

DEVELOPMENT PERFORMANCE AND MAINTENANCE AGREEMENT

WHEREAS, as a condition of final approval and issuance of a Final Plat, Certificate of Occupancy or Letter of Completion for the development known as

_____ located at _____, Newton County, Georgia, the developer/owner of said property

hereinafter "Principal," is required by the Newton County Development Regulations to guaranty performance and maintenance of certain aspects of the development;

IT IS HEREBY AGREED and understood that the Principal, in exchange for final approvals and other good and sufficient consideration, does agree to bind himself, and his heirs, assigns and successors in interest on this property, to maintain all public streets and drainage facilities within public streets or easements for the bonding period running from date _____ until _____, which period constitutes _____ months after issuance of the Final Plat, Certificate of Occupancy or Letter of Completion.

THE UNDERSIGNED PRINCIPAL further agrees to make necessary repairs to public streets and drainage facilities within the above described development upon request of the Newton County Planning Director or his designee, in the time-frame directed by said official. The Principal understands that failure to comply with the Planning Director's directives shall authorize him to be declared in default of this agreement, and authorize the County to pursue the maintenance bond or letter of credit. The maximum amount of such repairs shall be as needed. The undersigned Principal understands that if repairs are not made to the satisfaction of said official, the maintenance bond or letter of credit may be claimed against by the County.

THE UNDERSIGNED PRINCIPAL further agrees to indemnify and hold Newton County harmless against all liability for damages arising as a result of errors or omissions in the design or construction of the development for a period of ten (10) years. If ownership is subsequently assigned or transferred to a successor in title or interest or other person, a copy of such legal instrument shall be filed with the Clerk of Superior Court, and provided to the Planning Director.

THE UNDERSIGNED HAS READ AND UNDESTOOD THIS DOCUMENT FULLY. If the person signing this document is signing on behalf of a corporation, partnership or other legal entity, that person affirms hereby that he or she has full authority to bind said entity.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this ____ day of _____, 2016.

PRINCIPAL:
[corporation or entity name]

by: [print name of officer] L.S.
its: [title]

Attest:

Secretary

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that _____ [name of developer/owner] hereinafter called "Principal," and _____ [name of surety company] hereinafter called "Surety," are held and firmly bound unto Newton County, Georgia, in the sum of _____ [amount of bond] for securing the maintenance of the required improvements and works, as hereinafter set forth, for the payment of which sum Principal and Surety do well and surely bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, acknowledge and agree as follows:

WHEREAS, the Principal has completed a development known as _____ hereinafter called "Project," and located at _____ in Newton County, Georgia, and Principal now desires a Final Plat approval, Certificate of Occupancy or Letter of Completion; and

WHEREAS, the Newton County Development Regulations require a Development Performance and Maintenance Agreement and maintenance bond to insure maintenance of streets and drainage facilities for a period of ____ months from _____ [date], through and including _____ [end date];

NOW THEREFORE, the conditions of this obligation are as follows, that whenever the Principal is declared in default by the Newton County Planning Director or his designee, the Surety shall promptly remedy the default as follows:

1. Reimburse Newton County for all costs of repair and maintenance of streets and/or drainage facilities in the Project during the bond period; or at the option of the County,
2. Complete the repairs and maintenance required under the direction and approval of Newton County.

The Surety shall commence performance of its obligations and undertakings under this Bond promptly and without delay, after written notice from the Newton County Planning Director to the Surety.

This bond is intended to comply with the requirements of the Newton County Development Regulations and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this bond exceeds the minimum requirements, then the additional protection shall be enforced to the benefit of the County. All legal proceedings initiated with respect to this document shall be subject to Georgia courts and law.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this ____ day of _____, 200__.

