

Agreement No.: _____
Agreement Name: _____
Bond Amount: _____

PERFORMANCE CASH BOND

This Performance Cash Bond (hereinafter “Bond”) is dated _____, 202__ and given by _____ (“Developer”), of _____ (“Principal”), to the Sussex Conservation District, a governmental subdivision of the State of Delaware (“District”).

WHEREAS, Principal is bound unto District, in the sum of _____ Dollars (\$_____), said amount to be paid upon execution hereof in guaranteed funds to District and to be held by District in a non-interest bearing account, for the payment of which Principal hereby binds itself and its successors and assigns; and

WHEREAS, Principal has, by written agreement (Agreement No. _____) dated _____ (“Agreement”), and through plans and specifications as approved by District, agreed to provide materials, labor, construction administration and construction inspection necessary for drainage construction, stormwater construction, erosion and sedimentation control facilities, and/or other improvements to Developer, as deemed necessary by District. Said Agreement is incorporated herein by reference; and

WHEREAS, District requires Principal to provide a performance bond to ensure the full and faithful performance of the Agreement; and

NOW, THEREFORE, , the condition of this obligation is such that if the Principal promptly and faithfully performs all the covenants and conditions of the Agreement, then this obligation shall be void, but otherwise this obligation shall remain in full force and the following terms shall apply:

1. This Bond shall remain in full force and effect until all improvements required by the Agreement and covered by this Bond have been constructed by Principal and approved by the District.

2. The amount of the Bond shall at all times be sufficient to secure provision of the improvements called for by the Agreement that have not yet been constructed and approved by District. In the event that the amount of the cost of the improvements increases beyond the initial amount specified in the Agreement, Principal agrees to adjust the amount of this Bond accordingly. In such an event, the obligations and liabilities of Principal under this Bond shall be increased and extended to cover the adjusted bond amount, and all references to the bond amount in this Bond shall be deemed to refer to the adjusted bond amount.

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3. This Bond shall not be subject to cancellation by Principal for any reason until such time as all improvements required by the Agreement and subject to this Bond have been constructed by Principal and approved by District. Upon full completion and approval of the improvements, District shall provide written notice of completion to Principal.

4. This Bond shall be continuous in form and shall remain in full force and effect until such time as all the improvements required by the Agreement and subject to the Bond have been constructed and approved by District. Provided that Principal is not in default of the Agreement, upon construction by Principal and approval of all improvements by District, this Bond shall be released.

5. District reserves the right, in its sole discretion, to accept a substitute bond in the place hereof, at which point this Bond shall be released.

6. District further reserves the right, in its sole discretion, to permit a partial release from this Bond; provided, however, that the remaining portion of this Bond shall at all times be sufficient to secure completion of all remaining improvements subject to this Bond.

7. In the event that the improvements subject to this Bond are not completed within the time allowed under the Agreement or Principal is otherwise in default under the Agreement, District may, at its option, upon written notice to Principal at its last known address, declare Principal to be in default, and claim payment under this Bond for the cost of completion of the improvements called for under the Agreement along with any and all costs and expenses incurred in doing so, including, but not limited to, reasonable attorneys' fees.

8. In the event that this Bond shall, for any reason, cease to be effective prior to the construction and approval of all improvements called for under the Agreement, District or other governmental authority may then issue a cease and desist order, in which case all work on the subject project shall stop until such time as a replacement guarantee acceptable to District is put in place.

9. Principal shall indemnify and save harmless District as well as its officers, employees, agents and representatives thereof, from all claims, liabilities, losses, costs, damages, and expenses (including reasonable attorney's fees) arising out of any breach and/or performance of the Agreement. Principal shall promptly notify District of any claim or potential claim that could give rise to an indemnification obligation under this clause and shall cooperate fully with District in the defense or settlement of any claim. Principal hereby acknowledges and agrees to fully and promptly pay all individuals or entities providing materials or performing labor related to the

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Agreement and to ensure that any and all amounts owed by Principal or by any party involved for said labor and materials are duly settled.

10. The obligations hereunder shall survive foreclosure, sale, assignment, conveyance or transfer of the real property or the Agreement, or both, which is the subject of this Bond. In the event of such foreclosure, sale, assignment, conveyance or transfer, this Bond shall be released by District only upon the submission of replacement security satisfactory, in the sole discretion of District, or in the event the Agreement is complete and all conditions of this Bond have been fulfilled.

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IN WITNESS WHEREOF, Developer, as Principal, has caused this Warranty Bond to be executed on its behalf as the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

DEVELOPER:

ATTEST: _____ (SEAL)
Print Name: _____
Title: _____