade Contractor also shall indemnify, defend (if requested), and hold General Contractor/Construction Manager and Owner harmless against all loss, damage, and expense (including reasonable attorneys' fees) connected with any lien or claim for work done by Subcontractor/Trade Contractor before the date in the paragraph above (including liens or claims by mechanics or materialmen hired by Subcontractor/Trade Contractor and its subcontractors), except liens and claims to recover any amounts retained by General Contractor/Construction Manager and Owner.

Subcontractors/Trade Contractor:

By: _____
Name printed: _____
Title: _____

(Note: President or v-p should sign for corporation;
general partner for partnership)

CORPORATION

State of _____
County of _____

I certify that on _____, 20____, _____, as the _____
President of _____, personally well known to me (or
satisfactorily proven) to be the person who executed the foregoing instrument, acknowledged
before me that _____ holds the title set forth above and that _____ executed the instrument on
behalf of the corporation by proper authority and as the act of the corporation for the purposes
therein stated.

Notary Public with authority in the jurisdiction above

[NOTARIAL SEAL]

My Commission

Expires: _____

INDIVIDUAL

State of _____
County of _____

I certify that on _____, 20____, _____, personally
well known to me (or satisfactorily proven) to be the person who executed the foregoing
instrument, acknowledged before me that _____ executed the instrument for the purposes therein
stated.

Notary Public with authority in the jurisdiction above

[NOTARIAL SEAL]

My Commission

Expires: _____

PARTNERSHIP

State of _____
County of _____

I certify that on _____, 20____, _____, as the general
partner of _____ Limited Partnership, personally well known to me (or
satisfactorily proven) to be the person who executed the foregoing instrument, acknowledged
before me that _____ executed the instrument on behalf of the partnership by proper authority
and as the act of the partnership for the purposes therein stated.

Notary Public with authority in the jurisdiction above

[NOTARIAL SEAL]

My Commission

Expires: _____

FINAL RELEASE OF LIENS
(for Subcontractors and Trade Contractors)

Date: _____

Owner: _____

General Contractor/
Construction Manager: _____

Subcontractor/Trade Contractor: _____

Project: _____

In consideration of \$_____ [total contract amount, including change orders and including retainage] paid to Subcontractor/Trade Contractor, Subcontractor/Trade Contractor releases General Contractor/Construction Manager and Owner, and their successors and assigns, and any property that could be subjected to a mechanic's or materialman's lien in connection with the Project, from all liens and claims Subcontractor/Trade Contractor now has or may later have connected with the Project.

Subcontractor/Trade Contractor also shall indemnify, defend (if requested), and hold General Contractor/Construction Manager and Owner harmless against all loss, damage, and expense (including reasonable attorneys' fees) connected with any lien or claim for work done by Subcontractor/Trade Contractor (including liens or claims by mechanics or materialmen hired by Subcontractor/Trade Contractor and its subcontractors).

Subcontractors/Trade Contractor:

By: _____
Name printed: _____
Title: _____

(Note: President or v-p should sign for corporation;
general partner for partnership)

CORPORATION

State of _____
County of _____

I certify that on _____, 20____, _____, as the _____
President of _____, personally well known to me (or
satisfactorily proven) to be the person who executed the foregoing instrument, acknowledged
before me that _____ holds the title set forth above and that _____ executed the instrument on
behalf of the corporation by proper authority and as the act of the corporation for the purposes
therein stated.

Notary Public with authority in the jurisdiction above

[NOTARIAL SEAL]

My _____ Commission

Expires: _____

INDIVIDUAL

State of _____
County of _____

I certify that on _____, 20____, _____, personally
well known to me (or satisfactorily proven) to be the person who executed the foregoing
instrument, acknowledged before me that _____ executed the instrument for the purposes therein
stated.

Notary Public with authority in the jurisdiction above

[NOTARIAL SEAL]

My _____ Commission

Expires: _____

PARTNERSHIP

State of _____
County of _____

I certify that on _____, 20____, _____, as the general
partner of _____ Limited Partnership, personally well known to me (or
satisfactorily proven) to be the person who executed the foregoing instrument, acknowledged
before me that _____ executed the instrument on behalf of the partnership by proper authority
and as the act of the partnership for the purposes therein stated.

