


## **Technical and Procedural Newsletter**

December 15, 2021

**TO:** Members of the Land Development and Engineering Design Community

**FROM:** Alan Brewer, Director 

*The purpose of this correspondence is to inform the Land Development and Engineering Design Community of technical and procedural updates that have recently transpired. Please distribute this information to applicable personnel within your organization.*

### **IN THIS EDITION:**

*Amended Privately Maintained Roads Agreement (PMRA) with Latent Defect Indemnification*

Section 8.305.F of the FSM requires a Latent Defect Indemnification Agreement (LDIA) secured by an adequate bond to be approved by the Board of Supervisors or designee before a Performance Agreement and performance bond guaranteeing construction of physical improvements not maintained by VDOT is released. The LDIA is a guarantee for repairs necessary to correct latent defects and deficiencies in construction discovered during the Latent Defect Discovery Period, a fifteen (15) month period following approval of the work by the Director.

The Board of Supervisors approved amendments to the Facilities Standards Manual (FSM), effective on October 18, 2019, with Development Ordinance Amendment (DOAM) 2018-0002 pertaining to PMRAs. The amendments to FSM Section 8.305.A require Performance Agreements, and associated performance bonds, solely for construction of physical improvements not maintained by VDOT, to guarantee completion of construction of such physical improvements by the developer in accordance with approved Plans, as well as guarantee against latent defects and deficiencies in accordance with Section 8.305.F. This amendment streamlines the bonding process by allowing the original performance bond posted with the PMRA to be reduced to the LDIA amount.

Staff has revised the PMRA to incorporate the Latent Defect Discovery Period and posted the revised agreement to the Loudoun County Webpage ([Performance and Proffer Bonds](#)). **All PMRAs submitted after January 15, 2022, shall be prepared in accordance with the revised agreement.**

The amendments to FSM Section 8.305.E.3.a require a written request to reduce the performance bond to an LDIA bond amount, signed and acknowledged by the Performance Agreement's developer or developer's representative. Pursuant to the

FSM and the revised PMRA, the Bond Committee will recommend that the PMRA bond be reduced to the LDIA bond amount, as opposed to released.

If you have any questions regarding this Newsletter, please contact John Leffler, Infrastructure Compliance Team Program Manager, at [John.Leffler@loudoun.gov](mailto:John.Leffler@loudoun.gov) or (703) 777-0138.

**APPLICABLE STANDARDS:**

Loudoun County Facilities Standards Manual (FSM), Chapter 8, Section 8.305.A, 8.305.E.3, 8.305.E.3.a, and 8.305.F.