

**BUFFALO VALLEY ESTATES
SUBDIVISION/LAND DEVELOPMENT
IMPROVEMENTS GUARANTY AGREEMENT**

THIS AGREEMENT made this _____ day of _____, 20____, by and between the **COUNTY OF UNION COUNTY** (“the County”) Union County Courthouse, South Second and St. Louis Streets, Lewisburg, Union County, Pennsylvania 17837;

AND

WEST BUFFALO TOWNSHIP (“the Township”), of P.O. Box 237 Mifflinburg, Union County, Pennsylvania 17844; and

MIFFLINBURG BANK AND TRUST COMPANY (“the Bank”), of 250 East Chestnut Street, Mifflinburg, Union County, Pennsylvania 17844; and

DANIEL C. KENTON (“the Owner”) of RR 3, Box 41, Mifflinburg, Union County, Pennsylvania 17844; and

SIMON O. BOONE and RUTH L. BOONE (“the Developers”), of RR 2, Box 10 Millmont, Union County, Pennsylvania, 17845.

BACKGROUND

I. The Owner owns land in West Buffalo Township, Union County, Pennsylvania, known as Buffalo Valley Estates. A plan of Buffalo Valley Estates, Phase I by Alexander Smith, Registered Surveyor No. 14326-F, of Smith Et al Engineering, is of record in Union County Plat Book 14 and Page 29. Phase I of Buffalo Valley Estates has been approved and developed. The Owner desires to sell to the Developers, Phase II of Buffalo Valley Estates.

A. The Owner and Developer have submitted to the County, by and through the Union County Planning Commission, a plan and application for a Subdivision Plan located in West Buffalo Township. The Commission approved the Preliminary Plan of Phase II on March 09, 2001.

II. Section 509 of the Pennsylvania Municipalities Planning Code (“the Code”), Act 247 of 1968, as amended, 53 P.S. § 10509, and the County Ordinances prohibit final approval of any land development plans until all improvements as required by the County Subdivision and Land Development Ordinance and all improvements as set forth on the Subdivision/Land Development plan have been installed.

III. Section 509 of the Code does permit the final plan approval of a subdivision or land development whenever financial security in an amount sufficient to cover the costs of all required improvements is deposited with the County.

IV. The Owners desire to begin development as soon as practicable in accordance with the subdivision and land development ordinance of the County of Union (“County Ordinances”).

V. The parties hereto desire to enter into an agreement setting forth the responsibilities of each to facilitate the approval and implementation of the approved Land Development and the installation of improvements required.

AGREEMENT

NOW, THEREFORE, in consideration of the Final Subdivision/Land Development approval by County of the Subdivision/Land Development plan of **BUFFALO VALLEY ESTATES PHASE II**, in West Buffalo Township, submitted by Developer, and in an effort to protect and promote the public health, safety and general welfare of the community, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **Bids for Improvements** - The Developer has received and provided the County and Township with bona fide bids for the completion of all improvements shown on the approved subdivision plan of Phase II of Buffalo Valley Estates as required by the Township and County Ordinances (“the Required Improvements”). True and correct copies of the bids, designated as Exhibit A, are attached to and made a part of this Agreement.

2. **Final Plan Approval** - The subdivision plan of Phase II of Buffalo Valley Estates prepared by Smith Et al Engineering, submitted by the Owner and the Developer, and preliminarily approved by the County, is incorporated here by this reference. A condition of final plan approval of Phase II of Buffalo Valley Estates shall be the execution of this Agreement, and after final plan approval is granted, the Owner is authorized to transfer the land of Phase II of Buffalo Valley Estates to Developers for development.

3. **Designated Financial Guaranty** - As a guaranty of the Developers’ completion of all the Required Improvements, the Bank Grants an irrevocable line of credit (“the Credit Line”) to the Developers, the County, and the Township in an amount which is equal to at least 110% of the cost of

completion of the Required Improvements estimated as of 90-days following the date scheduled for completion by the developer.

4. **County Rights** - Until the Required Improvements are declared acceptable or are deemed approved: (a) the Developers may draw against the Credit Line only with the written approval of the County; (b) every change order on the bids for the Required improvements must be approved in writing by the County; and (c) the County may require the Developer and the Bank to increase the Credit Line from time to time in amounts equal to 110% of any increases in costs caused by the change orders.