PRINCIPAL:
[corporation or entity name]

by: [print name of officer] L.S.
its: [title]

Attest:

Secretary

SURETY:
[corporation or entity name]

by: [print name of officer] L.S.
its: [title]

Attest:

Secretary

[attach power of attorney]

IRREVOCABLE LETTER OF CREDIT NO. _____

Issuing Bank:

Amount:

Beneficiary: Newton County, Georgia
 c/o Planning Director

Principal:

Date of Issue:

Date of Expiry:

Project: [name and location]

Dear Sir or Madam:

The undersigned hereby established its irrevocable letter of credit in favor of Newton County, Georgia, in the following manner and on the following terms:

1. The Principal is required by Agreement and development regulations of Newton County to guaranty maintenance of streets and drainage facilities in the above described Project for a period of _____ months, beginning ____ and ending _____.
2. The amount of the letter of credit shall be _____.
3. This letter of credit may be called by your drafts drawn on site at our branch located at _____ and also at our main office located at _____ when accompanied by the following documents and instruments:
 - a. Original letter of credit
 - b. A statement signed by the Planning Director of Newton County, Georgia or the Chairman of the Board of Commissioners stating: "Principal [name principal], its assigns or successors in interest, have failed to abide by its Development Performance and Maintenance Agreement on the Project know as [describe project and location] and has been declared in default of that agreement by Newton County."
 - c. The draft must specify the amount sought and must bear the words, "Drawn under irrevocable letter of credit no. ____ of [Issuing Bank] dated _____."
4. We shall honor such demand presented pursuant to these terms without inquiring whether you have a right to make such demand and without recognizing any claim of Principal, our customer.

5. This letter of credit shall remain in full force and effect notwithstanding a partial draw or draws so long as a sum remains to be drawn or until it has expired.

6. This letter of credit shall expire _____.

7. This letter of credit is subject to the "Uniform Customs and Practices for Documentary Credits," International Chamber of Commerce publication No. 500, 1993 revisions, and the laws of the State of Georgia. In the event of a conflict, Georgia law shall control. All legal proceedings initiated with respect to this document shall be subject to Georgia courts and law.

Yours truly,

[ISSUING BANK]

by:
its:

Attest:

Secretary

Sworn to and subscribed before me,
this ___ day of _____, 2003.

Notary Public

My commission expires: _____

CERTIFICATE OF DEVELOPMENT CONFORMANCE

The Newton County Planning Director hereby certifies that the applicant know as _____ has, on behalf of the development _____ known _____ as

_____, located in land lot _____, of the _____ district, _____ section of Newton County, Georgia, submitted the following applicable plats, plans and record drawings, and further certifies that all applicable plats, plans and record drawings are complete and are in conformance with the Zoning Ordinance and Development Regulations of Newton County, that all such plats, plans and record drawings have been field checked and that the development is in compliance with all such plats, plans and record drawings:

[check "3" if applicable, or _____ [indicate compliance]
 indicate "n/a" if not applicable]

3	Final Site Plan or Final Plat submitted and approved	_____
	development complies	_____
_____	Tree Protection and Landscape Plan (including parking lots and street trees) submitted and approved	_____
	development complies	_____
_____	Traffic Impact Study submitted and approved	_____
	development complies	_____
_____	Development of Regional Impact forms submitted and approved	_____
_____	Sewage Disposal Plan submitted and approved	_____
	development complies	_____
_____	Water System Plan submitted and approved	_____
	development complies	_____

_____	Sewer System / Facility Plan submitted and approved development complies	_____
_____	Site Lighting Plan submitted and approved development complies	_____
_____	Stormwater Management Plan (including hydrology study) submitted and approved development complies	_____
_____	Shared Parking Plan submitted and approved development complies	_____
_____	Street Striping Plan submitted and approved development complies	_____
_____	Conditions of Zoning development complies	_____
_____	Complies with Zoning Ordinance	_____
_____	Landscaping completed	_____
_____	Street base and paving completed	_____
_____	Curb and gutter completed	_____
_____	Storm water drainage and detention facilities completed	_____
_____	Development Performance and Maintenance Agreement (including surety) submitted and approved development complies	_____

This approval may be revoked in cases of fraud or whenever unauthorized changes are made to the site without the benefit of required permits or other approval. Continuing compliance with the above plans is required.

This approval certifies that the final plat is ready for approval, provided it accurately reflects the condition of the site.

This ____ day of _____, 20____.

Planning Director

