

11/5/08/08

EXTENSION AGREEMENT
- SURETY INCREASE -

This Extension Agreement, dated this (A) _____ day of _____, 20__, by and between (C) _____, (hereinafter called "Owner"), and the **BOARD OF SUPERVISORS OF LOUDOUN COUNTY, VIRGINIA**, a body politic (hereinafter called the "Board").

W I T N E S S E T H:

WHEREAS, by Agreement dated (B) _____, and in consideration of the approval by the Board of the plat, plans and profiles of the subdivision/site plan known as "(D) _____", designated as County application number CPAP/STPL (P) _____, and any and all revisions thereof however such revisions may be designated, the Owner agreed to complete certain work and improvements within (E) _____ months from the date of said Agreement; and

WHEREAS, the performance of the obligations of Owner under the Agreement is secured by Bond/Letter of Credit No. (F) _____, issued by (G) _____, currently in the amount of (H) _____ (\$ _____); and

WHEREAS, Owner has requested an extension of the time for performance of the obligations under the said Agreement; and

WHEREAS, the Director of Building and Development, upon recommendation by the Loudoun County Bond Committee, on behalf of the Board, has determined that the security provided is inadequate to complete the work and improvements required by the Agreement;

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NOW, THEREFORE, the Owner hereby agrees that the amount of the security is hereby increased from \$ _____, to \$ _____, such increase being evidenced by the Bond Rider/Letter of Credit Amendment attached hereto; and

It is further agreed that, in consideration of the foregoing and the continuation and extension of the Bond/Letter of Credit Number (F) _____ which extension is evidenced by the Consent to Extension and the Bond Rider/Letter of Credit Amendment which are attached hereto and made a part hereof by reference, the time for the performance of the obligations set forth in the aforesaid Agreement dated (B) _____, is hereby extended from (M) _____ to (J) _____.

In all other respects, the provisions of the Agreement dated (B) _____, including all prior extensions and amendments thereto, which are not inconsistent with this Extension Agreement shall remain in full force and effect, and Owner reaffirms its commitments and obligations as contained therein.

The undersigned warrants that this Agreement is made and executed pursuant to authority properly granted by the [partnership agreement] [charter, bylaws and action of the Board of Directors] [articles of organization, operating agreement or majority vote of the members] of the Owner.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

Ans 08/08

IN WITNESS WHEREOF, Owner has caused its name and seal to be affixed hereto by
its authorized representative.

OWNER: _____(C)
By: _____(SEAL)
Name: _____
Title: _____

STATE OF _____,
COUNTY OF _____, to-wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify
that _____, as _____ of
(C) _____ whose name is signed to the foregoing
Extension Agreement-Surety Increase, appeared before me and personally acknowledged the
same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, the Board has caused this Extension Agreement to be executed on its behalf, and its seal affixed.

**BOARD OF SUPERVISORS OF
LOUDOUN COUNTY, VIRGINIA**

By: _____
Director, Building and Development

**STATE OF VIRGINIA,
COUNTY OF LOUDOUN, to-wit:**

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that _____, as _____ of _____ whose name is signed to the foregoing Extension Agreement-Surety Increase, appeared before me and personally acknowledged the same in my jurisdiction aforesaid.

GIVEN under my hand and seal this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

My Notary Registration Number: _____

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CONSENT TO EXTENSION

(G) _____ issued (F) _____ on
(O) _____, to guarantee construction of the
improvements for (D) _____,
(P) _____, in accordance with the Agreement dated
(B) _____, between (C) _____ and the
Board of Supervisors of Loudoun County, Virginia.

(G) _____ hereby consents to an extension of the time for
performance of the aforesaid Agreement by (C) _____ from
(M) _____ to (J) _____. All other
provisions of the Agreement dated (B) _____, and
(F) _____ shall remain in full force and effect.

A (I) _____ is attached hereto and made a part
hereof by reference.

