CITY OF OVERLAND PARK, KANSAS

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned of as principal, hereinafter referred to as the "Contractor," and , a corporation organized under the laws of the State of and authorized to transact business in the State of Kansas, as surety, are held and firmly bound unto the City of Overland Park, Kansas, hereinafter referred to as "City," in the penal sum of Dollars ($ ), lawful money of the United States of America, for the payment of which sum well and truly to be made we bind ourselves, and our heirs, executors, administrators, successors and assigns, jointly and severally by these presents:

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded Contractor, has on the day of , 20 , executed a written Agreement with the aforesaid City for furnishing in a good, substantial and workmanlike manner all construction, labor, materials, equipment, tools, transportation, superintendence and other facilities and accessories for designated, defined and described in the Agreement and the Contract Documents, and in accordance with the Specifications and Plans and other Contract Documents therefor; a copy of the Agreement being attached hereto and made a part hereof.

NOW, THEREFORE, if said Contractor shall in all particulars promptly and faithfully perform each and every covenant, condition, and part of the Agreement, and the Conditions, Provisions, Specifications, Plans and other Contract Documents thereto attached or by reference made a part thereof, according to the true intent and meaning in each case, upon acceptance of the improvement herein described in substantial compliance with the Contract Documents and upon the effective date of the Maintenance Bond for the improvement then this obligation shall be and become null and void.

PROVIDED, that said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or the Work to be performed thereunder or the Provisions, Specifications, Plans and other Contract Documents accompanying same shall in any way affect its obligation 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, Plans and other Contract Documents.

PROVIDED, FURTHER, that it is expressly agreed that the bond shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Agreement not increasing the contract price more than 50 percent, so as to bind the Contractor and the Surety to the full and faithful performance of the Agreement so amended. The term "amendment," wherever used in this bond, and whether referring to this bond or the Agreement, shall include any alteration, addition, extension, or modification of any character whatsoever.

Whenever Contractor is declared by City to be in default under the Contract Documents, the City having performed City's obligations thereunder, the surety may promptly remedy the default or shall within fourteen (14) days from the date of notice from the City:

1. Commence completing the Work of the Agreement in accordance with its terms and conditions. However, Surety may not use the defaulting Contractor, or any legal reformation of the defaulting Contractor, to complete the Work and the Surety may not use any of the subcontractors of the defaulting Contractor to complete the Work without the written consent of the City; or

2. Commence the process of obtaining a bid or bids for completing the Work of the Agreement in accordance with its terms and conditions, and upon determination by the City and the surety jointly of the lowest and best responsive, responsible bidder, arrange for an Agreement between such bidder and the City, and make available as work progresses sufficient funds to pay the cost of completion less the balance of the Contract Price, including other costs and damages for which the surety may be liable hereunder, which sum shall not exceed the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by City to Contractor under the Agreement and any amendments thereto, less the amount properly paid by City to Contractor. No right of action shall accrue on this bond to or for the use of any person or corporation other than the City or successors of the City.

IN TESTIMONY WHEREOF, said Contractor has hereunto set his/her hand, and said surety has caused these presents to be executed in its name; and its corporate seal to be hereunto affixed by its attorney‑in‑fact duly authorized thereunto so to do at ,

 on this, the day of , 20 .

 Contractor/Principal

ATTEST: By (SEAL)

Secretary

 Title

 Surety Company

By (SEAL)

 Attorney‑in‑Fact

NOTE:

1. Date of bond must not be prior to date of contract.

2. If Contractor is partnership, all partners should execute bond.

3. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state of Kansas.

4. Accompany this bond with Attorney-in-Fact's Authority from the surety company certified to include the date of the bond.