

"CONTRACT FOR SECURITY BOND"

Instrument prepared by: Raleigh City Attorney's Office
Brief Description for Index: Access Agreement
Tax Identifier Number: _____ Wake County Courthouse
Mail After Recording to: City Clerk's Office, P.O. Box 590
Raleigh, N.C. 27602

STATE OF NORTH CAROLINA

AGREEMENT

COUNTY OF WAKE

THIS AGREEMENT, being made and entered into this the _____ day of _____, 20____, by and between _____ hereinafter called "**DEVELOPER**", _____ hereinafter called the **CONTRACTOR** and the City of Raleigh, a municipal corporation organized under the laws of the State of North Carolina, hereinafter called the "**CITY**":

W I T N E S S E T H:

THAT WHEREAS, **DEVELOPER** is the owner of certain real property as evidenced by a deed recorded at Book, _____ Page _____ Wake County Register of Deeds; and said property is shown on Book of Maps _____, Page _____

WHEREAS, the **DEVELOPER** has submitted plans and data to the **CITY** for the development of said property to be known as set forth in City file number:

P _ _ _ _
S _ _ _ _ [APPROPRIATE FILE NUMBER MUST
PA _ _ _ _ BE INDICATED]
GH _ _ _ _
SC _ _ _ _
SP _ _ _ _

said plans are on file with the **CITY** and are made a part of this Agreement; and

WHEREAS, the **CITY** has heretofore granted approval of said plans, approval having been conditioned, in part, upon the **DEVELOPER** satisfactorily installing, constructing and completing the following improvements listed on Exhibit A; said Exhibit A is made a part of this Agreement, and

WHEREAS, the **CITY** has reasonably estimated and determined that the cost of construction, installation, and completion of said improvements will be in the sum of dollars (U.S. \$_____) lawful money of the United States of America; said estimate is attached to this Agreement as **Exhibit B** and is made a part of this Agreement, and

WHEREAS, **DEVELOPER** acknowledges its obligation to satisfactorily construct all said improvements listed on **Exhibit A** in accordance with approved plans and applicable governmental standards and has hired **CONTRACTOR** to install the improvements listed on **Exhibit A**, and the **CITY** is An unnamed third party beneficiary to the **DEVELOPER/CONTRACTOR** contract, and

WHEREAS, the **CITY** is authorized to receive security to assure the satisfactory completion of such improvements; and

WHEREAS, the **DEVELOPER**, prior to completing improvements on **Exhibit A**, desires to obtain city permits for the addresses listed on **Exhibit C**. **Exhibit C** is made a part of this Agreement.

NOW, THEREFORE, in consideration for the **CITY** issuing permits prior to installation and construction of the improvements listed on **Exhibit A**; the receipt of which is hereby acknowledged, and for the **CITY** agreeing to accept security for the uncompleted improvements, and other consideration:

1) The **DEVELOPER** and **CONTRACTOR** agree to post with the **CITY** security in the form of:

- _____ an irrevocable letter of credit
- _____ an endorsed negotiable certificate of deposit
- _____ cash (checks must be certified and will be cashed
- X** performance bond

The security is in an amount of dollars (U.S.\$_____),lawful money of the United States of America, which is 1.25 times the cost of the uncompleted improvements. The security shall be

conditioned upon the faithful performance by **DEVELOPER** and **CONTRACTOR** of all terms and conditions of this Agreement, all costs, including renewals and penalties of the security shall be paid by the **DEVELOPER** and **CONTRACTOR**. Withdrawals from the security may be in one or more payments. Upon completion of at least one-half of the improvements, listed on Exhibit A, except for paving work, the parties may mutually agree to reduce the amount of security.

DEVELOPER and **CONTRACTOR** acknowledge that any bond is from a institution or firm which does not have any ownership, occupancy, or equity interest, in the development other than having an interest merely as security for the performance of an obligation. So long as any improvement on Exhibit A is not completed and approved by the **CITY**, the bond must remain in full force and effect; failure to keep the bond in full force and effect shall be a breach of this agreement entitling the **CITY** to call upon any or all of the security.

