

PERFORMANCE BOND FOR ENCROACHMENT PERMIT

The City of San Pablo ("City") has issued an encroachment permit to _____ ("Contractor"), dated _____, 20____ ("Permit") for _____ ("Work"). The Permit is incorporated by reference into this Performance Bond ("Bond").

1. General. Under this Bond, the Contractor as Principal and _____, its surety ("Surety"), are bound to City as obligee for an amount not less than Dollars (\$_____) (the "Bond Sum"). By executing this Bond, Contractor and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the provisions of this Bond.

2. Surety's Obligations; Waiver. If Contractor fully performs its obligations under the Permit, including its warranty obligations under the Permit, Surety's obligations under this Bond will become null and void upon recordation of the notice of completion, provided Contractor has timely provided a warranty bond as required under the Permit. Otherwise Surety's obligations will remain in full force and effect until expiration of the one-year warranty period under the Permit. Surety waives any requirement to be notified of and further consents to any alterations to the Permit made under the applicable provisions of the Permit, including changes to the scope of Work or extensions of time for performance of Work under the Permit. Surety waives the provisions of Civil Code Sections 2819 and 2845.

3. Contractor Default.

Upon written notification from City that Contractor is in default of any provisions of the Encroachment Permit or City ordinance, regulation or standard, time being of the essence, Surety must act within the time specified above to remedy the default through one of the following courses of action:

3.1 Arrange for completion of the Work under the Permit by Contractor, with the City's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;

3.2 Arrange for completion of the Work under the Permit by a qualified contractor acceptable to City, and secured by performance bonds issued by an admitted surety as required by the Permit, at Surety's expense, or

3.3 Waive its right to complete the Work under the Permit and reimburse City the amount of City's costs to have the remaining Work completed.

4. Surety Default. If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.

5. Notice. Any notice to Surety may be given in the manner specified in the Permit and delivered or transmitted to Surety as follows:

Attn: _____
Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____
Email: _____

6. Law and Venue. This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court for Contra Costa County, and no other

place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

7. **Effective Date; Execution.** This Bond is entered into and effective on _____, 20____. Three identical counterparts of this Bond, each of which is deemed an original for all purposes, are hereby executed and submitted.

SURETY:

s/ _____

Name: _____

Title: _____

(Attach Acknowledgment with Notary Seal and Power of Attorney)

(Surety must be admitted to do business in the State of California)

CONTRACTOR:

s/ _____

Name: _____

Title: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____
County of _____)

On _____ before me, _____, Notary Public
(insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)