

WATER AND SEWER AND ROAD PAVING AGREEMENT

Agreement entered into as of the 14th day of April, 2009, among **Whittaker Road Associates, LLC**, a New York limited liability company having its principal place of business care of Joseph Hecht, 948 45th Street, Brooklyn, NY 11219 (the "Developer") and **Town of Fallsburg**, a New York municipal corporation having is principal place of business at 19 Railroad Plaza, PO Box 2019, South Fallsburg, New York 12779 (the "Town").

WITNESSETH:

WHEREAS, the Developer is the owner of three contiguous parcels in the Town of Fallsburg, and, having tax map numbers 47-1-5.2, 47-1-6 and 47A-1-26 (the "Property") and;

WHEREAS, the Developer is in the process of obtaining approval of a 196 unit residential development project (the "Project") from the Town of Fallsburg Planning Board (the "Planning Board"); and

WHEREAS, a portion of the Property has historically been and remains within the Town Water and Sewer District; and

WHEREAS, Town records reveal that the Town Board, approximately 20 years ago, agreed to extend the Town Water and Sewer Districts to include the entire Property within the Town Water and Sewer Districts; and

WHEREAS, the extension of the Town Water and Sewer Districts to include the balance of the Property has not been filed with the Sullivan County Clerk and, therefore, is not currently reflected in the Town tax maps; and

WHEREAS, the parties hereto desire to complete the extension of the Town Water and Sewer Districts and to confirm the rights and obligations of the parties concerning the Town Water and Sewer with respect to the Project; and

WHEREAS, access to the Property is through Whittaker Road; and
WHEREAS, Whittaker Road is in need of repair and repaving; and
WHEREAS, the Developer has agreed to repair and repave Whittaker Road in the manner provided for herein;

NOW, THEREFORE, the parties hereto agree as follows:

1. The Town reaffirms that it has agreed to extend the Town Water and Sewer Districts to include the balance of the Property not previously included within the Town Water and Sewer Districts.

2. The Developer agrees to take whatever steps may be necessary in order to complete the documentation and legal requirements required in order to confirm the extension of the Town Water and Sewer Districts to include the entire Property and in order to reflect the extension of the Town Water and Sewer Districts on the Town tax maps and the records at Sullivan County. In furtherance of the foregoing, the Developer agrees to do the following:

a. Provide the Town Engineer with an updated water and sewer district extension report. The report shall be that report which would otherwise be attached to a petition to extend a water and sewer district, as provided for in the Town Law.

b. Provide the Town Engineer with any additional reports that the Town Engineer reasonably requires in connection with the water and sewer district extensions, including maps, plans, and such other information as the Town Engineer may be entitled to in accordance with Town Law.

c. Arrange for whatever documentation may be required to be filed with Sullivan County in order to confirm the extension of the water and sewer districts, as provided for in this Agreement, such that the extension of the water and sewer districts are reflected on the tax maps of the Town.

3. The Town agrees to cooperate with the Developer to accomplish the above and to enact appropriate Resolutions and Orders to complete this process.

4. The Town currently charges hookup fees in connection with the hookup of a residential dwelling to Town water and sewer connections. The Developer agrees that water and sewer connection fees will be paid by the Developer in accordance with applicable laws of the Town.

5. The Developer agrees to repair and repave Whittaker Road for the entire frontage of the Property and from the property line to La Vista Drive (estimated at 2,800 lineal feet). The repair and repaving will consist of the following:

- (a) Grind the road base down to the subbase.
- (b) Level the subbase to the extent needed.
- (c) Install an asphalt finish coat.
- (d) All work to be done shall be in accordance with Town highway specifications.
- (e) The width of the road shall be 22 feet.

6. The repair and repaving of Whittaker Road as set forth herein shall be completed within a period of three years after construction of the Project commences, or upon the completion of the development of the Project, whichever shall first occur.

7. The Developer agrees that prior to the issuance of any building permits for the Project, the road repair and replacement, as provided for in Paragraph "5" herein, shall be completed and/or bonded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of
April 14, 2009.

WHITTAKER ROAD ASSOCIATES, LLC

BY: 

Joseph Hecht, Member

TOWN OF FALLSBURG

BY: 

Steven Levine, Town Supervisor