



Private Recreation Facilities Agreement

[Subdivision Name]

THIS AGREEMENT made this [Leave Blank] day of [Leave Blank], 20 [Leave Blank] by and between The Maryland-National Capital Park and Planning Commission Prince George's County Planning Board ("Planning Board"), a public body corporate, and _____, ("Developer"), with its principal office located at _____. The Planning Board and the Developer are collectively referred to in this Agreement as the "parties."

WHEREAS, The Maryland-National Capital Park and Planning Commission ("Commission") is a public body corporate, created by the State of Maryland and authorized by Division II of the Land Use Article of the Annotated Code of Maryland, to maintain and operate a park system within the Metropolitan District; and

WHEREAS, the Commission has delegated authority over the operation of parks and recreation in Prince George's County to the Prince George's County Planning Board ("Planning Board"); and

WHEREAS, the Planning Board is charged by Division II of the Land Use Article, of the Annotated Code of Maryland with the authority to approve subdivision plats for recordation in the designated sections of the Maryland-Washington Regional District located in Prince George's County; and

WHEREAS, Section 24-135 of the prior [24-4601 (if using current subdivision regs)] Subdivision Regulations of the Prince George's County Code provides that, in conjunction with certain types of development, private recreation facilities which equal or exceed the requirements for mandatory dedication may be provided by a subdivision applicant to satisfy the mandatory dedication requirement of the Subdivision Regulations; and

WHEREAS, the Developer is the current owner of certain property that is the subject of [specify the application name and number of preliminary plat, SDP or SP], as shown on a subdivision plat entitled _____. The property being the same land conveyed by deed to _____, which is recorded in the Land Records of Prince George's County, Maryland, in Liber _____, folio _____, comprising _____ approximately _____ acres of land, being in the _____ Election District, Prince George's County, Maryland; and

WHEREAS, the Developer has proposed to provide private recreation facilities to satisfy the requirements of mandatory dedication; and

WHEREAS, the Planning Board has accepted the Developer's proposal.

NOW, THEREFORE, in consideration of the acceptance by the Planning Board of the Developer's offer to provide private recreation facilities in lieu of mandatory dedication, the mutual promises and obligations contained in this Agreement, and for other good and valuable

consideration which is acknowledged by the parties, the parties agree to the following provisions:

1. Recreation Facilities. The Developer will construct private recreation facilities on that portion of the property being subdivided in compliance with approved plan **[specify applicable plan name and number]** and the timing specified therein, and this Agreement.

[(Optional – list type of facilities and construction schedule if not specifically set forth by the approved plan using the following language:)]

(a) The recreation facilities to be constructed by the Developer and the location of same are as follows: (specify facilities by type and amount, and timing for construction)]

2. Performance Bonds for Private Recreation Facilities.

(a) To guarantee the prompt and satisfactory construction of the private recreation facilities referred to in paragraph 1, the Developer, its heirs, successors and assigns, will deliver to the Planning Department, prior to the application for any building permits, a suitable financial guarantee as defined in 2(f) of this Agreement. The amount of the performance bond will be determined by the Planning Department. The Developer will request in writing from the Planning Department a determination as to the amount of the required performance bond not less than two weeks prior to filing an application for building permits.

(b) The performance bond will run to the benefit of the Commission and not be conditional. It is agreed by the parties that if the Commission finds that the Developer has failed to satisfactorily construct the recreation facilities as required by this Agreement, the Commission may choose, in its sole discretion, to construct the recreation facilities in accordance with the plans filed by the Developer by drawing on the performance bond. The Commission's decision as to the satisfaction of the construction or completion of the facilities will be binding on all parties. All recreation facilities will be constructed in accordance with the standards in the Parks and Recreation Facilities Guidelines, the manufacturer's specifications and the guidelines in the latest edition of the Handbook for Public Playground Safety published by the Consumer Products Safety Commission, American Society of Testing and Materials (ASTM) standards, and the Americans with Disabilities Act (ADA).

