

SHENANGO TOWNSHIP

DEVELOPER'S AGREEMENT

1000 Willowbrook Road, New Castle, PA 16101

Phone: 724-658-4460 Fax: 724-658-1255 Website: Shenangotownship.com

FOR THE PURPOSE OF STORM WATER MANAGEMENT, ROAD SPECIFICATIONS AND INSTALLATION.

This agreement is made and entered into this ____ day of _____ 20__, by and between Shenango Township, Lawrence County, a township of the Second Class, 1000 Willowbrook Road, New Castle, Pennsylvania 16101 (hereafter the "Township").

and

KR Group, LLC

(Hereafter collectively the "Developer")

WHEREAS, it is the function of the Township to protect public and private property and to control development within the Township as provided by the laws of the Commonwealth of Pennsylvania and Township ordinances; and

WHEREAS, it is the function of the Township to prevent the creation of health and safety hazards or conditions which result in a detriment to its citizens; and

WHEREAS, the Shenango Township Subdivision requires, prior to final approval of any subdivision or land development plan, a written agreement to ensure compliance with design and performance standards of said ordinance be executed by the Developer; and

WHEREAS, the Developer desires to develop and improve approximately _____ acres/parcels of land in Shenango Township for the purpose of a Residential community known as _____, which a development plan has or will be reviewed and acted upon by the Board of Supervisors of Shenango Township; and

WHEREAS, the Developer desires to develop the aforementioned property in compliance with all conditions of approval, and all applicable federal, state, county, and township laws, codes and ordinances; and

WHEREAS, the Developer agrees that he shall construct at his sole cost and expense (including but limited to engineering, inspection, review and legal fees incurred by the Township) all those public and private improvements as identified in the aforementioned preliminary approved plan; and

WHEREAS, the Developer desires to complete the design, construction and installation of all such improvements required as a condition of final approval for the development, which public improvements shall be those improvements to be conveyed or otherwise dedicated to the Township for public use, which shall at all times comply with the standards and specifications of the Township; and

WHEREAS, said improvements located on the property as contained in the aforementioned development plans shall include but are not limited to streets, erosion control, excavating, grading, storm water management, sanitary sewers, water service, fire hydrants, paving, curbing, sidewalks, landscaping, seeding and any and all such improvements as required by the development plan or by township ordinance or criteria, and all street signs, traffic control signs and devices shall be installed prior to occupation of any residence in the plan; and

WHEREAS, the parties hereto desire to enter into a legally binding agreement in writing in reference to the aforesaid development.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises herein contained, the parties intending to be legally bound hereby agree as follows:

1. The Developer shall, prior to the start of any site preparation activity, obtain all the necessary township, state, county and federal permits, if any.
2. The parties agree that the recording of _____ subdivision plot shall take place only after **(contingent/final)** approval by the Board of Supervisors of Shenango Township. Final approval shall occur only after the completion of all improvements contained in the subdivision plan or otherwise required by township ordinance or criteria to the satisfaction of the Township Board of Supervisors or their agents, legal counsel, engineers or designees.
3. Developer covenants, promises and agrees to build, construct and install to completion all public and private improvements in accordance with the approved plan and any and all specifications of Shenango Township within One (1) year of the date of this agreement. The Developer further acknowledges and agrees to follow the guide marked as, "General Inspection Practices & Pavement Construction Standards" attached to this agreement and incorporated herein by reference as though fully set forth at length. The Developer further agrees to follow all stipulations in this agreement.
4. Prior to recording of the plan, the Developer shall install all public and private improvements in accordance with the approved plan and all ordinances of the Township. In lieu of the completion of said improvements as required for final approval, the Developer shall provide to the Township financial security in the amount sufficient to cover the costs of such public and private improvements. Such financial security shall be posted with a bonding company or federal or state-chartered lending institution authorized to conduct business within the Commonwealth of Pennsylvania, and may include letters of credit or other security in a form satisfactory to the Township or its legal counsel. The financial security shall name Shenango Township as obligee. The amount of financial security to be posted for completion of the required improvements shall be equal to One Hundred and Ten percent (110%) of the cost of completion estimated as of Ninety (90) days following the date scheduled for completion by the Developer in the estimate of the engineer for Shenango Township. Annually, the Township may adjust the amount of financial security by comparing the actual costs of the improvements as of the expiration of the Ninetieth (90) day after either the original date scheduled for completion or any rescheduled date of completion. Subsequent to any such adjustment, the Township may require the Developer to post additional security to assure that the financial security equals One Hundred and Ten percent (110%) of the uncompleted