The persons executing this Consent to Extension on behalf of the (G) _____
and (C) _____ warrant that they have authority to act for the
respective parties.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

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DATED THIS (N) _____ day of _____ 20__.

Surety: _____ BANK
By: _____ (SEAL)
Name: _____
Title: _____

Subdivider/Principal: _____
By: _____ (SEAL)
Name: _____
Title: _____

STATE OF _____,
COUNTY OF _____, to-wit:

I, the undersigned, a Notary Public in and for the State and County aforesaid, do hereby
certify that _____, as _____ of
_____ whose name is signed to the foregoing Consent to
Extension dated this _____ day of _____, 20__, has signed and
acknowledged the same before me in my State and County aforesaid.

GIVEN under my hand and seal this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____
My Notary Registration Number: _____

STATE OF _____,
COUNTY OF _____, to-wit:

I, the undersigned, a Notary Public in and for the State and County aforesaid, do hereby
certify that _____, as _____ of
_____ whose name is signed to the foregoing Consent to
Extension dated this _____ day of _____, 20__, has signed and
acknowledged the same before me in my State and County aforesaid.

GIVEN under my hand and seal this _____ day of _____, 20__.

Notary Public

My Commission Expires: _____
My Notary Registration Number: _____

Please complete the below contact information in reference to the attached agreement and submit this with your completed agreement and bond packet.

Project Name: _____

Bond Number: _____

Please provide contact information for the PRINCIPAL/CO-PRINCIPAL of the bond:	Please provide contact information for the Developer/ Owner. This individual will keep the Performance Agreement/Bond current with Loudoun County:
Name:	Name(s):
Title:	Title(s):
Address:	Address(es):
Phone No:	Phone No(s):
Email:	Email(s):

Thank you for your help.
Bonds Management Team

For more Information:

Email: bonds@loudoun.gov

www.loudoun.gov/bonds

QUICK REFERENCE FOR PERFORMANCE BOND PROCESS WITH LOUDOUN COUNTY

Now that your agreement has been accepted by Loudoun County, its life has begun and may consist of Bond Maintenance prior to Bond Release.

This is only the beginning. You are not done.

Per [Facilities Standards Manual \(FSM\)](#) Section 8.302, “If construction of the subject project is not completed within the initial Performance Agreement term (12, 24, or 36 months), the performance bond amount may require *adjustment* (increase in bond amount) and subsequent *reconsideration* (new owner or surety substitution) and review by the Bond Committee”.

Until the Bond Committee recommends approval or release of the bond, the performance agreement must be extended every year with a new set of completed extension documents and a \$500.00 extension fee per year(s) extended. (See [FSM](#) Section 8.305.E for release requirements).

To keep your agreement *current* (not expired and out of default), you may need to take one or more of the following actions:

- 1) ***When would I need an Extension Agreement?*** This is the most common action that needs to be taken every year in order to keep your agreement current. Submit the required completed extension documents and a \$500.00 fee per year. Except for the 1st extension, all extensions are for one (1) year.

Please note, when extending a State Maintained Roads Agreement, a Preliminary Street Acceptance Package is also required. (See [Checklist for Preliminary Street Acceptance Package \(aka PSAP\)](#)).

Documents required:

- | | | |
|---------------------------|-------------------------|-------------------------------------|
| 1) Extension Agreement | 2) Consent to Extension | 3) Rider/Letter of Credit Amendment |
| 4) Extension Request Form | 5) Fee | |

Please note, if your agreement is not extended by the expiration date, your agreement will be in DEFAULT (No reduction, release, permits, or inspections for project will be authorized) (See Loudoun County’s website for documents/information: [LC Perf Agree Extension](#)). Per [FSM](#) Section 8.305.B, submit an extension agreement approximately sixty (60) days prior to the agreement expiration. Upcoming expiration letters are generally emailed to owner/developer ninety (90) days from the expiration date of the agreement.

