

## IMPROVEMENT BOND INSTRUCTIONS

1. Enter the developer's name on the agreement and the bonds. Please note that the names must be the same on both documents.
2. The agreement date and the bonds date must match the date that the Surety signs the bonds.
3. In Item 1 of the agreement, the completion date must be no more than 12 months after the agreement date.
4. In Item 1 of the agreement, enter the approved cost estimate amount.
5. Provide a copy of the evidence authorizing the developer's (or representative's) signature.
6. The developer's signature must be notarized on the agreement and all bonds.
7. The approved Construction Cost Estimate must be attached to the agreement as Exhibit 'A'.
8. Provide a cost estimate for the setting of the survey monuments (prepared by Land Surveyor or Civil Engineer #33965 or below).
9. In the Performance Bond, the dollar amount must equal 100% of the approved construction cost estimate.
10. In the Payment Bond, the dollar amount must equal at least 50% of the approved construction cost estimate.
11. In the Defective Materials and Workmanship Bond, the dollar amount must equal at least 10% of the approved construction cost estimate.
12. In the Defective Materials and Workmanship Bond, fill in the blank line following "...contract with the City of Santa Ana entitled" with the title: "Agreement for the Installation of public Improvements at (state the project address)."
13. Surety signatures on all bonds must be notarized with a Power of Attorney for each bond signature.
14. The date on the Power of Attorney must match the Surety signature date on the bonds.
15. The minimum acceptable financial rating for insurance companies as Surety for issuing Improvement Bonds is 'A-'. Provide a copy of the A.M. Best Rating for confirmation.

Please allow a minimum of 10 working days for processing once all documents have been submitted to the Public Works Agency.

If you need any clarification on the above instructions or have any other questions, please contact Anderson Chrysostomo at (714) 647-5838.

**AGREEMENT FOR THE INSTALLATION OF PUBLIC IMPROVEMENTS**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, by and between the CITY OF SANTA ANA, a municipal corporation of the State of California ("City") and \_\_\_\_\_ ("Developer")

WITNESSETH

Recitals:

- A. Developer proposes to construct a development on property located generally at \_\_\_\_\_ in the City of Santa Ana (the "Development").
- B. As a condition to the Development, the Developer is required by the City to install certain public improvements ("Required Improvements").
- C. The Developer, by execution of this Agreement, desires to provide assurances to the City that the Required Improvements will be completed in a timely manner following the City's issuance of a certificate of occupancy and approval of a utility release for the development.

WHEREFORE, in consideration of the foregoing, the parties hereby agree as follows:

- 1. Developer shall complete the construction of the Required Improvements, as described in Exhibit A attached hereto and incorporated herein by reference, at Developer's sole cost and expense, on or before \_\_\_\_\_.

The estimated cost of the Required Improvements is \$\_\_\_\_\_.

The Developer shall submit to the City Street Improvement Plans, for review and approval by the City, prior to the issuance of a permit for the Required Improvements, as described in said Exhibit A.

The Required improvements shall be deemed complete upon their acceptance by the City's Executive Director of Public Works or his designated representative, which acceptance shall not be unreasonably withheld.

- 2. Prior to the issuance of a building permit for the Development, the Developer shall provide the City with either of the following:

(a) bonds by a corporate surety duly authorized to transact business in the State of California as follows:

- (1) A performance bond in the form set forth in California Government Code, Section 66499.1, the Subdivision Map Act of the State of California in an amount equal to 100% of the amount set forth in Section 1 of this Agreement, which amounts to DOLLARS (\$\_\_\_\_\_); and
- (2) A labor and materials bond in the form set forth in California Government Code, Section 66499.2, the Subdivision Map Act of the State of California in an amount equal to 50% of the amount set forth in Section 1 of this agreement which amounts to DOLLARS (\$\_\_\_\_\_); and
- (3) A defective materials and workmanship bond in the form set forth in California Government Code, Section 66499.3, the Subdivision Map Act of the State of California in an amount equal to 10% of the amount set forth in Section 1 of this agreement which amounts to DOLLARS (\$\_\_\_\_\_).

Or

- (b) An irrevocable letter of credit in the amount set forth in Section 1 of this Agreement.

As security for the improvements, Developer shall, before the issuance of a building permit by the City, and as a condition precedent to the issuance thereof, furnish to the City irrevocable standby letter(s) of credit ("Letter of Credit") in a form to be approved by the City. The Letter of Credit shall be issued by one or more financial institutions subject to regulation by the state or federal government with a financial quality rating of "A" or greater. The Letter of Credit shall pledge that the funds necessary to carry out the completion of the improvements are on deposit, guaranteed for payment, and constitute a trust fund which is not subject to levy or attachment by any creditor of the depositor until released by City. Letters of credit shall guarantee that all or any portion of the funds available pursuant to the letters of credit will be paid upon the written demand of City and that such written demand need not present documentation of any type as a condition of payment, including proof of loss. The duration of any such letter of credit shall be for a period of not less than one year from the execution of the agreement with which it is provided and shall state, on its face, that the letter of credit will be automatically renewed until such time that City authorizes its expiration..

