

Bond No.: _____

Principal Amount: _____

MAINTENANCE AND WARRANTY BOND

Project: _____

City of Pooler Permit No.: (if applicable) _____

Project Location: _____

KNOW ALL MEN BY THESE PRESENTS:

That _____, registered business address of _____, as Principal, hereinafter called "CONTRACTOR," and hereinafter called the "SURETY," registered business address of _____, as Surety, a Surety insurer, chartered and existing under the laws of the State of _____, and authorized to do business in the State of Georgia, are held and firmly bound unto the City of Pooler, Georgia, a political subdivision of the State of Georgia, by and through its Mayor and Aldermanic Board, 100 SW Highway 80, Pooler, Georgia 31322, (912) 748-7261, herein called the "OBLIGEE," in the sum of _____ Dollars (\$_____) lawful money of the United States of America, for the payment of which sum truly to be made to Obligee, Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, Contractor has constructed various public improvements, detailed as:

_____ in accordance with the General Conditions, Drawings, Specifications, Plans, etc. on file for the Project defined above and herein. Contractor constructed the improvements in accordance with all applicable Ordinances of the City of Pooler, in addition to any other applicable local, state, or federal code, regulation, guideline, conditions, etc.

NOW THEREFORE for a period of _____ months, commencing on the date of acceptance of this Bond by Obligee:

1. The Contractor shall promptly and faithfully protect Obligee against any defects in the Project resulting from faulty materials, workmanship, design, or any other cause (excluding acts of nature);
2. In the event defects are found and identified, Obligee shall promptly notify Contractor in writing, stating the defect or defects to be remedied;
3. The Contractor shall initiate repairs within thirty (30) days of notice from Obligee and completes repairs within a reasonable time;
4. Upon completion of repairing the defect(s), Contractor shall submit a written request for a final inspection of the repairs to Obligee;

5. Contractor shall pay all costs and expenses incurred for, or incidental to, compliance with the requirements of this Bond, the Code of Ordinances for the City of Pooler, and any other applicable local, state, or federal code, regulation, guideline, conditions, etc.;

6. Should Contractor fail to begin work within thirty (30) days of written notice from Obligee, Obligee shall then notify Surety in writing of the defect(s) who may, within thirty (30) days from the date of notice from Obligee,

- a. elect to take action as it deems necessary to insure performance of the Contractor's obligations herein, or
- b. submit a written request to Obligee seeking to repair the defect(s) as if it were Contractor in accordance with the terms and obligations herein, such request may be approved by Obligee in its discretion;

7. If repairs of any defect(s) are not commenced after expiration of the thirty (30) day period afforded to Surety in accordance with paragraph 6 above, Obligee may elect to repair the defect(s), and Contractor and Surety, jointly and severally, shall pay all expenses and costs of any kind incurred by Obligee, together with any damages direct or consequential Obligee may sustain as a result of the defect(s) or the failure to timely repair the defect(s); and

8. Obligee shall have the right to contract for repair of any defect(s) not timely repaired, with any repairs being awarded in accordance with all applicable local, state, and federal laws. Contractor and Surety, jointly and severally, shall become immediately liable to Obligee for any amount owed under such contract.

This Bond shall automatically renew unless released by Obligee in accordance with the Code of Ordinances for the City of Pooler, at which time the rights and obligations created herein shall be void. Otherwise, it remains in full force and effect.

The principal amount of this Bond may be reduced in accordance with the Code of Ordinances for the City of Pooler, upon express written approval by the Obligee.

Subject to any right or reservation set forth herein, Surety shall assume and perform any and all obligations of the Contractor upon the Contractor's failure or refusal to fulfill its obligations under this Bond.

IT IS FURTHER understood that should Obligee be required to institute legal proceedings in order to collect any funds under this Bond, venue shall be exclusively in the Superior Court of Chatham County, Georgia, and Contractor shall be responsible for any and all attorney's fees and court costs incurred by Obligee, together with interest from the date of default, at the rate permitted by The Official Code of Georgia, Title 7, Chapter 12, Article 1, Section 12 (O.C.G.A. § 7-4-12) or any amendments thereto.

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[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Contractor and Surety do hereby duly execute this Bond No.:

_____, this _____ day of _____, _____.

(SEAL)

CONTRACTOR

ATTEST:

WITNESS AS TO CONTRACTOR

CONTRACTOR – Signature

WITNESS AS TO CONTRACTOR

(Print Name)

By: _____

Title

(SEAL)

COMPANY NAME

ATTEST:

WITNESS AS TO SURETY

SURETY (Print Company Name)

WITNESS AS TO SURETY

Business Address

By: _____

Authorized Signature

(Print Name)

OR

(SEAL)

SURETY'S AGENT

ATTEST:

WITNESS AS TO AGENT

By: _____

As Attorney in Fact (Attached Power)

WITNESS AS TO AGENT

(Print Name)

Agent's License Number

Agent's Name

II.

That Appendix B, Section 706 of the Code of Ordinances of the City of Pooler be created as follows:

Section 706. – Maintenance Bond.

- (a) Upon completion of construction and prior to the issuance of any certificate of occupancy for any project which a performance bond or other acceptable security has been posted in accordance with Section 703.03 of this Article, the developer shall provide, on a form acceptable by the city, a maintenance bond, escrow account, certified check, or irrevocable letter of credit from a bank which has a business office within the State of Georgia, in the amount of 50 percent of the total cost of all infrastructure improvements and maintenance and landscape requirements.
- (b) If a bond is offered, it shall be executed by a surety or guaranty company qualified to transact business in the State of Georgia and acceptable to the city. In no event shall the depositor of the irrevocable letter of credit or bond have any significant interest in the bank upon which such irrevocable letter of credit has been authorized or in the surety or guaranty company issuing the bond. Significant interest of the depositor means acting as an officer or director or owning more than one (percent of the stock of such bank, surety or guaranty company.)
- (c) Measured from the initial date the required security is approved by the city, if no faults or failures develop within twelve months, the city may reduce the required security amount by 50 percent. At the end of the second twelve months, the developer shall request an inspection, and if no faults or failures have developed, the city may release the bond or escrow upon approval by the aldermanic board.
- (d) The bond or escrow shall remain in force until released by the aldermanic board and shall not automatically expire at the end of 12 months. Bond and escrow forms are available from the office of the city clerk.

III.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

IV.

If any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.