

Agreement No.: \_\_\_\_\_  
Agreement Name: \_\_\_\_\_  
Bond Amount: \_\_\_\_\_

### PERFORMANCE CASH BOND

Herein set forth is a Performance Cash Bond (hereinafter "Bond") given by \_\_\_\_\_ (DEVELOPER), of \_\_\_\_\_ (hereinafter "Developer" or "Principal"), to the Sussex Conservation District, a governmental subdivision of the State of Delaware (hereinafter the "District").

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

Whereas, the Principal has, by written Agreement (Agreement No. \_\_\_\_\_) dated \_\_\_\_\_ (hereinafter "Agreement"), and through plans and specifications as approved by the 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 deemed necessary by the District. Said Agreement is incorporated herein by reference.

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 such time as all improvements covered by the Bond have been constructed and approved by the District.
2. The amount of the Bond shall, at all relevant times, be sufficient to secure provision of the improvements called for by the Agreement that have not yet been constructed and approved by the District.
3. This Bond shall not be subject to cancellation by the Principal for any reason until such time as all improvements subject to the Bond have been constructed and approved by the District. Written notice of completion of the improvements shall be provided by the District upon full completion and approval thereof.
4. This Bond shall be continuous in form and shall remain in full force and effect until such time as all the improvements subject to the Bond have been constructed and approved by the District. Provided the Principal is not in default of its obligations under the Agreement, upon construction and approval of all improvements by the District, this Bond shall then be released.

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

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

7. In the event that the improvements subject to this Bond are not completed within the time allowed under the Agreement or the Principal is otherwise in default under the Agreement, the District may, at its option, upon written notice to the Principal at its last known address, declare the 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 attorney's 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, the 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 the District is put in place.

9. Principal shall indemnify and keep harmless the District as well its officers, employees, agents and representatives thereof, from all costs, damages, and expenses growing out of or by reason of the improvements and completion of the Agreement, and shall well and truly pay all and every person furnishing material or performing labor in and about said Agreement, all and every sum or sums of money due him, them or any of them, for all such labor and materials.

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 the District only upon the submission of replacement security satisfactory, in the sole discretion of the District, or in the event the Agreement is complete and all conditions of this Bond have been fulfilled.

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Sealed with our Seals and dated this \_\_\_\_ day of \_\_\_\_\_, in the year of our Lord  
20\_\_\_\_\_.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

DEVELOPER  
Corporate Seal

ATTEST: \_\_\_\_\_ (SEAL)  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_