DEVELOPMENT PERFORMANCE AND MAINTENANCE AGREEMENT

WHEREAS, as a condition of final approval and issuance of a Final Plat, Certificate of Occupancy or Letter of Completion for the development known as ____________________________, located at _____________________________, Newton County, Georgia, the developer/owner of said property hereinafter “Principal,” is required by the Newton County Development Regulations to guaranty performance and maintenance of certain aspects of the development;

IT IS HEREBY AGREED and understood that the Principal, in exchange for final approvals and other good and sufficient consideration, does agree to bind himself, and his heirs, assigns and successors in interest on this property, to maintain all public streets and drainage facilities within public streets or easements for the bonding period running from date _________ until __________, which period constitutes ______ months after issuance of the Final Plat, Certificate of Occupancy or Letter of Completion.

THE UNDERSIGNED PRINCIPAL further agrees to make necessary repairs to public streets and drainage facilities within the above described development upon request of the Newton County Planning Director or his designee, in the time-frame directed by said official. The Principal understands that failure to comply with the Planning Director’s directives shall authorize him to be declared in default of this agreement, and authorize the County to pursue the maintenance bond or letter of credit. The maximum amount of such repairs shall be as needed. The undersigned Principal understands that if repairs are not made to the satisfaction of said official, the maintenance bond or letter of credit may be claimed against by the County.

THE UNDERSIGNED PRINCIPAL further agrees to indemnify and hold Newton County harmless against all liability for damages arising as a result of errors or omissions in the design or construction of the development for a period of ten (10) years. If ownership is subsequently assigned or transferred to a successor in title or interest or other person, a copy of such legal instrument shall be filed with the Clerk of Superior Court, and provided to the Planning Director.

THE UNDERSIGNED HAS READ AND UNDERSTOOD THIS DOCUMENT FULLY. If the person signing this document is signing on behalf of a corporation, partnership or other legal entity, that person affirms hereby that he or she has full authority to bind said entity.
IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this ___ day of ______, 2016.

PRINCIPAL:
[corporation or entity name]

___________________________
by:  [print name of officer]  L.S.
its:  [title]

Attest:

______________________
Secretary
MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that ______________ [name of developer/owner] hereinafter called “Principal,” and ______________ [name of surety company] hereinafter called “Surety,” are held and firmly bound unto Newton County, Georgia, in the sum of _____________ [amount of bond] for securing the maintenance of the required improvements and works, as hereinafter set forth, for the payment of which sum Principal and Surety do well and surely bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents, acknowledge and agree as follows:

WHEREAS, the Principal has completed a development known as ___________________________________________ hereinafter called “Project,” and located at ___________________________________________ in Newton County, Georgia, and Principal now desires a Final Plat approval, Certificate of Occupancy or Letter of Completion; and

WHEREAS, the Newton County Development Regulations require a Development Performance and Maintenance Agreement and maintenance bond to insure maintenance of streets and drainage facilities for a period of ____ months from __________ [date], through and including __________ [end date];

NOW THEREFORE, the conditions of this obligation are as follows, that whenever the Principal is declared in default by the Newton County Planning Director or his designee, the Surety shall promptly remedy the default as follows:

1. Reimburse Newton County for all costs of repair and maintenance of streets and/or drainage facilities in the Project during the bond period; or at the option of the County,

2. Complete the repairs and maintenance required under the direction and approval of Newton County.

The Surety shall commence performance of its obligations and undertakings under this Bond promptly and without delay, after written notice from the Newton County Planning Director to the Surety.

This bond is intended to comply with the requirements of the Newton County Development Regulations and shall be interpreted so as to comply with the minimum requirements thereof. However, in the event the express language of this bond exceeds the minimum requirements, then the additional protection shall be enforced to the benefit of the County. All legal proceedings initiated with respect to this document shall be subject to Georgia courts and law.
IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed and their respective corporate seals to be affixed and attested by their duly authorized representatives this ___ day of ______________, 200__.