- 2) ***When would I need a New Owner Substitution?*** If the ownership of the property has changed, request a New Owner Substitution.

Please note, if the original agreement is expired, the agreement is in DEFAULT. When submitting a New Owner Substitution agreement on an expired performance agreement, a \$500.00 fee is required, per year(s) in default, to bring the expired agreement current. (See Loudoun County’s website for documents/information: [LC Substitutions](#)).

Documents required:

- | | |
|--------------|--|
| 1) Agreement | 2) Bond (Preferred Collateral Discussion: Cash, Letters of Credit, Surety Bonds) |
|--------------|--|

- 3) ***When would I need a Surety Substitution?*** If the bank or surety company no longer meets the requirements of [FSM](#) Section 8.303, request a Surety Substitution. (See Loudoun County’s website for documents/information: [LC Substitutions](#))

Documents required:

- | | |
|--------------|--|
| 1) Agreement | 2) Bond (Preferred Collateral Discussion: Cash, Letters of Credit, Surety Bonds) |
|--------------|--|

- 4) ***When would I need a Reduction?*** If you have completed 30% of the improvements, request a bond reduction and submit a \$1,215.00 fee. (See Loudoun County’s website for documents/information: [LC Reductions](#)).

Documents required:

- | | | | |
|-----------------------------|-------------------------|---------|------------------------------|
| 1) Reduction request letter | 2) Bond Unit Price List | 3) Fees | 4) Geo-tech certified letter |
|-----------------------------|-------------------------|---------|------------------------------|

- 5) ***When would I need a Release?*** If improvements have been completed, request a bond release and submit a \$1,645.00 release fee and a \$185.00 fee for as-built plans. (See Loudoun County’s website for documents/information: [LC Street Acceptance / Bond Release](#)).

Documents required:

- | | |
|---------------------------|---|
| 1) Release request letter | 2) Items Requested on Public Street Acceptance OR |
| 3) Fees | Items requested on Private Street/Site Plan/Proffer Release Checklist |

If after reviewing the website links above you have further questions or need clarifications, please contact:

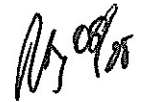
Contact Infrastructure Compliance Team for PSAP Questions	
Contact:	Issue:
Rick Hoffman / 703-737 8625 richard.hoffman@loudoun.gov	PSAP Submission

Contact Infrastructure Compliance Team for RELEASE and REDUCTION Questions	
Contact:	Issue:
Ilona McGee / 571-258-3216 ilona.mcgee@loudoun.gov	Project Manager Assignments
Coleman Hutton / 703-737-8486 coleman.hutton@loudoun.gov	Street Acceptance Process

Contact Bonds Management Team for Extension, New Owner Substitution, or Surety Substitution Questions	
Contact:	
Michael Baggett – project names beginning with A-D	703-771-5043 / michael.baggett@loudoun.gov
Will Himel – project names beginning with E-O	703-737-8765 / will.himel@loudoun.gov
Diana Larson – project names beginning with P – Z	703-771-5345 / diana.y.larson@loudoun.gov
Bonds Information Line	703-737-8942 / bonds@loudoun.gov

COMMONLY MADE ERRORS

- The Agreement must be dated on or prior to the date of the Corporate Surety Bond or Letter of Credit.
- Application name and number must be correct and agree across all documents.
- Common Typos on the Rider/Continuation/Verification Certificate for application types (ex.: SPTL versus STPL, APAP versus CPAP).
- The Corporate Surety Bond or Letter of Credit Number must be filled in on Agreement.
- Owner of the property must be party to the Performance Agreement even if the Corporate Surety Bond is provided by a different entity or party.
- Incorrect or Missing Dates on the Consent to Extension.
- Notary Attestation cannot be before the date of the agreement.
- Signers' names must agree exactly across all documents (signature block and notary).
- Corporate Surety Bond Number must be on the upper left corner of the face of the bond and in the upper right corner of each subsequent page of the bond.
- Power of Attorney should be dated the same date as the Consent to Extension and/or the Bond Rider.
- Not using the EXACT template language if re-typed.