Notary Public with authority in the jurisdiction above

[NOTARIAL SEAL]

My _____ Commission

Expires: _____

EXHIBIT "G"

FORM OF LETTER OF CREDIT - LIQUIDITY RESERVE

(PLACE ON BANK LETTERHEAD)

Date: _____, 2002

Montgomery County, Maryland
101 Monroe Street
Rockville, Maryland 20850
Attention: Director of Finance

Re: Irrevocable Letter of Credit No. _____ Expiration Date: _____, 2003

Arcola Investment Associates
c/o Prince George's Metro Center, Inc.

6525 Belcrest Road, Suite 300
Hyattsville, Maryland 20782
Attn: Sam Tucker

Gentlemen:

1. At the request and on the instructions of our customer, Arcola Investment Associates ("Developer"), we hereby establish Irrevocable Letter of Credit No. _____ (this "Letter of Credit") in favor and for the benefit of Montgomery County, Maryland (the "County").

2. We hereby irrevocably authorize you to draw on us in accordance with the terms and conditions hereinafter set forth, by your sight draft, an amount not exceeding U.S. \$374,344.00 (being Developer's maximum special taxes and assessments)(such amount, as reduced from time to time in accordance with the provisions hereof, is hereinafter referred to as the "Stated Amount"). The maximum amount that may be drawn under this Letter of Credit shall be equal to (a) in the case of a drawing made pursuant to paragraph 3(b)(i) hereof, an amount equal to the annual special tax and special assessment liability (collectively, the "Tax Liability"), owed to the County by Developer for a particular tax year ("Tax Year") on properties owned by Developer on the date hereof which are located in the West Germantown Development District (collectively, the "Property"), as calculated for each Tax Year by the County, and (b) in the case of a drawing made pursuant to paragraph 3(b)(ii) hereof, the Stated Amount.

3. Subject to the provisions of this Letter of Credit, a demand for payment may be made by you by presentation to us, at 200 Ohio Savings Plaza, 1801 East Ninth Street, Cleveland, Ohio 44114, of:

(a) Your executed sight draft which must state, "Drawn under Ohio Savings Bank, Irrevocable Letter of Credit No. _____ dated _____, 2002, in connection with Arcola Investment Associates - West Germantown Development District Special Tax Liability" and be otherwise appropriately completed and in the form attached hereto as Exhibit A and made a part hereof, and

(b) Your executed written certification either,

(i) in the form of the Certificate of Unpaid Tax Liability attached hereto as Exhibit B and made a part hereof, as to the amount of the Tax Liability for the Tax Year for which the draw is made, and that Developer has failed to pay all or a portion of the Tax Liability on or before September 30 of such Tax Year and the amount of the Tax Liability which is unpaid, or

(ii) in the form of the Certificate as to Final Drawing attached hereto as Exhibit C and made a part hereof, that one of the following conditions has been satisfied:

(A) this Letter of Credit will expire within 30 days and the County has not received evidence that this Letter of Credit has been renewed or replaced with a substitute letter of credit satisfactory to the County in its sole discretion; or

(B) Ohio Savings Bank (the "Bank") is not deemed to be "well capitalized" as such term is defined in 12 C.F.R. Section 565.4(b)(1) on the date hereof, as shown by the Bank's most recently published financial statement or financial report, the County has given Developer thirty days' notice thereof and Developer has failed to provide a substitute letter of credit satisfactory to the County in its sole discretion; or

(C) an Act of Bankruptcy has occurred with respect to Developer and such Act of Bankruptcy has not been terminated or released within 90 days thereafter; or