The Letter of Credit shall be for the following sums:

- a) securing the faithful performance by Developer of all work and the construction of all improvements herein in this agreement mentioned, and within the time herein specified, the amount to be DOLLARS (\$ \_\_\_\_\_),
  - b) securing the payment by Developer of all bills for labor and materials incurred in the construction of any and all said improvements, and the doing of all work herein agreed to be done by Developer, the amount to be DOLLARS (\$ \_\_\_\_\_),
  - c) guaranteeing the payment of the cost of setting survey monuments, the amount to be DOLLARS (\$ \_\_\_\_\_),
  - d) guaranteeing the City for a period of one (1) year following the completion and acceptance of the work herein agreed to be performed by Developer against any work or labor done, or materials furnished which are defective or not in accordance with the terms of this agreement, the amount to be DOLLARS (\$ \_\_\_\_\_).
3. Prior to commencement of the work on the Required Improvements, either the Developer or the contractor performing the work, shall have filed with the City a policy of public liability insurance, or a certificate and additional insured endorsement thereof, naming the City and its officers, agents, volunteers and employees as insureds or additional insureds, insuring against loss of liability for bodily injury and/or property damage arising or resulting from any operations and activities in connection with the construction of any and all of the Required Improvements, in the amount of \$1,000,000 combined single limit or equivalent.
  4. Developer agrees to indemnify, defend and hold harmless the City and its officers, agents, volunteers and employees, from and against any and all loss or damage, and from any and all suits, actions and claims filed or brought by any person or persons, arising out of the negligent acts or omissions of Developer or of its contractors or their subcontractors or of the officers, agents, employees of Developer or its contractors or their subcontractors in the performance of this Agreement.
  5. Nothing herein shall be construed to be a limitation on other requirements which may be imposed by the City on Developer as conditions to the issuance of building permits or certificates of occupancy for the Development, or to the recordation of a parcel map for the Development, including, but not limited to, conditions which pertain to the installation of public improvements other than and in addition to the Required Improvements which are the subject of this Agreement
  6. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this agreement.

7. This agreement shall be governed by and construed in accordance with the laws of the State of California.

8. This agreement may not be modified or amended except in writing signed by the Developer and City.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year last written below.

APPROVED AS TO FORM:

CITY OF SANTA ANA  
A municipal corporation of the State of California

\_\_\_\_\_  
John Funk  
Assistant City Attorney

\_\_\_\_\_  
Nabil Saba, P.E.,  
Executive Director  
Public Works Agency

Date: \_\_\_\_\_

DEVELOPER:

\_\_\_\_\_  
Name of Company

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Developer's Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the City of Santa Ana, a municipal corporation of the State of California, and \_\_\_\_\_ (hereinafter designated as "Principal"), have entered into an Agreement whereby Principal agrees to install and complete certain designated public improvements, which said Agreement, dated \_\_\_\_\_, 20\_\_\_\_, is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a bond for the faithful performance of said agreement.

NOW, THEREFORE, we, the Principal and \_\_\_\_\_, as Surety, are held and firmly bound unto the City of Santa Ana, California (hereinafter called "City"), in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his, hers, or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said Agreement and any alteration thereof made as therein provided, on his, hers, or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on \_\_\_\_\_, 20\_\_\_\_\_.

PRINCIPAL: \_\_\_\_\_  
(Type Company Name)

SURETY: \_\_\_\_\_  
(Type Company Name)

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures.)

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the City of Santa Ana, a municipal corporation of the State of California, and \_\_\_\_\_(hereinafter designated as "Principal") have entered into an Agreement whereby Principal agrees to install and complete certain designated public improvements, which said Agreement, dated \_\_\_\_\_, 20\_\_, is hereby referred to and made a part hereof; and

WHEREAS, under the terms of said Agreement, Principal is required before entering upon the performance of the work to file a good and sufficient payment bond with the City of Santa Ana to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

NOW, THEREFORE, said principal and the undersigned as corporate surety are held firmly bound unto the City of Santa Ana and all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code in the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_ ) for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the said Civil Code, so as to give a right of action to them and all their assigns in any suit brought upon this Bond.

Should the condition of this Bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of said agreement or the specifications accompanying the same shall in any manner affect its obligations on this Bond, and it does hereby waive notice of any such change, extension, alteration or addition.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on \_\_\_\_\_, 20 \_\_\_\_\_.

PRINCIPAL: \_\_\_\_\_  
(Type Company Name)

SURETY: \_\_\_\_\_  
(Type Company Name)

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures.)



DEFECTIVE MATERIALS AND WORKMANSHIP BOND

KNOW ALL MEN BY THESE PRESENTS:

That we \_\_\_\_\_ as

Principal and \_\_\_\_\_

a corporation organized and existing under the laws of the State of, and authorized to do a general surety business in the State of California, as surety, are held and firmly bound unto the CITY OF SANTA ANA, a municipal corporation of the State of California, in the just and full sum of \_\_\_\_\_ DOLLARS (\$ \_\_\_\_\_), lawful money of the United States of America, for which sum, well and truly to be paid, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

The condition of this obligation is such that, whereas the Principal entered into a certain contract with the City of Santa Ana entitled

\_\_\_\_\_ and whereas the Principal contracted to give the City of Santa Ana a Surety Bond in the sum of \_\_\_\_\_ DOLLARS

(\$ \_\_\_\_\_) conditioned that the Principal would make good and protect the said City of Santa Ana against the results of any work or labor done or materials furnished which are defective or not in accordance with the terms of said contract having been used or incorporated in any part of the work so contracted for, which shall have appeared or been discovered, within the period of one (1) year from and after the completion and final acceptance of the work done under said contract.

NOW, THEREFORE, if the Principal shall well and truly make good and protect the said City of Santa Ana against the results of any work or labor done or materials furnished which are defective or not in accordance with the terms of said contract having been used or incorporated in any part of the work performed under said contract, which shall have appeared or been discovered within said one-year period from and after completion and final acceptance of said work, then this obligation shall be null and void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and Surety above named, on \_\_\_\_\_, 20\_\_\_\_\_.

PRINCIPAL: \_\_\_\_\_  
(Type Company Name)

SURETY: \_\_\_\_\_  
(Type Company Name)

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

by \_\_\_\_\_  
Title:

(Affix Corporate Seals)

(Attach Acknowledgments of both Principal and Surety signatures.)