INSTRUCTIONS

BOND EXTENSION DOCUMENTS

1. Extension of Subdivision Streets Bonding Agreements requires the execution and delivery to the County of an Extension Agreement signed by the Developer/Owner; a Consent to Extension signed by the Developer/Owner and the Bank/Surety; and either a Letter of Credit Amendment or a "Bond Rider" and a check for \$500 per year of extension.

2. Such Extension Agreement and Consent to Extension should be in the form as attached to these instructions. Each blank on these forms is labeled with a letter of the alphabet in parentheses. Such letters correspond to the letters on the Forms Guide attached to these instructions. The numbers in parentheses after each item on the Forms Guide indicate the total number of times that each item appears in the two documents combined. For items (F), (I), (K) & (L), the slash mark indicates a choice. Please choose and enter into the blank the appropriate word or words and omit the rest.

3. Where the Bonding Agreement is secured by a Letter of Credit: LOC Amendment must accompany extension documents to amend expiration date to a date at least six (6) months after the new performance due date.

4. For Bonding Agreements secured by a Corporate Surety Bond:

(a) Extension documents must be accompanied by a **Bond Rider**. The Bond Rider may be an actual rider to the original bond, or it may be a continuation letter or verification letter, etc. Whatever is submitted, it must provide unequivocal documentary evidence that, as between the Developer/Subdivider and the Corporate Surety Company, the Bond has been continued in force to at least the new performance due date. (Since bonds do not expire, there is no need for the extra six (6) months as required for Letters of Credit.)

(b) In addition to the Bond Rider, there must also be a current Power of Attorney attached to the Consent to Extension and Bond Rider which indicates that the person signing on behalf of the Corporate Surety qualified as Attorney-in-fact for the Company as of the date of execution of the Consent to Extension and the Bond Rider. If those dates are different, then there would need to be a Power of Attorney for both the Rider and the Consent to Extension.

5. Item (C) should be the full name of the current owner of the subdivided property. If the current owner is different from the owner/subdivider/developer who previously executed the Subdivision Streets Agreement or the subsequent Extension Agreement, then please contact the Division of Bonds Management at the Department of Building and Development to determine whether a Substitution Agreement may be necessary.

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6. Item (M), the current performance due date, can be determined either from the original Subdivision Streets Agreement or the most recent Extension Agreement approved for the subdivision.

7. Item (J), the new performance due date, may not be more than one (1) year after the current performance due date.

8. Regarding item (H), the amount of the Bond or Letter of Credit, if the amount has been reduced by reduction approved by the Board of Supervisors, then the reduced amount may be filled in as item (H).

9. Regarding item (P), the acronym for the plan type and the plan number should be filled in.

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FORMS GUIDE

- A: Date of Extension Agreement (3)
- B: Date of original Subdivision Streets Agreement (5)
- C: Full name of Developer or Subdivider (7)
- D: Name of Subdivision (2)
- E: Months in original agreement (1)
- F: [Bond/Letter of Credit] No. _____ (4)
- G: Name of Issuing Corporate Surety or Bank (5)
- H: Amount of Bond or Letter of Credit
- I: Bond Rider/Letter of Credit Amendment (2)
- J: New performance due date (2)
- K: Corporate/Partnership/or other company form as applicable (1)
- L: Corporation/Partnership/or other company form as applicable (1)
- M: Current performance due date (2)
- N: Date of Consent to Extension (3)
- O: Date of Bond or Letter of Credit (1)
- P: CPAP/STPL # _____ (2)
- Q: Confirming or Advising Bank

ATTENTION: In the following documents, the parenthetical letter at the beginning of each blank corresponds with an item on this "Forms Guide" which describes the information that belongs in the blank.