(D) (I) Developer has transferred title to any of the Property, which transfer is not made in connection with Developer's sale of lots in the West Germantown Development District to homebuilders in the ordinary course of business (which, for purposes of this paragraph, is defined as any sale or sales made within a period of twelve months which do not exceed one hundred and seventy-five (175) lots by Developer to any single home builder, which builder has indicated, to the best knowledge of Developer, an intent to construct houses on such lots), (II) on or before the date of such transfer, either (a) the County has not received a letter of credit satisfactory to the County in its sole discretion in an amount equal to the maximum Tax Liability of the transferee with respect to the portion of the Property so transferred (it being agreed that a letter of credit containing the same terms as this Letter of Credit from a financial institution which is "well capitalized" and which has net assets in an amount at least equal to those of the Bank shall be satisfactory, or (b) the County has not consented in writing to the transfer, and (III) the applicable notice and cure periods relating to such default under the Implementation Agreement have expired; or

(E) the Implementation Agreement by and among the County, Arcola Investment Associates, Artery Hoyles Mill, LLC, and Woodcliffe Development District Association, LLC (the "Implementation Agreement") has been terminated by the County for cause other than the circumstances described in (C) or (D).

4. Prior to the expiration of this Letter of Credit, demand for payment may be made by you under this Letter of Credit at our aforesaid counters at any time on a Business Day. As used herein, the term "Business Day" means a day on which we (at our counters at 200 Ohio Savings Plaza, 1801 East Ninth Street, Cleveland, Ohio 44114) are not required or authorized by law or executive order to close for the purpose of conducting a commercial banking business.

If demand for payment is made by you hereunder at or prior to 11:00 A.M., prevailing Cleveland, Ohio time, on a Business Day, and provided that such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be sent to you of the amount demanded, in immediately available funds, not later than 12:00 noon, prevailing Cleveland, Ohio time, on the Business Day immediately succeeding the date of demand. If demand for payment is made by you hereunder after 11:00 A.M., prevailing Cleveland, Ohio time, on a Business Day, and provided that such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be sent to you of the amount demanded, in immediately available funds, not later than 12:00 noon, prevailing Cleveland, Ohio time, on the second Business Day following the date of demand.

All drafts paid under this Letter of Credit shall be paid solely from either (1) the funds of the Bank, and not from any funds of Developer or (2) funds that have been on deposit with the Bank for at least 92 days during and prior to which no Act of Bankruptcy has occurred with respect to Developer, and any investment proceeds thereof.

5. The Stated Amount will be automatically and permanently reduced from time to time, upon our receipt of an executed Certificate For Reduction Of Stated Amount, appropriately completed, in the form attached hereto as EXHIBIT D and made a part hereof, to the amount specified in such certificate.

6. This Letter of Credit is effective immediately and shall remain effective until 5:00 p.m. prevailing Cleveland, Ohio time on the earlier of (a) the date on which we honor a drawing hereunder, (b) the date on which the Stated Amount is reduced to zero pursuant to a Certificate For Reduction Of Stated Amount, or (c) the Expiration Date.

7. This Letter of Credit is irrevocable and no default by Developer pursuant to that [Title of Loan Agreement with Ohio Savings Bank] shall terminate or reduce the amounts or terms of this Letter of Credit.

8. As used in this Letter of Credit, "Act of Bankruptcy" means that Developer has voluntarily filed for reorganization or other relief under any federal or State bankruptcy or insolvency law or has an involuntary bankruptcy or insolvency action filed against it, or suffers a trustee in bankruptcy or insolvency or receiver to take possession of its assets, or suffers an attachment or levy of execution to be made against the Property.

9. This Letter of Credit is a documentary credit subject to the Uniform Customs and Practice for Documentary Credits (1993 revision), International Chamber of Commerce Publication No. 500 (the "UCP"), except that (a) if this Letter of Credit would have otherwise expired by its terms during a period when our business has been interrupted by Acts of God or other events not within our control, our obligations hereunder shall continue for a maximum of 30 days after resumption of our business, notwithstanding Article 17 of the UCP, and (b) this Letter of Credit is transferable in its entirety (but not in part) to any transferee who has succeeded you as the applicable governmental unit which collects the Tax Liability and may be successively transferred any number of times, in accordance with the provisions hereof, notwithstanding anything contained in Article 48(g) of the UCP to the contrary. Consistent with the UCP, we will pay drafts drawn under this Letter of Credit on the basis of the documents which are hereby required to be presented by you if and to the extent that such documents appear on their face to comply with the requirements of this Letter of Credit, without any duty to investigate the basis or truthfulness of the facts certified by you. All nondocumentary terms and conditions herein contained are included for purposes of clarity only and shall be ignored by the issuer hereof in determining compliance by you with the terms of this Letter of Credit. This Letter of Credit shall be deemed to be issued under the laws of the State of Maryland and shall, as to matters not governed by the UCP, be governed by and construed in accordance with the law of the State of Maryland.

