



**PERFORMANCE BOND
(CORPORATE SURETY)**

BOND NO:	DATE BOND EXECUTED:
PRINCIPAL:	Bond Amount: Written out & numerically.
	DATE OF AGREEMENT:
CO-PRINCIPAL(S):	PLAN NAME:
SURETY(IES):	PLAN NO.:

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal(s), and Surety(ies) hereto recite and declare that:

1. We are held and firmly bound to the obligee Board of Supervisors of Fairfax County, Virginia (hereinafter called "County"), in the sum written above in lawful money of the United States of America to be paid to the County, its successors or assigns, for the payment whereof Principal(s), Co-Principals and Surety(ies) bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by this Bond.
2. The condition of this Bond is that if the Principal shall in every respect perform all of its obligations under the Agreement identified above, which Agreement is incorporated herein by reference, then this Bond shall be void; otherwise, the Bond shall continuously remain in full force and effect until released by the County.
3. (A) It shall be the duty of the Principal to notify Surety of any revision of the plans, profiles and specifications referred to in the Agreement. Except as otherwise provided herein, surety expressly waives any right to receive notice from obligee or to review or approve any revisions to the plans, profiles and specifications referred to in the Agreement which are required to meet County or State standards. No such revisions of any kind in the work shall in any way affect the obligation of the Surety under this Bond; except that the Principal shall submit to the Surety for review and approval, and the Surety shall have the right to review and approve, any such revision which:
 - (1) adds additional subdivision lots to those shown in the original plat of the subdivision, site plan or construction plan referred to in the Agreement;
 - (2) grants the Principal any extension of time beyond the period provided for in the Agreement for completion of its obligations under the Agreement;
 - (3) increases the cost of remaining construction and improvements under the Agreement by more than ten percent of the original sum of the bond, as established by the estimate of Principal; provided, however, that the Surety shall be in all cases conclusively bound for purposes of this subparagraph by the estimate rendered by the Principal to the County as to the cost of any such revision. Where revisions are made without approval of Surety as required by this Subparagraph No. 3(A)(3), surety shall be released from any liability for that part of such revision in excess of ten percent of the original sum of this bond; provided, however, that such revision without review and approval of Surety as required under this Subparagraph No. 3(A)(3) shall not otherwise operate as a release or discharge of any obligation of Surety under this Bond.(B) The failure or refusal of County to take any action, proceeding, or step to enforce any remedy or exercise any right under the Agreement or the taking or any action, proceeding, or step by County, acting in good faith upon the belief that same is permitted by the provisions of the Agreement shall not in any way release Principal or Surety, or either of them, or their respective executors, administrators, successors, or assigns, from liability under this Bond. Except as set forth herein, Surety hereby waives notice of any amendment, indulgence made, granted or permitted.
(C) The County, Principal, Co-principal and Surety intend that each provision of this bond be valid and binding upon them and expressly agree to abide thereby.
(D) In the event of a default (as defined in Paragraph No. 4(A)) of this Bond, the County may terminate whatever rights Principal, Co-Principal and/or Surety may have to perform further work on the project.
4. (A) A default shall be deemed to have occurred on the part of the Principal if Principal shall fail to complete its obligations under the Agreement within the time set forth therein or any extensions thereof; or, prior to the expiration of such period, if in the judgment of the Director of Land Development Services, (LDS), the Principal has:
 - (1) abandoned the performance of its obligations under the Agreement, or
 - (2) renounced or repudiated its obligations under the Agreement; or,
 - (3) clearly demonstrated through insolvency, or otherwise, that its obligations under the Agreement cannot be completed within the time allotted under the Agreement.(B) If the Principal defaults in the performance of all or any part of the obligations specified in the Agreement the Director, LDS, shall give written notice of the default to the Surety, with a copy to the Principal and Co-principal, if any. In the event of such default and notice, Surety shall, within 45 days of receipt of the default notice, give written notice to the County stating whether it will assume the Agreement and the obligations of the Principal, and should it elect to assume said obligations Surety shall be required to complete the Agreement according to its terms and provisions within 180 days of said notice, but not before expiration of the period provided for under the Agreement and approved extensions thereof. In the event that Surety elects to assume the obligations of Principal as provided herein and thereafter fails to faithfully perform all or any part of the work, or should it unnecessarily delay all or any part of the work, then the County may proceed as provided in Paragraph No. 5 of this Bond.

5. Should Surety following notice of default notify the County that it elects not to assume the obligations of Principal under the Agreement; or fail within 45 days of receipt of the default notice as provided in Paragraph No. 4(B) above to notify the County whether it elects to assume the obligations of Principal under the Agreement; or, having elected to assume the obligations of Principal, should it then fail to perform; then in any event the County may elect any of the following procedures or any combination thereof:

(A) terminate whatever rights the Principal, Co-principal and/or Surety may have to perform further work on the project;

(B) take over or relet all or any part of the work under the Agreement which is not completed and complete the same for the account and at the expense of the Principal and Surety, who shall be jointly and severally liable to County for the costs incurred in completion of the obligations under the Agreement and/or correction thereof. Such costs as identified in the Agreement shall include, but not limited to, construction, engineering, surveying, maintenance, deterioration, administration, supervision, reasonable attorney's fees, and any costs associated or related to any litigation of this agreement and shall be adjusted for inflation. The amount of County's actual costs for completion and/or correction of the work required under the Agreement shall be conclusive of the extent of the liability of Principal and Surety; provided, however, that Surety's liability shall in no case be greater than the sum of this Bond.

