

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

**STORMWATER PERFORMANCE
BOND**

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, that _____ (hereinafter "Principal"), and _____, (hereinafter "Surety"), a corporation duly organized in the State of _____ and licensed to transact business in the State of South Carolina, are held and firmly bound unto the City of Greer (hereinafter "Obligee"), in the sum of _____ (\$_____), for which payment, well and truly to be made, the Principal and Surety bind themselves, their legal representatives, successors, agents, and assigns, jointly and severally, to the Obligee.

WHEREAS, this ____ day of _____, 20__, the Principal has made application to the Obligee and has received acceptance from the Obligee for the Stormwater plan, of certain property located in the city limits of Greer, South Carolina and known as the _____ (hereinafter "Review Complete Plans"), said plans stamped by the City of Greer "Review Complete" and prepared by _____ (hereinafter "Design Professional") encompassing improvements described that require Stormwater Management and Sediment Erosion Control Plans that must be completed pursuant to the Greer City Code and subject to the approval of the City of Greer Stormwater engineer(s).

WHEREAS, the purpose of this bond is to guarantee the completion of the storm water management facilities pursuant to the requirements set forth in Greer City Code Section 90-363; to maintain sediment and erosion controls according to the Review Complete Plans; and, to maintain and operate stormwater management facilities for the project pursuant to Greer City Code Section 90-361 *et seq.*, a copy of which is attached to this Agreement as Exhibit "A," the terms of which are incorporated herein as if set forth fully, and all other applicable state and federal laws dealing with stormwater until the facilities are complete and approved by the City of Greer.

WHEREAS, the Surety's telephone number, mailing address, and full contact information of representative of Surety authorized to address any and all issues that may arise with this Bond is as follows:

_____ (Name of representative and representative's title)

_____ (Mailing address)

_____ (Telephone number)

NOW, THEREFORE, THE REQUIREMENTS AND CONDITIONS OF THIS OBLIGATION are as follows:

1. Principal shall complete said improvements pursuant to the Review Complete Plans, and shall fully indemnify and hold harmless the Obligee from all costs and damage which the Obligee may suffer by reason of failure to do so.

2. It is agreed by the Principal and Surety that the amount of the bond (\$_____) is based upon an estimate of the cost plus 20% (percent) prepared and sealed by a Professional Engineer license in the State of South Carolina to ensure the following:

- a. Complete the stormwater management facilities pursuant to the Review Complete Plans; and
- b. Maintain sediment and erosion controls according to the Review Complete Plans.

3. Term: The term of this Bond shall begin upon the date of this agreement until the “as-built” certification documents submitted by the Design Professional are accepted by the City Engineer; PROVIDED HOWEVER, that Twenty Percent (20%) of the Bond shall be retained for one-year past project completion/as- built certification acceptance. This Bond shall renew automatically until the project has reached final completion plus one year unless otherwise directed by the City Engineer.

4. Partial release of the bond is allowed annually for various stages of project completion, provided the work has been inspected and accepted by the City Engineer. The developer shall notify the City Engineer upon completion of each stage that is ready for inspection.

5. This Bond shall become due and payable upon the following:

- a. Failure of the Principal to complete the stormwater management facilities according to the Review Complete Plans; or
- b. Failure of the Principal to maintain sediment and erosion controls according to the Review Complete Plans; or
- c. Failure to follow all requirements as set forth in Greer City Code § 90-361 et seq, attached as Exhibit “A;” or
- d. Failure to abide by all state and federal laws dealing with stormwater.

6. Claims Procedure: In the event the Principal fails to comply with the Review Complete Plans, the Oblige shall provide written notice of the Principal’s failure to perform to the Surety to the Surety’s address indicated above by first-class mail. The Oblige will provide a “punch list” of items that have not been completed in the written notice to the Surety. Within thirty (30) days of the date of mailing of the written notice, the Surety shall pay the obligation in full.

7. Alternative Claims Procedure: In the event the Principal fails to comply with the Review Complete Plans, the Oblige shall provide written notice of the Principal’s failure to perform to the Surety to the Surety’s address indicated above by first-class mail. The Oblige shall provide a “punch list” of items that have not been completed in the written notice to the Surety. The Surety has the option to obtain bids from qualified contractors to undertake performance and completion of the punch list by which the Surety arranges for the contract to be secured with a like performance bond satisfactory to the Oblige.

The Surety must exercise its option in writing to the Oblige within fifteen (15) days of mailing of the written notice provided by the Oblige. The Surety must provide in writing within forty-five (45) days of mailing of the written notice by the Oblige, the list of qualified contractors it will use to complete the “punch list” and a new performance bond. Said performance bond shall be governed by the same terms set forth herein. The Oblige shall maintain the authority to approve all aspects of completion of the projection pursuant to the “Review Complete” plans, including, but not limited to the selection of

contractors, engineers, etc. Additionally, under the Alternative Claims Procedure, only, the Surety is obligated to pay to the Obligees the amount of damages in excess of the balance of the Contract Price, if any, incurred by the Obligees that results from the Principal's default or any damages caused by the Surety's contractors.

8. With the exception of additional liability the Surety may incur to the Obligees as set forth in the Alternative Claims Procedure herein, the total liability of the Surety during the term of this bond and all renewal terms for any and all claims shall in no event exceed the penal sum of this obligation as herein stated.

9. **Governing Law and Venue:**

It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of South Carolina. The parties further agree that if any dispute arises between the parties hereto, and litigation is commenced, then venue shall be in the Greenville County Court of Common Pleas.

Signed, sealed and dated this _____ day of _____ 2015.

(Seal)

(Seal)

Principal: _____

Surety: _____

By: _____

By: _____

Its.: _____

Its: _____

Address: _____