2) The **DEVELOPER** and **CONTRACOTR** guarantee that all improvements listed on Exhibit A will satisfactorily be installed, completed, and constructed in accordance with applicable governmental standards and approved plans no later than the completion date set forth in the bond (which date is _____); failure to make such improvements within this period shall be a breach of this agreement entitling the **CITY** to call upon any or all of the security.

3) The **DEVELOPER** hereby authorizes the **CITY** and the bonding company, their employees, agents and independent contractors, at their independent option, after the occurrence of a breach hereby, to enter onto the subject property to satisfactorily complete any improvements shown on the approved construction plan.

4) Prior to calling any security for a breach of paragraph number two above, the **CITY** will provide at least sixty days written notice to **DEVELOPER**. Notice shall be deemed given by depositing such in the United States Mail, first class, and addressed:

TO **DEVELOPER**:
Contact Name/Position/Title
Address:

Telephone #:

TO CONTRACTOR:

Contact Name/Position/Title

Address:

Telephone #:

5) The **CITY** agrees to release and return the security and access rights and this agreement shall become null and void when the **DEVELOPER** or **Contractor**, upon the completion of all the improvements listed on **Exhibit A**, furnishes to the **CITY** a certificate of completion or acceptance from the appropriate governmental authority.

6) This Agreement shall not relieve the **DEVELOPER** from any obligation to make improvements. The calling of the security herein authorized shall not bar the **CITY** from exercising any other rights it may have.

7) In consideration of the signing of this contract, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed, national origin, gender, sexual orientation, age, or handicap with reference to the subject matter of this contract, no matter how remote. The parties further agree in all respects to conform with the provisions and intent of the City of Raleigh Ordinance 1969-889, as amended. This provision is hereby incorporated into this contract for the benefit of the City of Raleigh and its residents, and may be enforced by action for specific performance, injunctive relief, or other remedy as by law provided. This agreement shall be binding on the successors and assigns of the parties with reference to the subject matter of this contract.

8) This Agreement shall be binding upon the heirs, successors, and assigns of the parties. The word **DEVELOPER** shall be construed to include any subsequent owner of the real estate referred to herein.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on the day and year first above written.

DEVELOPER

By: _____ (SEAL)

_____ (SEAL)

ATTEST:

_____ (SEAL)

CONTRACTOR

By: _____ (SEAL)

_____ (SEAL)

ATTEST:

_____ (SEAL)

THE CITY OF RALEIGH

By: _____

Ruffin Hall
City Manager

ATTEST:

_____ (SEAL)

City Clerk & Treasurer

Approved As To Form:

(Deputy) City Attorney

NORTH CAROLINA

WAKE COUNTY

I, Notary Public of the County and State aforesaid, certify that Ruffin Hall, personally appeared before me this day and acknowledged that he is the City Manager of the City of Raleigh and that by authority duly given in Resolution No. (1985)-971, the foregoing instrument was signed as the act of the City of Raleigh in its name by its City Manager, sealed with its municipal seal and attested by Gail G. Smith as its City Clerk.

WITNESS my hand and official stamp or seal this _____ day of _____, 20_____.

(SEAL)

Notary Public

My Commission Expires: _____

EXHIBIT A

<u>IMPROVEMENTS</u>	<u>STREET NAME</u>	<u>PUBLIC/PRIVATE</u>
	<u>And BLOCK</u>	<u>PROPERTY IMPROVEMENT</u>
<i>Sidewalk Quantity 1000 lf Public</i>		<i>Somewhere St</i>
<i>Asphalt Quantity 900 sq. Yds.</i>		<i>Somewhere St Public</i>

EXHIBIT B

Construction Estimates

<i>Sidewalk Quantity</i>	<i>1000 lf @ \$11.17</i>	<i>\$11,170.00</i>
<i>Asphalt Quantity</i>	<i>900 sy. Yds. @ \$1.89</i>	<i>\$1,701.00</i>

Total Cost of Improvements: *\$12,871.00*

1.5 Total Cost of Improvements:* *\$19,306.50*

EXHIBIT C

List the address(es) of each lot(s) for which a building permit is requested.

123 Somewhere St - 128 Somewhere St.