

**MAINTENANCE BOND**

STATE OF TEXAS            )  
  )  
COUNTY OF COLLIN        )

**KNOW ALL BY THESE PRESENTS:** That \_\_\_\_\_  
whose address is \_\_\_\_\_, being the  
General Contractor who constructed the public improvements including, but not necessarily  
limited to, streets, utilities, drainage, services, and facilities to serve the Property identified  
herein-below, hereinafter referred to as "Principal," and,  
\_\_\_\_\_, a corporate surety/sureties organized under the  
laws of the State of \_\_\_\_\_ and fully licensed to transact business in the State of Texas,  
as Surety, hereinafter referred to as "Surety" (whether one or more), are held and firmly bound  
unto the **CITY OF MCKINNEY**, a Texas municipal corporation, hereinafter referred to as  
"Owner" or "City," in the penal sum of \_\_\_\_\_ DOLLARS  
(\$\_\_\_\_\_) (fifteen percent (15%) of the contract price of all public improvements, or  
in such amount as approved by the city engineer), in lawful money of the United States to be  
paid to Owner, its successors and assigns, for the payment of which sum well and truly to be  
made, we bind ourselves, our successors, heirs, executors, administrators and successors and  
assigns, jointly and severally; and firmly by these presents, the condition of this obligation is  
such that:

**WHEREAS,** \_\_\_\_\_ whose address is  
\_\_\_\_\_, hereinafter referred to as  
"Subdivider," filed a plat with the City of McKinney, Texas for recording with Collin County,  
Texas pursuant to Chapter 142, "Subdivision Regulations," of the Code of Ordinances, City of  
McKinney, Texas, as amended, (the "Subdivision Regulations") for the development of certain  
property identified as the

\_\_\_\_\_ Subdivision (the "Property")

situated within the corporate limits or extra-territorial jurisdiction of the City of McKinney, Texas,  
as more particularly described and designated in the plat of said Property, such plat being  
incorporated herein and made a part hereof as fully and to the same extent as if written herein  
word for word.

**WHEREAS,** the Subdivision Regulations require the Subdivider, as developer of the  
Property, to construct at Subdivider's sole cost the public improvements necessary for the  
adequate provision of streets, utilities, drainage, services, and facilities to the Property and to  
surrounding areas of the City of McKinney (the "Improvements") in accordance with and as  
required by the Subdivision Regulations, as such regulations may be amended from time to  
time.

**WHEREAS,** the Subdivision Regulations also require the Subdivider, as developer of the  
Property, to use first class materials and workmanship and of such kind and quality that for a  
period of two (2) full years from the completion and final acceptance of the Improvements by  
Owner the said Improvements shall require no repairs, the necessity for which shall be

occasioned by defects in workmanship or materials and during the period of two (2) full years following the date of final acceptance of the Improvements by Owner.

**WHEREAS**, the Subdivision Regulations also require the Subdivider, as developer of the Property, to provide a good and sufficient maintenance bond in the amount of 15 percent of the contract price of all Improvements, or in such amount as approved by the City Engineer, with a reputable and solvent corporate surety in favor of the City to indemnify the City against any repairs which may become necessary to any part of the construction of Improvements in connection with the Property, arising from defective workmanship or materials used therein, for a period of two full years from the date of final acceptance of the Improvements.

**WHEREAS**, the Subdivision Regulations also provide for the withholding of final acceptance of the Improvements until said Maintenance Bond is furnished to the City.

**WHEREAS**, Subdivider entered into that certain contract dated \_\_\_\_\_, 20\_\_\_\_ with Principal ("Contract") whereby Principal agreed to furnish all permits, licenses, bonds, insurance, products, materials, equipment, labor, supervision, and other accessories necessary for the construction of the Improvements for the Property in accordance with and as required by the Subdivision Regulations, as such regulations may be amended from time to time.

**WHEREAS**, Principal agreed through the Contract to use first class materials and workmanship and of such kind and quality that for a period of two (2) years from the completion and final acceptance of the Improvements by City the said Improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials.