6. Surety shall have the right, at any time within 45 days of the default notice provided for in Paragraph No. 4(B) hereof, to demand that the Director, LDS, state a sum constituting the estimated costs at that time, of completion and/or correction of the work required under the Agreement, such as costs as defined in Paragraph No. 5(B). Should it so elect, Surety may then pay over to the County the sum so stated and be released from any further obligations under this Bond. Provided, however, that the Surety shall in no event be required to pay over any such sum to the Director, LDS, nor any other sum under this Bond, prior to judgement in a suit hereunder. If funds are paid over under this section and the paid over funds are not sufficient to complete the work, the County's sole remedy shall be to proceed against the Principal(s) and Co-principals for any deficiency. If there are any paid over funds not necessary for completion of the work, the County will return the excess, with legal interest, to Surety after completion of the work.

7. If any action or proceeding is initiated in connection with this Bond and any and all obligations arising hereunder the venue thereof shall be the County of Fairfax, Commonwealth of Virginia, and it is further understood and agreed that this contract shall be governed by the laws of the Commonwealth of Virginia, both as to interpretation and performance.

8. All notices sent to the Principal(s), Co-principal(s), and Surety(ies) shall be sent to the addresses set forth on the signature page unless said Principal(s), Co-principal(s) and Surety(ies) notify the Director, LDS, in writing of any change. If the addresses of any of the Principal(s), Co-principal(s) and Surety(ies) change, the Principal(s), Co-principal(s) or Surety(ies) shall immediately notify the Director, LDS in writing of such change. Failure to notify the Director, LDS of any change in address is deemed to be a waiver of any requirement for notice under this Bond to the Principal(s), Co-principal(s) or Surety(ies). All written notice to the County required under the Bond shall be sent certified mail and addressed to Director, LDS, with a copy to the Chief, Bonds & Agreements Branch, LDS, provided, however, that any notice that may be required pursuant to Va. Code Ann. 49-25 shall be given to the above and the Chairman of the Board of Supervisors and the County Attorney.

9. If any one or more of the provisions of this Bond are determined to be illegal or unenforceable by a court of competent jurisdiction, all other provisions shall remain effective.

10. No party other than the County shall have any rights under this Bond as against the Surety.

11. Approval of this Bond by the County shall be deemed acceptance without further notice to the Principal(s), Co-Principal(s) and/or Surety(ies).

12. The surety shall immediately notify the County if the Best Key rating for the insurance company falls below Class A-VI. The notification shall be provided to the Director no later than 45 calendar days after the Best Key rating is reported.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and sealed as of the day and year set forth above.

PRINCIPAL

Type of Organization:

Legal Name of Organization:

State of Incorporation:

Address:

Authorized Signature(s):

By: _____ (seal)

By: _____ (seal)

Signature

Signature

(Type name and title)

(Type name and title)

ACKNOWLEDGMENT OF PRINCIPAL(S)

STATE OF _____:

COUNTY/CITY OF _____:

I, _____ Notary Public in and for the State and County/City aforesaid, do hereby certify that _____ whose name is signed to the foregoing bond, this day personally appeared before me in my State and County/City aforesaid and acknowledged the same.

Given under my hand this _____ day of _____ .

My commission expires: _____

NOTARY PUBLIC

CO-PRINCIPAL(S)

Type of Organization: _____

Legal Name of Organization: _____

State of Incorporation: _____

Address of Organization: _____

Authorized Signature(s)
By: _____
Signature (seal)
(type name and title)

By: _____
Signature (seal)
(type name and title)

ACKNOWLEDGMENT OF CO-PRINCIPAL(S)

STATE OF _____:
COUNTY/CITY OF _____:

I, _____ Notary Public in and for the State and County/City aforesaid, do hereby certify that _____
_____ whose name is signed to the foregoing bond, this day personally appeared before me in my State and County/City aforesaid and acknowledged the same.

Given under my hand this _____ day of _____ .

My commission expires: _____ Notary Public

CORPORATE SURETY

Type of Organization: _____

Legal Name and Address: _____

Liability Limit: _____

By: _____ (seal)
Signature
(type name and title)

By: _____ (seal)
Signature
(type name and title)

ACKNOWLEDGMENT OF CORPORATE SURETY(S)

STATE OF _____:
COUNTY/CITY OF _____:

I, _____ Notary Public in and for the State and County/City aforesaid, do hereby certify that _____ Attorney-in-Fact for the _____ whose name is signed to the foregoing bond, this day personally appeared before me in my State and County/City aforesaid and acknowledged the same.

Given under my hand this _____ day of _____ .

My commission expires: _____ Notary Public

Surety: _____

Bond No.: _____

IN WITNESS of which, the Board has caused this Agreement to be executed on its behalf.

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By: _____
Director, Land Development Services
Department of Public Works and Environmental Services

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX

_____, Director, Land Development Services, Department of
Public Works and Environmental Services appeared before me this _____ day of _____ (Month) _____ (Year) and acknowledged
his/her signature.

My commission expires: _____

Notary Public

Approved As To Form:

County Attorney