We further undertake to advise you of any alleged defects in draft and presentation hereunder with sufficient time to enable you to cure such defects in accordance with the UCP.

We hereby agree to the drawers, endorsers and bona fide holders of drafts drawn under and in compliance with the terms of this credit, that such drafts will be duly honored upon presentation to the drawee.

10. Communications with respect to this Letter of Credit shall be in writing and shall be addressed to Ohio Savings Bank, 200 Ohio Savings Plaza, 1801 East Ninth Street, Cleveland, Ohio 44114, Attention: Senior Vice President Construction Lending, specifically referring thereon to Ohio Savings Bank Irrevocable Letter of Credit No. _____.

Signed _____

Dated _____

(Authorized Signature - Bank Officer)

(Printed Signature)

(Title)

EXHIBIT A
FORM OF SIGHT DRAFT

DATE _____

AT SIGHT

PAY TO THE ORDER OF MONTGOMERY COUNTY, MARYLAND THE SUM OF
U.S. \$ _____ DOLLARS.

Drawn under Ohio Savings Bank, Irrevocable Letter of Credit No. _____ dated
_____, 2002, in connection with Arcola Investment Associates - West
Germantown Development District Special Tax Liability.

MONTGOMERY COUNTY,
MARYLAND

By: _____
Name:
Title: Director of Finance

TO: Ohio Savings Bank
200 Ohio Savings Plaza
1801 East Ninth Street
Cleveland, Ohio 44114

EXHIBIT B

CERTIFICATE OF UNPAID TAX LIABILITY

Montgomery County, Maryland (the "County"), hereby certifies to Ohio Savings Bank (the "Bank"), in connection with the Bank's Irrevocable Letter of Credit No. _____ (the "Letter of Credit") (any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in favor of the County that:

(a) The County is making a drawing under the Letter of Credit with respect to a payment of annual special taxes and/or special assessments owed to the County by Arcola Investment Associates ("Developer") for the Tax Year ____ relating to properties owned by Developer which are located in the West Germantown Development District (the "Tax Liability").

(b) The Tax Liability for the Tax Year ____ is \$ _____. Developer has failed to pay all or a portion of the Tax Liability on or before September 30 of such Tax Year. The amount of the Tax Liability which is unpaid as of the date hereof is \$ _____ and the amount of the sight draft accompanying this Certificate does not exceed such amount.

(c) The amount of the sight draft accompanying this Certificate does not exceed the Stated Amount of the Letter of Credit on the date hereof.

(d) The County acknowledges that the Letter of Credit will expire when the Bank honors this drawing.

IN WITNESS WHEREOF, the County has executed and delivered this Certificate as of the ____ day of _____, 20 .

MONTGOMERY COUNTY,
MARYLAND

By: _____
Name:

Title: Director of Finance

EXHIBIT C

CERTIFICATE AS TO FINAL DRAWING

Montgomery County, Maryland (the "County"), hereby certifies to Ohio Savings Bank (the "Bank"), in connection with the Bank's Irrevocable Letter of Credit No. _____ (the "Letter of Credit") (any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in favor of the County, that:

(a) The following condition has been satisfied [check one]:

_____ (i) the Letter of Credit will expire within 30 days of the date hereof and the County has not received evidence that the Letter of Credit has been renewed or replaced with a substitute letter of credit satisfactory to the County in its sole discretion; or

_____ (ii) the Bank is not deemed to be "well capitalized" as such term is defined in 12 C.F.R. Section 565.4(b)(1) on the date of the Letter of Credit, as shown by the Bank's most recently published financial statement or financial report, the County has given Developer thirty days' notice thereof and Developer has failed to provide a substitute letter of credit satisfactory to the County in its sole discretion; or