**WHEREAS**, Principal further agreed through the Contract to assume Subdivider's obligation, responsibility and liability to City to provide this Maintenance Bond to City and for a period of two (2) years following the date of final acceptance of the Improvements by City to repair or reconstruct said Improvements in whole or in part at any time within said period of time from the date of such notice as the City Engineer or Director of Public Works shall determine to be necessary for the preservation of the public health, safety or welfare.

**WHEREAS**, Principal hereby affirms and declares that Principal has been provided good and valuable consideration by Subdivider to both construct the Improvements and to assume Subdivider's obligations, responsibilities and liabilities to City regarding the provision of this Maintenance Bond and maintaining the Improvements for the Property for a period of two (2) years from the completion and final acceptance of the Improvements by City such that the said Improvements shall require no repairs, the necessity for which shall be occasioned by defects in workmanship or materials.

**WHEREAS**, Principal further recognizes that City's final acceptance of the Improvements, which final acceptance is a condition precedent to final payment of the Contract amount by Subdivider to Principal, serves as further consideration supporting Principal's assumption of the obligation to repair or reconstruct said Improvements for a period of two (2) years from the date of City's final acceptance in whole or in part at any time from the date of notice as the City Engineer or Director of Public Works shall determine to be necessary for the preservation of the public health, safety or welfare; and that if Principal does not repair or reconstruct the improvements within the time period designated, City shall be entitled to have said repairs made and charge Principal and/or Surety the cost of same under the terms of this Maintenance Bond.

**NOW, THEREFORE**, if Principal will maintain and keep in good repair the Improvements required by the Subdivision Regulations to be done and performed for a period of two (2) full years from the date of final acceptance and do and perform all necessary work and repair any defective condition (it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by Principal) then this obligation shall be void; otherwise it shall remain in full force and effect and Owner shall have and recover from Principal and its Surety damages in the premises as provided in the Subdivision Regulations.

**PROVIDED**, that Principal hereby agrees with respect to this Maintenance Bond only to waive such claims, counterclaims, cross-claims and defenses that Principal may have against Subdivider which might negate City's ability to enforce and collect upon this Maintenance Bond should Principal fail or refuse to timely maintain and perform hereunder.

**PROVIDED**, further, however, that Principal hereby holds harmless and indemnifies Owner from and against any claim or liability for personal injury or property damage caused by and occurring during the performance of said maintenance and repair operation.

**PROVIDED**, further, that if any legal action be filed on this Bond, exclusive venue shall lie in Collin County, Texas.

**PROVIDED**, further, that nothing contained in this Maintenance Bond and/or the City's acceptance of this Maintenance Bond from Principal shall waive or be deemed or interpreted to waive any claims or causes of action that City may now have or which may hereafter accrue against Subdivider arising out of or related to the construction, maintenance, repair or replacement of the Improvements as provided by the City's Subdivision Regulations.

**AND PROVIDED FURTHER**, Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Subdivision Regulations or to the work performed thereunder, or the Plans, Specifications, Drawings, etc. accompanying the development of the Property or any breach by Subdivider of the Contract or any duty of any kind or nature owed to Surety shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Subdivision Regulations or to the work to be performed thereunder regarding the Improvements.

The undersigned and designated agent is hereby designated by Surety as the resident agent in either Collin or Dallas Counties to whom all requisite notice may be delivered and on whom service of process may be had in matters arising out of this suretyship.

*[Remainder of page left blank intentionally.]*

IN WITNESS WHEREOF, this instrument is executed in two copies, each one of which shall be deemed an original, on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

**PRINCIPAL:**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

\_\_\_\_\_  
Phone Fax

ATTEST:

**SURETY:**

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
Phone Fax

\_\_\_\_\_  
Phone Fax

The Resident Agent of the Surety in Collin County or Dallas County, Texas, for delivery of notice and service of the process is:

NAME: \_\_\_\_\_  
STREET ADDRESS: \_\_\_\_\_  
CITY, STATE, ZIP: \_\_\_\_\_

**NOTE:** If Resident Agent is not a corporation, give a person's name.