

## LAND IMPROVEMENT AGREEMENT

|             |                  |
|-------------|------------------|
| <u>PM #</u> | <u>ASP #</u>     |
| <u>DR #</u> | <u>ADDRESS #</u> |

**THIS AGREEMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the City of Fontana, hereinafter call City and \_\_\_\_\_, hereinafter called Applicant.

**WITNESSETH:**

**WHEREAS**, it is the intention of the Applicant to improve a certain parcel or parcels of land in the City of Fontana described as \_\_\_\_\_ and,

**WHEREAS**, the City Council of the City of Fontana has approved and adopted certain rules and regulations governing the developing of land in the City and the posting of improvements securities guaranteeing the installation of necessary permanent improvements as set forth in Article III of Chapter 25, Article IV of Chapter 26 and Article III of Chapter 27 of the Fontana City Code and,

**WHEREAS**, the City Code specifically sets forth the requirements for the installations of necessary improvements affecting land development.

**NOW, THEREFORE**, the City and the Applicant mutually agrees as follows:

The Applicant will construct or cause to be constructed at applicants expense all required permanent improvements on streets abutting his property, all required tests, design work, equipment materials, and labor in order to complete all of the improvements as associated with the requirements per the approved project or to the satisfaction of the City Engineer or as specifically described and shown on approved plans on file with City Engineer and total cost estimate as stated on Exhibit "A", and in accordance with applicable provisions of the Standard Specifications and Standard Details of the City of Fontana in effect on the date of this Agreement.

The work shall be done under the supervision of and to the satisfaction of the City Engineer. The estimated cost of said work and improvement is the sum of (\$\_\_\_\_\_\_).

Surety bond for Faithful Performance in the penal sum of the estimated cost of said work and improvement shall be properly executed in favor of and delivered to the City as part of this Agreement. In lieu of a surety bond the Applicant may deposit money or negotiable securities with the City as provided in Article III of Chapter 25, Article IV of Chapter 26 and Article III of Chapter 27 of the Fontana City Code.

The estimated cost of construction set forth in Exhibit "A" is for estimation purposes only, and for calculation of the amount of securities required pursuant to the provisions of this section.

Applicant's obligation to complete the improvements, or any portion of them, is not limited in any way by the estimated cost of construction, and the obligation of Applicant's surety in connection with the securities required pursuant to the provisions of this section.

All of the required improvements shall be completed within 12 months from the effective date of this agreement. If the work is not completed within the specified time period because of acts of God, the public enemy, the City, or because of fire, flood, epidemic, quarantine restrictions, strikes or freight embargoes, the Applicant shall be entitled to an extension beyond the specified time period for a period equal to the length of such delay within ten days from the beginning of such delay

In addition to the extension for the reasons referenced in the foregoing paragraph, Applicant may submit a written request, Exhibit "B", for a discretionary extension of the time for completion of the improvements to the City Engineer. The City Engineer may grant or reject such extension, in whole or in part or with conditions, in his sole discretion. If an extension time is granted it shall in no way affect the validity of this contract or release the surety on the securities referenced herein.

Upon timely completion of the required improvements pursuant to the terms of this Agreement, and prior to final acceptance of the improvements by the City, Applicant shall submit to the City Engineer for review and approval, a digital copy of "record" drawings of all improvement plans in accordance with the latest edition of the City of Fontana Electric File Submittal Requirements. Upon the approval of "record" drawing, the City Engineer shall process the release of the Applicant's performance bond posted pursuant to the Bond Guarantee for Faithful Performance.

In the event that Applicant fails to complete the improvements within the required period or any approved extension, the City may complete the work and shall be entitled to recover the full cost and expenses thereof from Applicant, or his surety as herein provided. If City pursues completion of the improvement work, it may require Applicant, or his surety, to pay the City in advance, sufficient monies to cover the City's cost in completing construction of the improvements.

Any limitations period provided by law related to breach of this Agreement or the terms thereof shall not commence running until Applicant, or Applicant's surety pursuant to this Agreement, has provided the City Engineer with written notice of Applicant's intent to abandon or otherwise not complete the improvements.

Applicant shall defend, indemnify and hold City, its elected officials, officers, employees, and agents free and harmless from any and all liability arising out of or incident to Applicant's performance of this Agreement, including without limitation all reasonable attorney's fees, whether or not resulting from the negligence of Applicant or Applicant's agents. This indemnity shall extend to any claims arising because Applicant has failed to properly secure any necessary easement, land right, contract, and approval, but shall not extend to any claim arising out of the sole negligence of City.

It is further expressly agreed that the Applicant will procure all permits and licenses, pay all charges and fees, and give all notices necessary and incident to the due and lawful prosecution of the work.

**IN WITNESS WHEREOF**, three (3) identical counterparts of this agreement, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Applicant herein named on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

## APPLICANT

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**Signature**

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### Signature

## CITY OF FONTANA

By: \_\_\_\_\_  
City Engineer

Print Name

Date: \_\_\_\_\_

Print Name

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Company Name

## Address

## State

Zip Code

Attachments: (1) Exhibit "A" – Cost Estimate  
(2) Exhibit "B" – Time Extension  
(3) Securities

## **Exhibit “A”**

# **LAND IMPROVEMENT AGREEMENT**

**INSERT ENGINEER'S**

**COST ESTIMATE**

**IN THIS SPOT**

Bond No. \_\_\_\_\_  
Premium \$ \_\_\_\_\_

## **BOND GUARANTEE FOR FAITHFUL PERFORMANCE**

### **Land Improvement Agreement**

**WHEREAS**, the City of Fontana, State of California, and \_\_\_\_\_ hereinafter designated as "Applicant" have entered into an agreement whereby applicant agrees to install and complete certain designated public improvements which said agreement, dated \_\_\_\_\_, and identified as \_\_\_\_\_ is hereby referred to and made a part hereof; and

**WHEREAS**, said applicant is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

**NOW, THEREFORE**, we the applicant and \_\_\_\_\_ as surety, are held and firmly bound unto the City of Fontana, hereinafter called the City, in the penal sum of \_\_\_\_\_ (\$ \_\_\_\_\_) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by those presents.

The condition of this obligation is such that if the above bonded applicant, his or its heirs, executors, administrators, successors, or assigns, shall in all things stand to and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and hold harmless the City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect, pursuant to Article III of Chapter 25, Article IV of Chapter 26 and Article III of Chapter 27 Fontana City Code, and any amendments thereto, for the installation of construction of: \_\_\_\_\_

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As part of the obligation secured hereby and in addition to the face amount specified hereon, there shall be included costs and reasonable expenses and fees including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

**IN WITNESS WHEREOF**, this instrument has been duly executed by the applicant and surety above named, on \_\_\_\_\_.

\_\_\_\_\_  
**Applicant** (seal)

\_\_\_\_\_  
**Surety** (seal)

**NOTE:** **Signature for those executing for the surety must be properly acknowledge.**

## **LAND IMPROVEMENT AGREEMENT**

### **EXHIBIT “B”**

I, \_\_\_\_\_

(Applicant's name here)

am the owner of the property to which this Request is being made for a **One Year Time**

**Extension for Project No. \_\_\_\_\_.**

Print Name: \_\_\_\_\_

Applicant's Signature: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

(Attached Notary Acknowledgment)

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### **CITY OF FONTANA**

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

City Engineer

[ ] DENY

[ ] APPROVED

NEW DATE: \_\_\_\_\_