

Maintenance - Surety Bond

Wetlands

DATE POSTED: _____

BOND NO.: _____

RE: Bothell Subdivision/Plat/Permit No.: _____

Owner/Developer/Contractor: _____

Project Address: _____

KNOW ALL PERSONS BY THESE PRESENTS: That we, _____, (hereinafter called the "Principal"), and _____, a corporation organized under the laws of the State of _____, and authorized to transact surety business in the State of Washington (hereinafter called the "Surety"), are held and firmly bound unto the City of Bothell, Washington, in the sum of _____ (\$_____), lawful money of the United States of America, for the payment of which sum we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents. THE CONDITIONS of the above obligation are such that:

WHEREAS, the above named Principal has constructed and installed certain improvements in connection with a project as described above within the City; and

WHEREAS, in order to provide security for the obligation of the Principal to repair and/or replace said improvements against defects in workmanship, materials or installation for a period of **5 years (60 months)** after written and final acceptance of the same and approval by the City; and

WHEREAS, in order to enable the City to release the performance bond filed by the Principal with the City in connection with such improvements;

NOW, THEREFORE, this Maintenance Bond has been secured and is hereby submitted to the City. It is understood and agreed that this obligation shall continue in effect until released in writing by the City of Bothell, but only after the Principal has performed and satisfied the following conditions:



City of Bothell

A. The work or improvements installed by the Principal and subject to the terms and conditions of this Bond are as follows:

B. The Principal and Surety agree that the work and improvements installed pursuant to the Performance Bond or other security instrument filed with the City in the above-referenced project shall remain free from defects in material, workmanship, and installation (or, in the case of landscaping, shall survive), for a period of **5 years (60 months)** after written and final acceptance of the same and approval by the City. Maintenance is defined as acts carried out to prevent a decline, lapse, or cessation of the state of the project or improvements as accepted by the City during the 60 month period after final and written acceptance, and includes, but is not limited to, repair or replacement of defective workmanship, materials, or installations.

C. The Principal shall, at its sole cost and expense, carefully replace and/or repair any damage or defects in workmanship, materials, or installation to the City-owned real property on which improvements have been installed, and leave the same in as good condition as it was before commencement of the work.

D. The Principal and the Surety agree that in the event any of the improvements or restoration work installed or completed by the Principal as described herein, fail to remain free from defects in materials, workmanship, or installation (or in the case of landscaping, fail to survive), for a period of **5 years (60 months)** from the date of acceptance of the work by the City, the Principal shall repair and/or replace the same within ten (10) days of demand by the City, and if the Principal should fail to do so, then the Surety shall:

1. Within twenty (20) days of demand of the City, make written commitment to the City that will either:
 - a) remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
 - b) tender to the City within an additional ten (10) days the amount necessary, as determined by the City, for the City to remedy the default, up to the total bond amount.

Upon completion of the Surety's duties under either of the options above, the Surety shall then have fulfilled its obligations under this bond. If the Surety elects to fulfill its obligation pursuant to the requirements of subsection B(1)(b), the City shall notify the surety of the actual cost of the remedy, upon completion of the remedy. The City shall return, without interest, any overpayment made by the Surety, and the Surety shall pay to the City any actual costs which exceeded the City's estimate, limited to the bond amount.

2. In the event the Principal fails to make repairs or provide maintenance within the time period requested by the City, then the City, its employees and agents shall have the right at the City's sole election to enter onto said property described above for the purpose of repairing or maintaining the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to repair or maintain such improvements.
- E. **Corrections.** Any corrections required by the City shall be commenced within ten (10) days of notification by the City and completed within thirty (30) days of the date of notification. If the work is not performed in a timely manner, the City shall have the right, without recourse to legal action, to take such action under this bond as described in Section D above.
- F. **Extensions and Changes.** No change, extension of time, alteration or addition to the work to be performed by the Principal shall affect the obligation of the Principal or Surety on this bond, unless the City specifically agrees, in writing, to such alteration, addition, extension or change. The surety waives notice of any such change, extension, alteration or addition thereunder.
- G. **Enforcement.** It is specifically agreed by and between the parties that in the event any legal action must be taken to enforce the provisions of this bond or to collect said bond, the prevailing party shall be entitled to collect its costs and reasonable attorney fees as a part of the reasonable costs of securing the obligation hereunder. In the event of settlement or resolution of these issues prior to the filing of any suit, the actual costs incurred by the City, including reasonable attorney fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable legal fees shall be recoverable by the prevailing party, not only from the proceeds of this bond, but also over and above said bond as a part of any recovery (including recovery on the bond) in any judicial proceeding. The Surety hereby agrees that this Agreement shall be governed by the laws of the State of Washington. Venue of any litigation arising out of this Agreement shall be in King County Superior Court.
- H. **Bond Expiration.** This bond shall remain in full force and effect until the obligations secured hereby have been fully performed and released in writing by the City at the request of the Surety or Principal.

The Institution hereby agrees that this Agreement shall be governed by the laws of the State of Washington and to be subject to the jurisdiction of the State of Washington. Venue of any litigation arising out of this Agreement shall be in King County Superior Court.

DATED this _____ day of _____, 200__.

SURETY COMPANY

DEVELOPER/OWNER

By: _____

By _____

Its _____

Its _____

Business Name

Business Name

Business Address

Business Address

City/State/Zip

City/State/Zip

Telephone Number

Telephone Number

CITY OF BOTHELL

By: _____

City of Bothell
18415 101st Ave NE
Bothell, Washington 98011
(425) 806-6400

Its _____

Bonding Agency Notary

STATE OF WASHINGTON

County of _____

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for uses and purposes mentioned in the instrument.

Dated: _____, 200__

Signature: _____

Name Printed: _____

Title: _____

My appointment expires: _____