

Waiver #007656-WPFM-006-1 Conditions

Residences at the Government Center

PCA 86-W-001-11

February 1, 2011

1. The underground facilities shall be constructed in accordance with the development plan as modified by these conditions and approved by the Director of the Department of Public Works and Environmental Services (DPWES).
2. The underground facilities shall be located as shown on the approved CDPA/FDPA, as determined by DPWES.
3. The underground facilities shall be constructed of reinforced concrete products only and incorporate safety features, including locking manholes and doors, as determined by DPWES at the time of construction plan submission.
4. The underground facilities shall be constructed with a minimum interior height of 72" to facilitate maintenance.
5. The underground facilities shall be privately maintained and shall not be located in a County storm drain easement.
6. A private maintenance agreement, as reviewed and approved by the Fairfax County Attorney's Office, shall be executed and recorded in the Land Records of the County. The private maintenance agreement shall be executed prior to final plan approval.

The private maintenance agreement shall address:

- County inspection and all other issues as may be necessary to insure that the applicant maintains the facilities in good working condition acceptable to the County to control stormwater generated from the development of the Residences at the Government Center site.
- A condition that the applicant, their successors, or assigns shall not petition the County to take future maintenance or replace the underground facilities.
- Establishment of a reserve fund, for future replacement of the underground facilities.
- Establishment of procedures to follow to facilitate inspection by the County, i.e. advance notice procedure, whom to contact, who has the access keys, etc.
- A condition that the applicant provide and continuously maintain, liability insurance. The typical liability insurance amount is at least \$1,000,000, against claims associated with underground facilities.
- A statement that Fairfax County shall be held harmless from any liability associated with the facilities.

7. Operation, inspection, and maintenance procedures associated with the underground facilities shall be incorporated in the site construction plan, private maintenance agreement, and documents, which insure safe operation, inspection, and maintenance of the facilities.
8. Prior to final construction plan approval, the developer shall escrow sufficient funds which will cover a 20-year maintenance cycle of the underground facilities. These monies shall not be made available to the management company until after final bond release.
9. The applicant and its successors and assigns shall disclose, as part of the chain of title, to all future property owners, the presence of the underground stormwater facilities and the responsibility for operation, inspection, maintenance and replacement of such facilities, by including the following language within the documents:

"The applicant and its successors and assigns are responsible for the operation, inspection, maintenance, and replacement of the underground stormwater facilities as set forth in the documents and a private maintenance agreement entered into with the County."