

SECTION 1.5

MAINTENANCE AND GUARANTEE BOND

**KNOW ALL MEN BY THESE PRESENTS** that \_\_\_\_\_,  
Contractor, as Principal, and \_\_\_\_\_, as Surety, are held  
and firmly bound unto the CITY OF MASON hereinafter called the Owner, in the  
sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)  
good and lawful money of the United States of America, to be paid to said Owner, its legal  
representatives and assigns, for which payment well and truly to be made we bind ourselves, our  
heirs, executors, administrators, successors and assigns, and each and every one of them jointly  
and severally, firmly by these presents.

**WHEREAS**, the above named Principal has entered into a certain written Contract with the  
Owner,

dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for work entitled City-Wide  
Landscaping and Irrigation Maintenance (hereinafter called the Contract) which Contract and  
Specifications for said work shall be deemed a part hereof as fully as if set out herein.

**NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH**, that by  
and under said Contract, the above named Principal has agreed with the Owner that for a period  
of one year from the date of payment of Final Estimate, to keep in good order and repair any  
defect in all the work done under said Contract either by the Principal or his Subcontractor, or his  
material suppliers, that may develop during said period due to improper materials, defective  
equipment, workmanship or arrangements, and any other work affected in making good such  
imperfections, shall also be made good all without expense to the Owner, excepting only such  
parts of said work as may have been disturbed without the consent or approval of the Principal  
after the final acceptance of the work, and that whenever directed so to do by the Owner by  
notice served in writing, either personally or by mail on the Principal  
at \_\_\_\_\_ or \_\_\_\_\_ legal  
representatives, or successors, or on the Surety at \_\_\_\_\_ WILL  
PROCEED at once to make such repairs as directed by said Owner; and in case of failure so to  
do within one week from the date of service of such notice, or within reasonable time not less  
than one week, as shall be fixed in said notice, then the Owner shall have the right to purchase  
such materials and employ such labor and equipment as may be necessary for the purpose,  
and to undertake, do and make such repairs, and charge the expense thereof to, and receive same  
from said Principal or Surety.

If repair is necessary to be made at once to protect life and property, then and in that case, the  
Owner may take immediate steps to repair or barricade such defects without notice to the  
Contractor. In such accounting, the Owner shall not be held to obtain the lowest figures for  
doing of the work, or any part thereof, but all sums actually paid therefore shall be charged to the  
Principal or Surety. In this connection, the judgment of the Owner is final and conclusive. If the

said Principal for a period one (1) year from the date of payment of Final Estimate, shall keep said work so constructed under said contract in good order and repair, excepting only such part or parts of said work which may have been disturbed without the consent or approval of said Principal after the final acceptance of same, and shall whenever notice is given as hereinbefore specified, at once proceed to make repair as in said notice directed, or shall reimburse said Owner for any expense incurred by making such repairs, should the Principal or Surety fail to do as hereinbefore specified, and shall fully indemnify, defend and save harmless the Owner from all suits and actions for damages of every name and description brought or claimed against it for or on account of any injury or damage to person or property received or sustained by any party or parties, by or from any of the acts or omissions or through the negligence of said Principal, servants, agents, or employees, in the prosecution of the work included in said contract, then the above obligation shall be void, otherwise to remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have caused this instrument to be executed by their respective authorized officer the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

PRINCIPAL: \_\_\_\_\_

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

TITLE: \_\_\_\_\_

WITNESS: \_\_\_\_\_

SURETY:

SURETY COMPANY ADDRESS:

\_\_\_\_\_

\_\_\_\_\_

Street

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

Attorney-in-Fact

\_\_\_\_\_

City

State

Zip

WITNESS:

SURETY AGENTS ADDRESS:

Agency Names

\_\_\_\_\_

Street

\_\_\_\_\_

City

State

Zip

**SECTION 1.6**

**AGREEMENT**

**1.6.01 THIS AGREEMENT**, made as of the 31 day of MARCH, 2005 by and between THE CITY OF MASON, OHIO, hereinafter called the OWNER, and GROUNDMASTERS, INC. hereinafter called the CONTRACTOR,

**WITNESSETH**, that whereas the OWNER intends to have Completed the City-Wide Landscaping and Irrigation Contract, hereinafter called the PROJECT, in accordance with the Specifications and other Contract Documents prepared by the CITY OF MASON, OHIO.

**NOW, THEREFORE, the OWNER and CONTRACTOR** for the considerations hereinafter set forth, agree as follows:

**1.6.02 THE CONTRACTOR AGREES** to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete in a workmanlike manner all work required for the construction of the Project, in strict compliance with the Contract Documents herein, which are hereby made a part of the Contract, including the following:

a. Addenda

*Addendum No.*

*Dated*

ADDENDUM #1

MARCH 14, 2005

b. Contract Time and Liquidated Damages: The Contractor agrees to complete the Contract in accordance with Section 1.2, Article 1.2.12 and 1.2.13.

c. Sub-Contractors: The Contractor agrees to bind every Sub-Contractor by the terms of the Contract Documents. The Contract Documents shall not be construed as creating any contractual relation between any Sub-Contractor and the Owner.

