

**Southern New Castle County / Village of Bayberry**  
**Transportation Infrastructure Development Agreement**

This Transportation Infrastructure Development Agreement ("Agreement") is entered this 7<sup>th</sup> day of September, 2004, by and between The Delaware Department of Transportation ("DelDOT") and Blenheim Bayberry LLC, ("Developer") to most effectively define, fund and coordinate the development of appropriate transportation infrastructure in Southern New Castle County, in the area of influence of The Village of Bayberry North, Village of Bayberry South, and the Bayberry Town Center developments (herein referred to as "New Infrastructure").

**RECITALS**

WHEREAS, the Section 112 of the Bond Bill for fiscal year 2005 (House Bill 550, as adopted by the Senate and signed by the Governor, hereinafter, the "Bond Bill") directs DelDOT to expedite the orderly improvement of roads and other infrastructure in the rapidly growing areas of Southern New Castle County by entering into such joint development agreements as it may deem necessary and appropriate; and

WHEREAS, 17 Del. C. §507 as recently enacted (hereinafter the "Joint Agreement Statute") recognizes, among other things, that new development may occur where transportation improvements are already needed, and that such new development, while not causing such need, can act as a triggering event requiring the acquisition of additional rights-of-way and construction of transportation improvements; and

WHEREAS, the Joint Agreement Statute recognizes that DelDOT's acquisition of additional rights-of-way made necessary by reasons such as past or projected background traffic, safety considerations, and/or improved highway functioning (hereinafter "New Rights-of-Way"), and the construction of additional highway improvements made necessary by the same or similar reasons, are and will be for a bona fide public purpose even if triggered by the prospect of a new development; and

WHEREAS, the Joint Agreement Statute authorizes DelDOT to respond to such circumstances by entering into development agreements with entities seeking development approvals, whereby such entities assume direct responsibility for planning, design, inspection, and construction of transportation improvements and whereby DelDOT has appropriate provisions for quality assurance and quality control; and..

WHEREAS, the Developer is an entity seeking development approvals for The Village of Bayberry North, Village of Bayberry South (sometimes called simply the "Village of Bayberry"), and the Bayberry Town Center, all of which are located in a rapidly growing area of Southern New Castle County, where a series of various residential and commercial projects and developments are currently in the planning process and/or approval stages; and

WHEREAS, DelDOT has made commitments to the government of New Castle