improvements. If the Developer requires more than One (1) year from the date of posting of the financial security to complete the required public and for private improvements, the amount of the financial security may be increased by an additional Ten percent (10%) for each One (1) year period beyond the first anniversary date from posting or to an amount not exceeding One Hundred and Ten percent (110%) of the cost of completing improvements using the aforementioned method. As the work installing the required improvements proceeds, the Developer may request the Township the release from time to time of such portions of the financial security as work has been completed. Requests shall be in writing and shall be certified by the Township engineer as complete prior to authorization by the Township for the release of any such security. The release of any financial security shall be in accordance with provisions of the Pennsylvania Municipalities Planning Code, Act 247 as amended. The Township shall require retention of Ten percent (10%) of the estimated cost of completed improvements until the Township accepts dedication of the improvements and the Developer submits a maintenance bond and all other required documents, including as-built drawings of all public improvements as required herein.

5. It is understood and agreed that the Developer shall be obligated hereunder to prepare final design plans for the installation of any and all public improvements, including storm water detention and conveyance facilities, which are required by the subdivision plan or Township ordinance. Such plan shall be submitted for approval to the Shenango Township engineer. The Developer shall be solely responsible for the undertaking and installation of the public improvements, including storm water management facilities, and shall pay all necessary costs incurred relating to the installation of such improvements including the costs of materials and labor, and shall defend, indemnify and hold the Township harmless there from. The Developer shall coordinate the installation of the public improvements including the storm water facilities within the Township as hereinafter provided so as to enable the Township to make appropriate inspection of the improvements as installation progresses. Said inspection shall be conducted by the Shenango Township engineer or it's designee. The Developer hereby specifically agrees to comply with all appropriate township specifications, regulations and ordinances and the reasonable requests of the Township regarding such installation. Upon completion, the Developer shall, by appropriate documentation, vest all ownership, rights and interest in such improvements as required by the Township by documentation in form and substance as approved by legal counsel for the Township, which documentation shall include as-built drawings of any and all such installations, which drawings shall be designed and sealed by a registered professional engineer licensed by the Commonwealth of Pennsylvania. With respect to storm water facilities, it is specifically agreed by the parties that only storm water facilities which will be dedicated to or accepted by the Township are those facilities which will be located within any street or road right-of-way owned by or to be dedicated to the Township. No other storm water facilities shall be offered for dedication or accepted by the Township.
6. During all such periods of time the Developer is undertaking the performance of any work or other activities pursuant to this agreement, the Developer hereby agrees to and shall indemnify, defend and hold the Township harmless from any and all claims, demands, actions or causes of action or suits arising from or asserted to have arisen from the work or activity of the Developer, his employees, agents, contractors and subcontractors under this agreement, including, without limitation, damages allegedly to have arisen from injury to

persons or property. In connection therewith, the Developer, or its contractors and subcontractors shall maintain public liability insurance coverage in amounts not less than Two Million Dollars (\$2,000,000.00) for one or more claims, and shall name the Township as additional insured thereunder and provide the Township annually with a certificate of insurance prior to commencement of work or preparatory work at the site.