**1.6.03 THE OWNER AGREES** to pay, and the Contractor agrees to accept, in full payment for the performance of this Contract, the Contract amounts determined by the actual quantity of

work when multiplied by the unit price bid in the Proposal. Progress payments will be made in accordance with Section 1.2, Article 1.2.14.

**1.6.04 SUCCESSORS AND ASSIGNS:** This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the Owner and the Contractor respectively and his partners, successors, assigns and legal representatives. Neither the Owner nor the Contractor shall have the right to assign, transfer or sublet his interests or obligations hereunder without written consent of the other party.

**1.6.05 SPECIAL PROVISIONS:** The Owner and the Contractor mutually agree that the Agreement shall be subject to the following Special Provisions, which shall supersede other conflicting provisions of this Agreement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**1.6.06 IN WITNESS WHEREOF,** the Parties have made and executed this Agreement, the day and year first above written.

THE CITY OF MASON  
OWNER

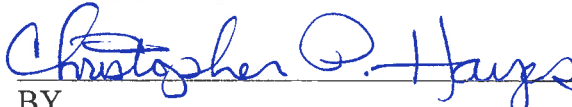
  
SCOT LAHRMER

CITY MANAGER  
TITLE

6000 Mason-Montgomery Road  
BUSINESS ADDRESS

Mason, Ohio 45040  
CITY STATE ZIP CODE

GROUNDMASTERS, INC.  
CONTRACTOR

  
BY

VICE PRESIDENT  
TITLE

131 COMMERCE BLVD.  
BUSINESS ADDRESS

LOVELAND, OH 45140  
CITY STATE ZIP CODE

SECTION 1.7

CERTIFICATE OF DIRECTOR OF FINANCE

AND CERTIFICATE OF LEGALITY

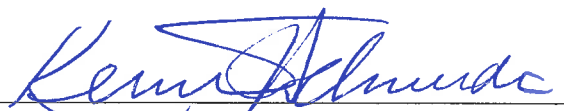
**1.7.01 DIRECTOR OF FINANCE:** It is hereby certified that the amount of money required to meet the foregoing Contract with \_\_\_\_\_ CONTRACTOR, has been lawfully appropriated, authorized or directed for such purposes and is in the Treasury or in process of collection to the credit of the appropriate fund, free from any obligation or certification now outstanding.

Dated: \_\_\_\_\_, 20

  
Jennifer Heft,  
DIRECTOR OF FINANCE

**1.7.02 LEGALITY:** I hereby approve the form and correctness of the foregoing Contract.

Dated: 5/9, 2005

  
Kenneth Schneider,  
LAW DIRECTOR

SECTION 1.8  
PERSONAL PROPERTY TAX AFFIDAVIT

STATE OF OHIO                                )  
  ) SS;  
COUNTY OF WARREN                        )

GARY L. KUYKENDALL being duly cautioned and sworn, states as follows:

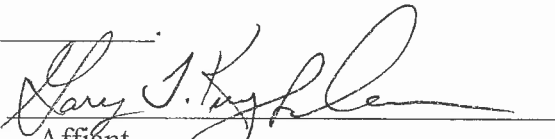
1. That he/she is VICE PRESIDENT  
(Title)  
of GROUNDMASTERS, INC.  
(Name of Contracting Party)
2. That GROUNDMASTERS, INC. is not presently charged with any delinquent  
(Name of Contracting Party)  
personal property taxes on the general tax list of personal property of Warren County.

**-OR-**

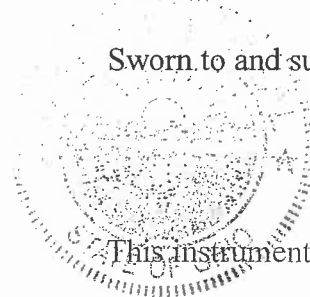
1. That \_\_\_\_\_ is charged with delinquent personal property tax on  
(Name of Contracting Party)  
the general tax list of personal property of Warren County. The amount of delinquent  
personal property tax due and unpaid including any due and unpaid penalty and interest  
is:

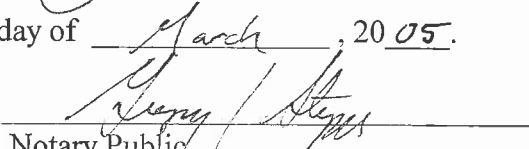
\$ \_\_\_\_\_.

Further, affiant states not,

  
Affiant

Sworn to and subscribed in my presence this 17 day of March, 2005.