(c) In the event that the performance bond is used by the Commission for the failure to satisfactorily complete construction of any recreation facilities, the Commission will not incur any liability for the construction or completion of the recreation facilities.

(d) At such time that the Commission determines the recreation facilities have been completed, and the Developer has executed a Recreation Facility Certification, the performance bond or any remainder will be returned to the Developer.

(e) If the construction of the recreation facilities referred to in paragraph 1, above, is not completed within five (5) years from the date the performance bond was issued, the Commission reserves the right to re-evaluate the amount of the performance bond and to require that the Developer post an additional bond amount.

(f) Definition: For purposes of this Agreement, suitable financial guarantee means a surety bond, letter of credit, escrow agreement, or other suitable financial guarantee as determined by the Commission's Office of the General Counsel.

3. Non-discrimination. The Developer will not discriminate against any employee or applicant for employment due to age, sex, race, creed, color, national origin, or disability.

4. Indemnification. The Developer will indemnify, save harmless, and defend the Commission from and against all actions, liability, claims, suits, damages, cost or expense of any kind that may arise, or be alleged to have arisen, out of or in connection with the Developer's performance of, or failure to perform, any of the obligations under the terms of this Agreement.

5. Binding Covenant. The provisions of this Agreement will be a covenant which runs with the land and is binding on the Developer, its heirs, successors and assigns. In the event that the Developer assigns this RFA to more than one successor, the Commission reserves the right to require a new or amended RFA for each successor.

6. Recordation. This Agreement will be recorded in the Land Records of Prince George's County prior to the acceptance of the above-referenced plat by the Development Review Division. All recording fees will be paid by the Developer. The original recorded RFA will be returned to the Development Review Division. The failure of the Developer to record this Agreement will preclude the issuance of any building permits applied for in the above-named subdivision.

7. Modification. Any substantial modification to this Agreement, as determined by the Commission, will be permitted only upon the filing of a new preliminary plat or site plan by the Developer, approval by the Planning Board or its designee, and the recording of an Amended Recreation Facilities Agreement.

8. Entire Agreement. This instrument contains the entire Agreement between the parties and will not be modified except by written agreement signed by the parties.

9. Severability. The invalidity or illegality of any provision of this Agreement will not affect the remainder of this Agreement or any other provision.

10. Applicable Law and Forum. This Agreement will be interpreted and enforced in accordance with the laws of the State of Maryland.

11. Waiver. The failure of the Commission to enforce any part of this Agreement will not be deemed as a waiver thereof.

12. Termination. This Agreement will extend for twenty-five (25) years from the date of execution. All obligations of the Developer under this Agreement will become due one (1) year prior to the expiration of this Agreement.

13. Recitals. The Recitals are hereby incorporated in this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be properly executed on the day and year first written above.

SEAL/WITNESS:

[Developer Name]

[Signature] _____
Name: [Print]
Title: [Print]

STATE OF MARYLAND :
COUNTY OF PRINCE GEORGE'S :

I hereby certify that before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared [Developer representative], [title] who acknowledged that [Developer representative] is authorized to execute the above Agreement.

Witness my hand and official seal this _____ day of _____, 20____.

[signature] _____
Notary Public

My commission expires: _____

THE MARYLAND-NATIONAL CAPITAL PARK AND
PLANNING COMMISSION PRINCE GEORGE'S
COUNTY PLANNING BOARD

Lakisha Hull, AICP, LEED AP BD+C
Planning Director

STATE OF MARYLAND :
COUNTY OF PRINCE GEORGE'S: ss

I hereby certify that before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Lakisha Hull, Planning Director, who acknowledged that she is authorized to execute the above Agreement for the reasons and purposes stated therein.

Witness my hand and official seal this_____day of_____, 20_____.

[signature]_____
Notary Public

My commission expires:_____