_____ (iii) an Act of Bankruptcy has occurred with respect to Developer and such Act of Bankruptcy has not been terminated or released within 90 days thereafter; or

_____ (iv) Developer has transferred title to any portion of the Property, which transfer is not made in connection with Developer's sale of lots in the West Germantown Development District in the ordinary course of business and, on or before the date of such transfer, either (A) the County has not received a letter of credit satisfactory to the County in its sole discretion in an amount equal to the maximum Tax Liability of the transferee with respect to the portion of the Property transferred, or (B) the County has not consented in writing to the transfer; or

_____ (v) the Implementation Agreement has been terminated by the County for cause other than the circumstances described in (iii) or (iv).

(b) The amount of the sight draft accompanying this Certificate is in the amount of \$_____, which amount equals and does not exceed the Stated Amount of the Letter of Credit on the date hereof.

(c) The County acknowledges that the Letter of Credit will expire when the Bank honors this drawing.

IN WITNESS WHEREOF, the County has executed and delivered this
Certificate as of the _____ day of _____, 20 .

MONTGOMERY COUNTY,
MARYLAND

By: _____
Name:
Title: Director of Finance

EXHIBIT D

CERTIFICATE FOR REDUCTION OF STATED AMOUNT

Montgomery County, Maryland (the "County"), hereby certifies to Ohio Savings Bank (the "Bank"), in connection with the Bank's Irrevocable Letter of Credit No. _____ (the "Letter of Credit") (any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in favor of the County, that:

(a) As of the date hereof, the maximum annual special taxes and special assessments payable by Arcola Investment Associates ("Developer") with respect to property owned by Developer in the West Germantown Development District is \$_____.

(b) Accordingly, effective immediately, the Stated Amount of the Letter of Credit is reduced to \$_____.

IN WITNESS WHEREOF, the County has executed and delivered this Certificate as of the ____ day of _____, 20__.

MONTGOMERY COUNTY,
MARYLAND

By: _____

Name:

Title: Director of Finance

EXHIBIT H

FORM OF LETTER OF CREDIT - LIQUIDITY RESERVE

(PLACE ON BANK LETTERHEAD)

Date: _____, 2002

Montgomery County, Maryland
101 Monroe Street, 15th Floor
Rockville, Maryland 20850
Attention: Director of Finance

Re: Irrevocable Letter of Credit No. 00326### Expiration Date: _____, [2003]

Toll MD II, Limited Partnership
C/O First Huntingdon Finance Corp.
3103 Philmont Avenue
Huntingdon Valley, PA 19006
Attn: Accounting Department
Letter of Credit Administrator

Gentlemen:

1. At the request and on the instructions of our customer, Toll MD II, Limited Partnership, we hereby establish Irrevocable Letter of Credit No. 00326### (this "Letter of Credit") in favor and for the benefit of Montgomery County, Maryland (the "County").

2. We hereby irrevocably authorize you to draw on us in accordance with the terms and conditions hereinafter set forth, by your sight draft, an amount not exceeding U.S.\$157,600.00 (being Toll MD II, Limited Partnership's maximum special taxes and assessments) (such amount, as reduced from time to time in accordance with the provisions hereof, is hereinafter referred to as the "Stated Amount"). The maximum amount that may be drawn under this Letter of Credit shall be equal to (a) in the case of a drawing made pursuant to paragraph 3(b)(i) hereof, an amount equal to the annual special tax and special assessment liability (collectively, the "Tax Liability"), owed to the County by Toll MD II, Limited Partnership for a particular tax year ("Tax Year") on properties owned by Toll MD II, Limited Partnership on the date hereof which are located in the West Germantown Development District (collectively, the "Property"), as calculated for each Tax Year by the County, maximum U.S. \$ _____ and (b) in the case of a drawing made pursuant to paragraph 3(b)(ii) hereof, the Stated Amount.

