

CITY OF FIFE
PERFORMANCE & MAINTENANCE BOND WITH GUARANTY

Project # _____
Performance Bond Amount \$ _____
Guaranty/Maintenance Bond Amount \$ _____
Bond # _____

1. Date and Parties

This performance bond and guaranty is dated, for reference purposes only, the _____ day of _____, 2006 and is executed by _____, as Principal(s), and _____, as Surety.

2. General Recitals

A. The Principals have requested that the City of Fife, Pierce county, Washington ("City") grant final plat approval for _____ plat ("Plat").

B. Fife Municipal Code section 18.44.110 requires that all improvements required to be constructed as conditions of preliminary plat approval, must be either constructed or bonded prior to final plat approval.

C. The Principals have requested that the City allow them to bond the following Improvements (collectively referred to as the "Improvements"):

3. Agreement to Perform

A. The Principals hereby agree that construction of the Improvements shall be completed in accordance with City Code, and accepted by the City, no later than two years from final Plat approval. The date of final Plat approval shall be deemed to be the date the City Council approves the final plat, as evidenced on the final plat recorded with Pierce County.

B. The Principals further agree to maintain the Improvements to City standards for two years after the Improvements are constructed and accepted by the City.

4. Indemnity Agreement

The Principals hereby agree to indemnify and hold the city harmless from any and all claims that may be made against the City resulting directly or indirectly from any action or inaction of the Principals or their agents, employees or independent contractors' relation directly

or indirectly to work performed or to be performed under the terms of this agreement. This indemnity and hold harmless shall include City costs related to defending against said claims or in enforcing the terms of this agreement.

5. Obligation of Surety

A. If the Principals fail to construct the Improvements and receive City approval within the time limits set forth above, then the Surety shall be liable to the City for City Costs resulting from said failure to perform, but not to exceed the Bond amount.

B. If the Principals fail to maintain the Improvements as required herein for length of time set forth above, then the Surety shall be liable to the City for city Costs resulting from the failure to maintain the Improvements, but not to exceed one tenth of the Bond amount.

C. For purposes of this document, the term "City Costs" shall mean all City expenditures, obligations or debt incurred, including, but not limited to: construction, equipment and material costs; City staff time; legal consultant fees; engineering consultant fees; financial consultant fees; publication, service or process and filing fees; mailing fees; cost of right-of-way, real property and easement acquisition; and fees and costs to other governmental jurisdictions, that are made or incurred by the City, whether or not legal action is commenced.

6. Addresses for Notices

All notices required hereunder shall be considered properly delivered when personally delivered, when received by facsimile or on the third day following mailing, postage prepaid, certified mail, return receipt requested, to:

Principals:

Surety:

Name

Name

Street address

Street address

City, State and zip code

City, State and zip code

Facsimile number

Facsimile number

7. Default

A. If the Principals fail to complete the Improvements, as required hereunder in a timely manner, then the City shall notify the Principal and Surety that the Improvements must be completed to the satisfaction of the city Public Works Department within thirty days from the date of the Notice. If the Improvements are not so completed and approved within said thirty day period,

then the Surety, upon written demand by the City, shall immediately tender to the City the full amount of the Performance Bond and the City will complete the Improvements, deduct from the amount tendered the City Costs, and refund the remainder, if any, to the Surety.

B. If the Principals fail to maintain the Improvements, as required hereunder, then the City shall notify the Principal and Surety that the Improvements must be repaired to the satisfaction of the City Public Works Department within 10 days from the date of the notice. If the Improvements are not repaired and approved within said 10-day period, then the Surety shall tender to the City the full amount of the Maintenance bond, and the City shall retain that amount until the end of the maintenance period. If at the end of the maintenance period the tendered monies have not been expended for City Costs associated with Improvement maintenance, then the remaining amount shall be refunded to the Surety.

C. If the amount of the Maintenance and/or Performance Bond is inadequate to pay for city Costs, either because the City Costs exceed the Bond amounts or the Surety is no longer solvent or fails to timely tender the appropriate amount, the City shall forthwith notify the Principals and they shall tender the deficiency to the City within five days of said notification. If the City commences legal action to collect said deficiency, then the prevailing party in said legal action shall be entitled to judgment for their reasonable costs and attorney fees incurred therein. Each principal is jointly and severally liable for the obligations set forth herein.

8. Modification

This document cannot be modified, nor the obligations created hereunder terminated, without the City's express written consent.

PRINCIPAL:

By: _____

Title: _____

PRINCIPAL:

By: _____

Title: _____

SURETY:

By: _____

Title: _____

Accepted by the City this ____ day of _____, 2006

By: _____

Title: _____