

## MAINTENANCE BOND REVIEW CHECKLIST

### Attachments:

- 1. Affidavit of Value
- 2. Affidavit of Bills Paid
- 3. Affidavit of Actual Costs
- 4. Maintenance Bond (the original, not a copy)
- 5. The attached Power of Attorney for the maintenance bond (the original, not a copy).
- 6. Copy of original contract agreement for construction of the improvement that will be secured by the bond, including any corresponding change orders, addendums, amendments, or approved reconciliation of costs
- 7. Infrastructure inventory
- 8. Tax certificate
- 9. Proof of payment for inspection fees (can be a copy of a check). If not present, so state in the review notes and caution client to verify payment.

### Review of Bond

- 1. The entity name of the contractor/subcontractor (or individual's name if contractor/subcontractor is an individual) must be exactly the same as it is stated in the construction contract.
- 2. The person who is authorized to sign the contract on behalf of the entity/individual that performed the work, and who did sign the contract, should sign the bond as principal.
- 3. Signatories on the bond must have their name(s) and titles typed or legibly printed beneath the signature line.
- 4. The items stated in the bond as the description of work that was performed must exactly match the description of the work that was stated in the construction contract. In most contracts there is a blank for a brief description of the work such as "improvements to Walnut Street, City of Yourtown." This frequently is on the cover of the contract documents. The same description should appear on the bond.
- 5. Ideally, the maintenance bond, Affidavit of Value and Affidavit of Actual Costs should all reflect the same amount. The amount of the bond should be the same as the amount in the contract, or adjusted to consistent with the final costs adjusted by change order, etc. If the amounts are in conflict, seek confirmation from governmental entity's project engineer/architect/manager that conflicts in the amounts stated in the various documents are justified and that the amount of the bond is consistent with current construction costs for project materials and labor. The critical factor is whether the amount of the bond will cover the cost of the improvements. This final determination should be made by the governmental entity and its project engineer/architect/manager.
- 6. The agent for service should be located in the same county as the municipality when possible, or at least located in Texas.

- \_\_\_ 7. The bonding company must be qualified to do business in Texas. Check to make sure it is listed as a foreign or domestic company with TX Department of Insurance, and that it is in existence and active.  
[https://apps.tdi.state.tx.us/pcci/pcci\\_search.jsp](https://apps.tdi.state.tx.us/pcci/pcci_search.jsp)
- \_\_\_ 8. The bonding company must be approved as a surety by the U.S. Department of the Treasury.  
[http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm)
- \_\_\_ 9. The name of the surety on the bond (the bonding company) must be the same on the bonds and on the power of attorney.
- \_\_\_ 10. The date the bond is signed cannot be prior to the date of the Contract. The date the bond is signed must be the same or a later date.
- \_\_\_ 11. Surety's seal (which is the seal of the bond company) must appear under the surety's signature. All corporate sureties have seals. Make sure the seal is the bond company's seal, not a notary's seal. The seal may be a facsimile seal, unless the instrument states otherwise.
- \_\_\_ 12. The writing/symbols on the surety's seal must be fully legible.
- \_\_\_ 13. Read the bond in full to determine if the language fulfills the purpose of the bond, i.e., to provide an unconditional source of money in the event that the principal on the bond defaults as to any duty to repair the improvements during the period of the bond.

**Review of Power of Attorney**

- \_\_\_ 1. The person who signed as the surety on the bond must be listed on the Power of Attorney as an Attorney-in- Fact.
- \_\_\_ 2. The surety's seal should be stamped on the Power of Attorney. A facsimile seal (a preprinted seal) is acceptable unless the Power of Attorney states it is not acceptable.
- \_\_\_ 3. Notary's signature and seal must be fully legible.
- \_\_\_ 4. Notary's commission must be valid when signed. (Also, read the document to see if it states that the seal of a notary must appear.)
- \_\_\_ 5. The date that the Corporate Officer (usually Vice-President) signs the document should be the same date as the date the bond was signed. Or, see 6, below.
- \_\_\_ 6. If the Power of Attorney is a copy, as opposed to an original, there must be a statement on the Power of Attorney that this document is a true and correct copy of the power of attorney and that it has not been revoked. Alternatively, it can state that the Power of Attorney is in full force and effect. The statement should be signed by a corporate officer the same date as the date the bond was signed.
- \_\_\_ 7. Read the power of attorney in full to determine if there are any other requirements that must be met for the bond to be valid and verify compliance.

<b>This section for City Use Only</b>		Reviewed by _____	Date _____
<input type="checkbox"/> Approved	<input type="checkbox"/> Rejected	<input type="checkbox"/> Revise and Resubmit	
Other comments: _____			
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