3. Subject to the provisions of this Letter of Credit, a demand for payment may be made by you by presentation to us, at I Bank One Plaza, Mail Code IL1-0236, Chicago, IL 60670-0236 of:

(a) Your executed sight draft which must state, "Drawn under Bank One, NA, Irrevocable Letter of Credit No. 00326### dated _____, 2002, in connection with Toll MD II, Limited Partnership - West Germantown Development District Special Tax Liability" and be otherwise appropriately completed and in the form attached hereto as Exhibit A and made a part hereof, and

(b) Your executed written certification either,

(i) in the form of the Certificate of Unpaid Tax Liability attached hereto as Exhibit B and made a part hereof, as to the amount of the Tax Liability for the Tax Year for which the draw is made, and that Toll MD II, Limited Partnership has failed to pay all or a portion of the Tax Liability on or before September 30 of such Tax Year and the amount of the Tax Liability which is unpaid, or

(ii) in the form of the Certificate as to Final Drawing attached hereto as Exhibit C and made a part hereof, that one of the following conditions has been satisfied:

(A) this Letter of Credit will expire within 30 days and the County has not received evidence that this Letter of Credit has been renewed or replaced with a substitute letter of credit satisfactory to the County in its sole discretion; or

(B) Bank One, NA, (the "Bank") is not deemed to be "well capitalized" as such term is defined in 12 C.F.R. §565.4(b)(1) on the date hereof, as shown by the Bank's most recently published financial statement or financial report, the County has given Toll MD II, Limited Partnership thirty days' notice thereof and Toll MD II, Limited Partnership has failed to provide a substitute letter of credit satisfactory to the County in its sole discretion; or

(C) an Act of Bankruptcy has occurred with respect to Toll MD II, Limited Partnership and such Act of Bankruptcy has not been terminated or released within 90 days thereafter; or

(D) Toll MD II, Limited Partnership has transferred title to any of the Property, which transfer is not made in connection with Toll MD II, Limited Partnership's sale of lots in the West Germantown Development District in the ordinary course of business and, on or before the date of such transfer, either (a) the County has not received a letter of credit satisfactory to the County in its sole discretion in an amount equal to the maximum Tax Liability of the transferee with respect to the portion of the Property so transferred, or (b) the County has not consented in writing to the transfer.

4. Prior to the expiration of this Letter of Credit, demand for payment may be made by you under this Letter of Credit at our aforesaid counters at any time on a

Business Day. As used herein, the term "Business Day" means a day on which we (at our counters at 1 Bank One Plaza, Mail Code IL1-0236, Chicago, IL 60670) are not required or authorized by law or executive order to close for the purpose of conducting a commercial banking business.

If demand for payment is made by you hereunder at or prior to 11:00 A.M., prevailing Chicago, Illinois time, on a Business Day, and provided that such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be sent to you of the amount demanded, in immediately available funds, not later than 12:00 noon, prevailing Chicago, Illinois time, on the Business Day immediately succeeding the date of demand. If demand for payment is made by you hereunder after 11:00 A.M., prevailing Chicago, Illinois time, on a Business Day, and provided that such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be sent to you of the amount demanded, in immediately available funds, not later than 12:00 noon, prevailing Chicago, Illinois time, on the second Business Day following the date of demand.

All drafts paid under this Letter of Credit shall be paid solely from either (1) the funds of the Bank, and not from any funds of Toll MD II, Limited Partnership or (2) funds that have been on deposit with the Bank for at least 92 days during and prior to which no Act of Bankruptcy has occurred with respect to Toll MD II, Limited Partnership, and any investment proceeds thereof.

5. The Stated Amount will be automatically and permanently reduced from time to time, upon our receipt of an executed Certificate For Reduction Of Stated Amount, appropriately completed, in the form attached hereto as EXHIBIT D and made a part hereof, to the amount specified in such certificate.

6. This Letter of Credit is effective immediately and shall remain effective until 5:00 p.m. prevailing Chicago, Illinois time on the earlier of (a) the date on which we honor a drawing hereunder, (b) the date on which the Stated Amount is reduced to zero pursuant to a Certificate For Reduction Of Stated Amount, or (c) the Expiration Date.

