

Permit No. _____

Bond No. _____

CITY OF LENEXA, KANSAS

PERFORMANCE and MAINTENANCE BOND

We, the undersigned of _____, as Principal, and _____, a corporation organized under the laws of the State of _____, and authorized to transact business in the State of Kansas, as surety, are held and firmly bound unto the CITY OF LENEXA, KANSAS hereinafter referred to as "City," in the penal sum of _____ Dollars (\$ _____), lawful money of the United States of America, for the payment of which sum truly to be made to the City of Lenexa, Kansas, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the City, has on the ____ day of _____, 20__ issued Public Improvement Permit Number **PI**__-__ to _____ permitting the construction of certain public improvement described therein. Pursuant to said Permit, Principal agrees to provide in a good, substantial and workmanlike manner all construction, labor, materials, equipment, tools, transportation, superintendence, and other facilities and accessories, for and in connection with the satisfactory performance of all work and construction of certain public improvements referred to as _____ (the Project), more particularly designated, defined and described in Permit, and in accordance with the specifications and City-approved plans; a copy of said Permit is made a part hereof by reference as if fully set out herein.

NOW THEREFORE, if Principal shall in all particulars promptly and faithfully perform each and every covenant, condition, and part of the Permit, and the conditions, specifications, City-approved plans hereto attached or by reference made a part hereof, according to the true intent and meaning in each case, and said improvements shall be constructed and completed in strict accordance with the Permit, conditions, specifications, City-approved plans and other documents in such a manner that the same shall endure without need of repairs or maintenance for a period of two (2) years from and after completion of the Project and acceptance of the same by the City's Governing Body; and if said Project shall actually endure without need of repairs or maintenance for

the period of two (2) years from and after completion and acceptance thereof as aforesaid, then this obligation shall be and become null and void; otherwise it shall remain in full force and effect.

Whenever Principal is declared by City to be in default for failure to perform under the Permit, the City, having performed City's obligations hereunder, shall notify the Surety, who shall either promptly remedy the default or shall within fourteen (14) days from the date of written notice from the City:

1. commence completion the Project work in the Permit and the conditions, specifications, City-approved plans in accordance with terms and conditions therein; or
2. commence the process of obtaining a bid or bids for completing the Project work in the Permit in accordance with the terms and conditions of the Permit and the conditions, specifications, City-approved plans, and upon determination by City and the Surety jointly of the best and lowest responsive, responsible bidder, arrange for a Contract between such bidder and City, and make available as the Project work progresses sufficient funds to pay the total costs of completion less the balance of the Construction Cost, including other costs and damages for which the Surety may be liable hereunder; or
3. pay to City sufficient funds to pay the cost of completion less the balance of the Construction Cost and other costs and damages for which the surety may be liable hereunder.

The term "balance of the Construction Cost", as used herein, shall mean the total amount of the cost of construction of the Improvements as set forth in the Permit and any amendments thereto, less the cost of any Project work completed to date. No right of action shall accrue on this Bond to or for the use of any person or corporation other than City or successors of City.

If the Project requires repairs or maintenance within such (2) year period then this obligation shall continue in full force and effect and Principal and Surety shall be responsible for the prompt payment of the penal sum to the City for such repairs and/or maintenance including any incidental costs associated therewith, including but not limited to the costs of consultants and/or engineering investigations, testing, analysis and any other costs incurred to determine the cause of defect and/or the necessary repair and maintenance and attorney fees incurred in the collection of this Bond.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Permit, the Project

work to be performed hereunder, or the specifications accompanying the same, shall in any way affect its obligations on this Performance and Maintenance Bond and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the Permit, or to the Project work, or to the specifications or City-approved plans.

IN TESTIMONY WHEREOF, Principal has hereunto set his/her hand, and the Surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney-in-fact duly authorized thereunto so to do on this, the _____ day of _____, 20__.

[SEAL]

[Principal]

[Title]

ATTEST:

[Secretary]

[Surety Company]

[SEAL]

By:

[Attorney-in-fact]

By:

[Kansas Agent]

(Accompany this Bond with Attorney-in-Fact's authority from the surety company certified to include the date of the bond.)