7. With respect to the Developer's storm water retention and conveyance facilities, Developer, for themselves and their insurers or as assigned pursuant to Paragraph 15 below, specifically agrees to indemnify, defend and hold the Township harmless, in perpetuity, from any and all claims demands, actions, causes of action or suits arising from or asserted to have arisen from the failure, construction, design, maintenance or operation of any storm water facility or from the discharge of any storm water onto any adjacent or downstream property by any person or firm. In connection therewith, the Developer, its successors or assigns shall maintain, in perpetuity, public liability insurance covering, inter alia, claims indemnified hereunder, in coverage amounts not less than Two Million Dollars (\$2,000,000.00) for one or more claims, and shall name the Township as additional insured thereunder and provide the Township annually with a certificate of insurance prior to commencement of work or preparatory work at the site.
8. With respect to the installation, dedication and conveyance of public improvements herein contemplated, including but not limited to storm water facilities and roads to be constructed by the Developer hereunder, the Township shall require the posting of financial security to secure structural integrity of the storm water facilities and roads as well as functioning of said improvements in accordance with the design and specifications of the Township for a period of Twenty-Four (24) months from the date of acceptance of the public improvements by the Township. Said financial security shall be the type authorized by the Pennsylvania Municipalities Planning Code, and shall include site plan bonds, letters of credit as hereinabove defined in this agreement, and shall be in an amount equaling Ten percent (10%) of the actual cost of installation, including materials of all public improvements herein contemplated including but not limited to roads and storm water facilities, which amount is estimated, by the Township engineer. The Developer hereby covenants that he shall make such replacement, repairs and maintenance within ten (10) days after notice, in writing, sent by certified mail to the Developer's last known address, and if failure to repair extends beyond ten (10) days after such notice, the Township may proceed to claim Developer's financial security and to repair, replace and maintain roads, storm water facilities, etc., or contract to have same done and charge the cost of such repairs to the Developer and/or financial security.
9. The Developer shall obtain all other required municipal, county, state and federal permits and approvals, and shall abide by the rules and regulations governing said permits and approvals in effect at the time they are issued.
10. The Developer specifically agrees that any permits or authorizations issued in accordance with appropriate Township ordinances or this agreement shall automatically be revoked by the Township upon Developer's or its contractors', subcontractors' or builders' failure to comply with any portion of this agreement, after notice to the Developer and his subsequent failure to correct such conditions within Forty Eight Hours (48) of notification.

11. The Developer hereby gives specific permission for the Township, its employees, agents or contractors to conduct inspections on the subject property. These inspections may take place at any time and as frequent as Shenango Township, in its sole discretion, deems appropriate. Where the Developer proposes to offer proposed improvements to the Township, the Developer shall notify the Township Forty Eight Hours (48) prior to any excavation, construction, installation or any other activity reasonably requiring the Township's inspection and/or approval pursuant to the terms of this agreement. The Developer shall pay all inspection fees imposed by any Township ordinance, resolution or regulation at the Township's then current and reasonable cost. The Township reserves the right and the Developer specifically consents to have a full-time inspector at the site. Any and all engineering and inspection costs, including mileage and overhead expense incurred by the Township or its engineer, shall be paid by the Developer as a condition precedent to connecting to the Township's Storm Water and Road Network. All such inspection costs shall be approved by the Shenango Township Board of Supervisors at its organization meeting during the calendar year in which the costs are billed to the Township pursuant to Township Resolution No. 7 of 2002. By executing this agreement, the Developer acknowledges that he has actual notice of such costs and charges and waives the provisions of the Municipalities Planning Code relating to dispute of such inspection costs. Any and all engineering costs, including overhead expenses incurred by the Township, shall be paid by the Developer as a condition precedent to connecting to the Township Storm Water and Road Network. See schedule of charges attached to the agreement.
12. The Developer agrees that he shall fully and completely construct all public and private improvements, including but not limited to erosion control, excavating, grading, storm water management, roads, water service, fire hydrants and paving in accordance with the Township's specifications and any and all other required public improvements as shown on the improved development plan and construction drawings or required by ordinances of the Township. All public and private improvements within the development shall be constructed and installed in accordance with all Shenango Township specifications and ordinances and must be certified as such by the Shenango Township engineer prior to final approval of the subdivision plan by the Shenango Township Board of Supervisors. The Developer shall also provide to the Township as-built drawings of any and all public improvements prior to final acceptance by the Township and/or the release of any financial security required to be posted pursuant to the terms of this agreement.
13. The Developer shall not sell nor offer for sale or lease any lot or residential unit within the subdivision plan, unless and until final approval of the plan has been issued by the Township of Shenango and the plan has been recorded in the Office of the Recorder of Deeds in and for Lawrence County, Pennsylvania. No such final approval shall be required to be issued by the Township of Shenango unless and until all of the requirements of this agreement have been complied with by the Developer, and the Township shall not be required to issue any building permits to any person until such requirements which are contained in this agreement have been met by the Developer.
14. The Developer shall offer for dedication all proposed public roadways by formal written communication, sent by certified or registered mail and accompanied by appropriate legal descriptions, surveys and as-built drawings and executed deed of dedication as may be required by the Township or its legal counsel. All such documentation shall be prepared at

the sole expense of the Developer. The Township shall not accept a request for dedication or ordination prior to the completion of One Hundred Percent (100%) of the improvements contained in the development plan in accordance with the provisions and specifications contained in this agreement and all Township ordinances or resolutions applicable thereto.