PRINCIPAL:
[corporation or entity name]

by: [print name of officer]  L.S.
its: [title]

Attest:
____________________
Secretary

SURETY:
[corporation or entity name]

by: [print name of officer]  L.S.
its: [title]

Attest:
____________________
Secretary

[attach power of attorney]
IRREVOCABLE LETTER OF CREDIT NO. ____

Issuing Bank:

Amount:

Beneficiary: Newton County, Georgia  
c/o Planning Director

Principal:

Date of Issue:

Date of Expiry:

Project: [name and location]

Dear Sir or Madam:
The undersigned hereby established its irrevocable letter of credit in favor of Newton County, Georgia, in the following manner and on the following terms:

1. The Principal is required by Agreement and development regulations of Newton County to guaranty maintenance of streets and drainage facilities in the above described Project for a period of _____ months, beginning ____ and ending ______.

2. The amount of the letter of credit shall be __________.

3. This letter of credit may be called by your drafts drawn on site at our branch located at __________ and also at our main office located at ______ when accompanied by the following documents and instruments:
   a. Original letter of credit
   b. A statement signed by the Planning Director of Newton County, Georgia or the Chairman of the Board of Commissioners stating: “Principal [name principal], its assigns or successors in interest, have failed to abide by its Development Performance and Maintenance Agreement on the Project know as [describe project and location] and has been declared in default of that agreement by Newton County.”
   c. The draft must specify the amount sought and must bear the words, “Drawn under irrevocable letter of credit no. ___ of [Issuing Bank] dated __________.”

4. We shall honor such demand presented pursuant to these terms without inquiring whether you have a right to make such demand and without recognizing any claim of Principal, our customer.
5. This letter of credit shall remain in full force and effect notwithstanding a partial draw or draws so loan as a sum remains to be drawn or until it has expired.

6. This letter of credit shall expire _________.

7. This letter of credit is subject to the “Uniform Customs and Practices for Documentary Credits,” International Chamber of Commerce publication No. 500, 1993 revisions, and the laws of the State of Georgia. In the event of a conflict, Georgia law shall control. All legal proceedings initiated with respect to this document shall be subject to Georgia courts and law.

Yours truly,

[ISSUING BANK]

__________________
by:
its:

Attest:

_____________
Secretary

Sworn to and subscribed before me,
this ___ day of ____________, 2003.

__________________
Notary Public
My commission expires: __________
CERTIFICATE OF DEVELOPMENT CONFORMANCE

The Newton County Planning Director hereby certifies that the applicant
know as __________________________ has, on behalf of the
development known as __________________________
located in land lot ____, of the ____district, ___ section of Newton
County, Georgia, submitted the following applicable plats, plans and
record drawings, and further certifies that all applicable plats, plans and
record drawings are complete and are in conformance with the Zoning
Ordinance and Development Regulations of Newton County, that all such
plats, plans and record drawings have been field checked and that the
development is in compliance with all such plats, plans and record
drawings:

[check “3” if applicable, or [indicate compliance]
indicate “n/a” if not applicable]

3  Final Site Plan or Final Plat
  submitted and approved ______
  development complies ______

Tree Protection and Landscape Plan
  (including parking lots and street trees)
  submitted and approved ______
  development complies ______

Traffic Impact Study
  submitted and approved ______
  development complies ______

Development of Regional Impact forms
  submitted and approved ______

Sewage Disposal Plan
  submitted and approved ______
  development complies ______

Water System Plan
  submitted and approved ______
  development complies ______
Sewer System / Facility Plan submitted and approved
development complies

Site Lighting Plan submitted and approved
development complies

Stormwater Management Plan (including hydrology study)
submitted and approved
development complies

Shared Parking Plan submitted and approved
development complies

Street Striping Plan submitted and approved
development complies

Conditions of Zoning development complies

Complies with Zoning Ordinance

Landscaping completed

Street base and paving completed

Curb and gutter completed

Storm water drainage and detention facilities completed

Development Performance and Maintenance Agreement (including surety)
submitted and approved
development complies

This approval may be revoked in cases of fraud or whenever unauthorized changes are made to the site without the benefit of required permits or other approval. Continuing compliance with the above plans is required.
This approval certifies that the final plat is ready for approval, provided it accurately reflects the condition of the site.

This ___ day of _______________, 20___.

_____________________________  
Planning Director