5. **Completion of Improvements** - The Developers shall proceed with all the Required Improvements and complete them within one (1) year of the date of this Agreement, unless an extension of time is granted to the Developers by the County upon written request by the Developers.

6. **Inspection and Acceptance of Improvements** - Upon written notice, by certified or registered mail, from the Developers to the County and its engineer that the Required Improvements have been completed, the County within 40 days thereafter, by its respective engineer or qualified consultant, in accordance with Section 510 of the Code, shall make timely inspection of the Required Improvements and shall give the Developers written notice within 15 days after receipt of engineer's report by certified or registered mail, that the Required Improvements are acceptable or the reasons why they are unacceptable and what work or changes are necessary to make them acceptable.

7. **Approval and Release of Liability** - If the Required improvements are acceptable, or if they are deemed approved because of the unexcused failure of the County to comply with applicable time limits: (a) the Developers shall be released forthwith from all liability to the County under the Credit Line, or otherwise, for completion of the Required improvements; (b) the rights of the County under paragraph 4 with respect to the Credit Line shall end immediately; (c) the County when requested by the Developers, shall give written notice to the Bank of the release of the Developers under this paragraph and the termination of the County's rights under paragraph 4; and (d) all obligations of the Bank and the Developers under this Agreement shall be null and void.

8. **Default by Developers** - If the Developer has not completed the Required Improvements within one year of the date of this Agreement, or any extension granted to the Developer by the County, it shall be conclusively presumed that Developer is in default of this Agreement.

9. **Notice of Default** - Upon default of this Agreement, the County shall provide Developers with written notice of default sent to Developers by certified mail.

10. **County Remedies** – If the Developers are in default, the Developers and the Bank authorize the County to draw against the Credit Line to complete the Required Improvements. The power of the County to draw against the Credit Line shall be deemed to be coupled with an interest, and may be exercised as often as may be necessary until the Credit Line is exhausted, or the improvements completed. This credit line shall be irrevocable. The Developers shall be liable for all draws so made and the County shall have no liability whatsoever with respect to them. If the Credit Line is insufficient to complete the Required Improvements, the Developers personally guarantee the completion of the improvements, and authorize the prothonotary or any attorney of any court of record of Pennsylvania or elsewhere to confess judgment against them for the entire cost of completing the Required Improvements.

11. **Compliance with Subdivision and Land Development Ordinance** - Nothing herein shall be constructed in any way to relieve Developers from full and complete compliance with the Subdivision and Land Development Ordinance of Union County, Pennsylvania.

12. **Costs of Services** - Should the County in its sole discretion, determine that the services of persons other than its employees are needed to determine the amount of work completed, the amount of work remaining, the quality of the work or improvements completed, the estimated cost of the work to be completed or of any remedial work needed, the reasonable and necessary costs of said services shall be the responsibility of Developers and paid when requested.

Entry upon Land - Developer does hereby specifically authorize the County, its agents, employees or independent contractors, upon giving reasonable advance notice to Developer, to enter upon Developer's land for the purpose of making such an inspection as it deems necessary or performing such work as it deems under the terms of this Agreement. Prior to the County performing any such work itself or having the services of others to perform such work under paragraph 10 of this Agreement, County shall provide written notice of default under paragraph 9 .

14. **Binding Effect** - The Agreement shall be binding upon the parties hereto, their heirs, executors, administrators and assigns.

IN WITNESS WHEREOF, each of the parties to this Agreement, intending to be legally bound by it, has caused it to be signed on such party's behalf by a person or persons duly authorized to do so on the day, month, and year first above written.

**BUFFALO VALLEY ESTATES
SUBDIVISION/LAND DEVELOPMENT
GUARANTY AGREEMENT**

ATTEST:

COUNTY OF UNION

By: _____
Chairman

By: _____
Vice Chairman

By: _____
Secretary

ATTEST:

WEST BUFFALO TOWNSHIP

By: _____
Chairman

By: _____
Secretary

ATTEST:

OWNER

By: _____
Daniel C. Kenton

ATTEST:

DEVELOPERS

By: _____
Simon O. Boone

By: _____
Ruth L. Boone

ATTEST:

BANK

By: _____
W.R. Dell, Vice President