7. It is a condition of this Letter of Credit that it shall be automatically extended without amendment for one (1) year from the expiry date hereof or any future expiry date unless at least sixty (60) days prior to such expiration date we notify the County at 101 Monroe Street, 15th Floor, Rockville, Maryland 20850, Attention: Director of Finance, and a copy to, Attention: Debt Manager, at the same address, by certified mail, return receipt requested or hand delivered by courier, that we elect not to renew this letter of credit for any such additional period.

8. This Letter of Credit is irrevocable and no default by Toll MD II, Limited Partnership pursuant to its loan agreement with Bank One, NA shall terminate or reduce the amounts or terms of this Letter of Credit.

9. As used in this Letter of Credit, "Act of Bankruptcy" means that Toll MD II, Limited Partnership has voluntarily filed for reorganization or other relief under any federal or State bankruptcy or insolvency law or has an involuntary bankruptcy or insolvency action filed against it, or suffers a trustee in bankruptcy or insolvency or receiver to take possession of its assets, or suffers an attachment or levy of execution to be made against the Property.

10. This Letter of Credit is a documentary credit subject to the Uniform Customs and Practice for Documentary Credits (1993 revision), International Chamber of Commerce Publication No. 500 (the "UCP"), except that (a) if this Letter of Credit would have otherwise expired by its terms during a period when our business has been interrupted by Acts of God or other events not within our control, our obligations hereunder shall continue for a maximum of 30 days after resumption of our business, notwithstanding Article 17 of the UCP, and (b) this Letter of Credit is transferable in its entirety (but not in part) to any transferee who has succeeded you as the applicable governmental unit which collects the Tax Liability and may be successively transferred any number of times, in accordance with the provisions hereof, notwithstanding anything contained in Article 48(g) of the UCP to the contrary. Consistent with the UCP, we will pay drafts drawn under this Letter of Credit on the basis of the documents which are hereby required to be presented by you if and to the extent that such documents appear on their face to comply with the requirements of this Letter of Credit, without any duty to investigate the basis or truthfulness of the facts certified by you. All non-documentary terms and conditions herein contained are included for purposes of clarity only and shall be ignored by the issuer hereof in determining compliance by you with the terms of this Letter of Credit. This Letter of Credit shall be deemed to be issued under the laws of the State of Illinois and shall, as to matters not governed by the UCP, be governed by and construed in accordance with the law of the State of Illinois.

We further undertake to advise you of any alleged defects in draft and presentation hereunder with sufficient time to enable you to cure such defects in accordance with the UCP.

We hereby agree with you that drafts drawn under and in compliance with the terms of this credit will be duly honored upon presentation to the drawee.

11. Communications with respect to this Letter of Credit shall be in writing and shall be addressed to Bank One, NA, 1 Bank One Plaza, Mail Code IL1-0236, Chicago, IL 60670-0236, specifically referring thereon to Bank One, NA, Irrevocable Letter of Credit No. _____.

Very Truly Yours,
Bank One, NA

S. King - Operations Officer

Fiore Petrassi - Vice President

EXHIBIT A
FORM OF SIGHT DRAFT

DATE _____

AT SIGHT

PAY TO THE ORDER OF MONTGOMERY COUNTY, MARYLAND THE SUM OF
U.S. \$ _____ DOLLARS.

Drawn under Bank One, NA , Irrevocable Letter of Credit No. 00326### dated
_____, 2002, in connection with Toll MD II, Limited Partnership - West
Germantown Development District Special Tax Liability.

MONTGOMERY COUNTY,
MARYLAND

By: _____
Name:
Title: Director of Finance

TO: Bank One, Na
1 Bank One Plaza,
Mail Code IL1-0236
Chicago, IL 60670

EXHIBIT B

CERTIFICATE OF UNPAID TAX LIABILITY

Montgomery County, Maryland (the "County"), hereby certifies to Bank One, NA (the "Bank"), in connection with the Bank's Irrevocable Letter of Credit 00326### (the "Letter of Credit") (any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in favor of the County that:

(a) The County is making a drawing under the Letter of Credit with respect to a payment of annual special taxes and/or special assessments owed to the County by Toll MD II, Limited Partnership for the Tax Year ____ relating to properties owned by Toll MD II, Limited Partnership which are located in the West Germantown Development District (the "Tax Liability").