15. Maintenance of any required storm water management detention system shall be the sole responsibility of the Developer. The Developer shall be permitted to transfer title to commonly shared storm water management detention systems upon submission and approval of legal documentation as to who shall retain ownership and maintenance responsibility of such system if approved by the Township. Such documentation shall specifically identify the manner in which the system shall be maintained, providing for inspections of the same, and shall identify the party, or parties, who shall cause such maintenance to be effected. The transfer of common detention systems may include but not to be limited to transfer of homeowners' groups or associations. Such documentation shall also include provisions for municipal intervention in the event the responsible party, or parties, fails to maintain costs, including municipal liens for any expenses incurred by the Township in the enforcement of such agreements. Nothing in this agreement shall be construed to impose obligation on the Township of Shenango to accept, assume or undertake any ownership, control or maintenance responsibility with respect to any storm water management facility constructed by the Developer. In the event any storm water management easements or drainage facilities are contiguous with any easements, right-of-way for roads or other improvements accepted by the Township, the parties specifically agree that the Township's only responsibility with respect to said easements are for roads or other improvements, excluding storm water management or retention facilities.
16. The Developer may install temporary cul-de-sacs during the construction period. All such cul-de-sacs shall be removed prior to final approval by the Township. All building setbacks and yard requirements under the Shenango Township Zoning Ordinance approval shall be measured from the permanent road locations, disregarding any and all temporary cul-de-sacs.
17. The Developer shall post bond on all ordained access roads in the development. If the development is a phased project and access is used from previous completed phases, a bond shall be placed with the Township for those roadways.
18. This agreement shall be binding upon the Developer, its successors, assigns, agents, representatives and officers, and any partial or whole transfer of construction rights, approvals, agreements or any other assignment of any rights of the Developer hereunder shall subject the transferee and all transferee's contractors and subcontractors to all provisions of this agreement and all other rules, regulations, ordinances and specifications of Shenango Township, the County of Lawrence, the Commonwealth of Pennsylvania or the government of the United States of America and its agencies. It is further specifically understood that the Developer may not assign or transfer its rights hereunto without the prior written consent of Shenango Township.
19. This agreement shall constitute a covenant running with the land and may be recorded by either party hereto. If this agreement is recorded by the Township of Shenango, the Developer shall pay for all expenses of such recording. This agreement shall not be changed,

waived, discharged or terminated, except by a subsequent writing executed by the parties hereto.

20. Notwithstanding any provision of this Agreement which provides for the Developer to complete an action with a specified period of time, the Township shall not pursue its remedies for default, and the consequences, direct or indirect, of labor troubles, fires, accidents, riots, rebellion, war, failure of supply of raw materials, weather conditions, acts of God and causes beyond the control of the Developer which prevent performance, shall excuse performance hereunder to the extent by which performance has been unavoidably prevented by such consequences, provided that Developer notifies the Township promptly upon the occurrence of such cause. Upon removal of the cause of such interruption, Developer shall promptly notify the Township of such removal and performance shall be resumed at the specified rate.

Shenango Township reserves the right to withdraw its approval to proceed with the development and to halt construction on any public improvement in the event the Developer fails to pay any sum, or sums, due the Township under Developer’s Agreement or Township ordinances after fifteen (15) days of any such fees as due and invoiced by the Township.

IN WITNESS WHEREOF, the parties, having read, understood and freely agreed to the conditions contained herein, and being duly authorized and intending to be legally bound hereby, and to legally bind their successors, assigns, grantees, agents and officers of the parties, do hereby execute and deliver this agreement on the day and year first above written.

Township of Shenango

Russell J. Riley – Chairman

Date: _____

Frank R. Augustine – Vice Chairman

Albert D. Burick, III

ATTEST:

Township Secretary