 Notary Public  
in and for the State of Ohio  
My Commission Expires  
Feb 27, 2008

  
Notary Public

This instrument was prepared by: RENE J. BOULING

**Note to Fiscal Office:** If any personal property taxes are delinquent, you must send a copy of this statement to the County Treasurer within 30 days of the date it is submitted.

**Warning:** MAKING A FALSE STATEMENT ON THIS AFFIDAVIT MAY BE PUNISHABLE BY A FINE AND/OR IMPRISONMENT.

SECTION 1.9

NOTICE OF COMMENCEMENT  
(PUBLIC IMPROVEMENTS)

Please take notice that the undersigned is commencing a public improvement to the  
City-Wide Landscaping and Irrigation Maintenance  
(Name of Public Improvement)

Various locations throughout Mason, Ohio  
(Location of Project)

The CITY OF MASON - 6000 MASON-MONTGOMERY ROAD - MASON, OHIO  
45040 is the public authority undertaking the public improvement.

The principal contractors are:

Name	Address	Trade
1.		
2.		
3.		
4.		
5.		

The sureties for the above principal contractors are:

	<u>Principal Contractor</u>	<u>Surety</u>	<u>Address</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

Scot F. Lahrmer, City Manager, is the representative of the City of Mason upon whom service may be made for the purposes of serving an affidavit pursuant to Ohio Revised Code S1311.26.

**THIS NOTICE IS REQUIRED BY THE OHIO MECHANICS LIEN LAW. A NOTICE OF COMMENCEMENT IS READILY AVAILABLE TO THE PUBLIC UPON REQUEST.**

NAME AND ADDRESS OF PUBLIC AUTHORITY

By: \_\_\_\_\_  
Scot F. Lahrmer, City Manager

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

STATE OF \_\_\_\_\_ )  
  )ss:  
COUNTY OF \_\_\_\_\_ )

Sworn to before me and subscribed in my presence this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
My Commission Expires



SECTION 1.10

MODIFICATION OF CONTRACT AND CHANGES IN THE WORK  
MODIFICATIONS TO ARTICLE 10 AND 11 IN THE  
GENERAL CONDITIONS OF THE CONTRACT

MODIFICATION OF CONTRACT

Items of Work not included in the estimate of the original Contract and additional units of items included in the estimate of the original Contract in an amount in excess of \$15,000, shall be authorized only as the Modification of the Contract.

The Owner may, when necessary, by ordinance, authorize alterations or modifications in the Specifications and Plans for the Work, or omit from the Work covered by this Contract any portion thereof. Before any such alteration or modification shall be effective, the price to be paid for the Work or the material, or both, under the altered or modified Contract, shall have been agreed upon in writing and signed by the Contractor and by the Contractual Agent or Agents of the Owner. It is expressly agreed that such changes shall not, in any way, violate or annul the Contract, and the Contractor hereby agrees not to claim or bring suit for any damages, whether for loss of profits or otherwise, on account of these changes. Whenever, during the progress of the Work, any change or modification of the Work is agreed upon, such change shall be considered and treated as though originally contracted for, and shall be subject to all provisions of the original contract.

CHANGES IN THE WORK

Items of Work not included in the estimate of the original Contract and additional units of items included in the estimate of the original Contract in an amount of \$10,000 or less, shall be authorized as Changes in the Work by the Director. Items of Work in excess of the preceding stated amounts shall be considered as a Modification of the Contract and shall be handled accordingly.

It shall be unlawful for items of Work to be subdivided into separate components for the purpose of avoiding the Modification of Contract restriction.

If the transaction involves the addition of items not included in the original Contract, it shall be paid for on the basis of actual prevailing wage cost of labor, materials, equipment and insurance in accordance with the requirements of ODOT Spec. 109.05.

THE FOLLOWING IS A FORM OF CHANGE ORDER TO BE COMPLETED BY THE CONTRACTOR FOR ANY CHANGE ORDER REQUESTS

**CHANGE  
ORDER**

Distribution to:

City Public Works  
Director  
City Manager  
Finance Director  
Contractor

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**Project:** \_\_\_\_\_ **Change Order Number:** \_\_\_\_\_

**Initiation Date:** \_\_\_\_\_

**To (Contractor):** \_\_\_\_\_ **Contract for:** \_\_\_\_\_

**Contract Date:** \_\_\_\_\_

**You are directed to make the following changes in this Contract:**

Not valid until signed by the Owner. Signature of the Contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

**City of Mason  
Owner  
6000 Mason-Montgomery Road  
Mason, Ohio 45040**

\_\_\_\_\_  
CITY MANAGER

\_\_\_\_\_  
CITY PW DIRECTOR

\_\_\_\_\_  
CONTRACTOR

BY \_\_\_\_\_

BY \_\_\_\_\_

BY \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

**PART II**

**CONDITIONS**

**OF THE**

**MAINTENENCE CONTRACT**

**PART III**

**TECHNICAL SPECIFICATIONS**