(b) The Tax Liability for the Tax Year ____ is \$ _____. Toll MD II, Limited Partnership has failed to pay all or a portion of the Tax Liability on or before September 30 of such Tax Year. The amount of the Tax Liability which is unpaid as of the date hereof is \$ _____ and the amount of the sight draft accompanying this Certificate does not exceed such amount.

(c) The amount of the sight draft accompanying this Certificate does not exceed the Stated Amount of the Letter of Credit on the date hereof.

(d) The County acknowledges that the Letter of Credit will expire when the Bank honors this drawing.

IN WITNESS WHEREOF, the County has executed and delivered this Certificate as of the ____ day of _____, ____.

MONTGOMERY COUNTY,
MARYLAND

By: _____
Name:
Title: Director of Finance

EXHIBIT C

CERTIFICATE AS TO FINAL DRAWING

Montgomery County, Maryland (the "County"), hereby certifies to Bank One, NA (the "Bank"), in connection with the Bank's Irrevocable Letter of Credit 00326### (the "Letter of Credit") (any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in favor of the County, that:

(a) The following condition has been satisfied [check one]:

_____ (i) the Letter of Credit will expire within 30 days of the date hereof and the County has not received evidence that the Letter of Credit has been renewed or replaced with a substitute letter of credit satisfactory to the County in its sole discretion; or

_____ (ii) the Bank is not deemed to be "well capitalized" as such term is defined in 12 C.F.R. §565.4(b)(1) on the date of the Letter of Credit, as shown by the Bank's most recently published financial statement or financial report, the County has given Toll MD II, Limited Partnership thirty days' notice thereof and Toll MD II, Limited Partnership has failed to provide a substitute letter of credit satisfactory to the County in its sole discretion; or

_____ (iii) an Act of Bankruptcy has occurred with respect to Toll MD II, Limited Partnership and such Act of Bankruptcy has not been terminated or released within 90 days thereafter; or

_____ (iv) Toll MD II, Limited Partnership has transferred title to any portion of the Property, which transfer is not made in connection with Toll MD II, Limited Partnership's sale of lots in the West Germantown Development District in the ordinary course of business and, on or before the date of such transfer, either (A) the County has not received a letter of credit satisfactory to the County in its sole discretion in an amount equal to the maximum Tax Liability of the transferee with respect to the portion of the Property transferred, or (B) the County has not consented in writing to the transfer; or

(b) The amount of the sight draft accompanying this Certificate is in the amount of \$_____, which amount equals and does not exceed the Stated Amount of the Letter of Credit on the date hereof.

(c) The County acknowledges that the Letter of Credit will expire when the Bank honors this drawing.

IN WITNESS WHEREOF, the County has executed and delivered this Certificate as of the _____ day of _____,

MONTGOMERY COUNTY,
MARYLAND

By: _____
Name:
Title: Director of Finance

EXHIBIT D

CERTIFICATE FOR REDUCTION OF STATED AMOUNT

Montgomery County, Maryland (the "County"), hereby certifies to Bank One, NA (the "Bank"), in connection with the Bank's Irrevocable Letter of Credit 00326### (the "Letter of Credit") (any capitalized term used herein and not defined herein shall have its respective meaning as set forth in the Letter of Credit) issued by the Bank in favor of the County, that:

(a) As of the date hereof, the maximum annual special taxes and special assessments payable by Toll MD II, Limited Partnership with respect to property owned by Toll MD II, Limited Partnership in the West Germantown Development District is \$ _____.

(b) Accordingly, effective immediately, the Stated Amount of the Letter of Credit is reduced to \$ _____.

IN WITNESS WHEREOF, the County has executed and delivered this Certificate as of the ____ day of _____,

MONTGOMERY COUNTY,
MARYLAND

By: _____

Name:

Title: Director of Finance