



**ASSIGNMENT OF FUNDS  
IN LIEU OF  
CONSTRUCTION SURETY BOND,  
INCLUDING SPECIFIC PERFORMANCE &  
MAINTENANCE PROVISIONS**

MAIL TO:  
CITY OF KENT  
Attn: Development Engineering  
220 - 4<sup>th</sup> Avenue South  
Kent, WA 98032-5895

Project: \_\_\_\_\_  
KIVA#: \_\_\_\_\_  
Location: \_\_\_\_\_  
Tax Account#: \_\_\_\_\_  
Bond Account #: \_\_\_\_\_

**I. ASSIGNMENT AND SPECIFIC PERFORMANCE**

\_\_\_\_\_, a [type of entity:] \_\_\_\_\_  
("Principal"), does hereby assign, transfer, and set over unto the City of Kent,  
Washington ("City") all rights, title, and interest in and to the sum of

\$\_\_\_\_\_ ("Funds")

deposited in a [account type] \_\_\_\_\_ Account No. \_\_\_\_\_  
in [branch name] \_\_\_\_\_ of [name of bank or other institution]  
\_\_\_\_\_ ("Bank or Institution"); this account being in the  
name of \_\_\_\_\_ as Principal. Principal grants to the  
City of Kent full power and authority to demand, collect, and receive these Funds  
from Bank or Institution.

The Funds assigned to the City equal at least **125 percent** of the approved  
engineer's estimate of the costs to complete the construction project that the  
Principal wishes to undertake, as referenced above and as more completely  
described in approved plans on file with the City and in the Engineer's Cost  
Estimate, which amount will be forfeited in full to the City upon the Principal's  
failure to perform. The Principal has agreed to obligate itself to the City in the  
listed amount because undertaking this construction project ("Improvements") may  
cause damage and disruption to land and/or public right-of-way within the City.

**II. GENERAL TERMS & CONDITIONS**

- A. All construction and restoration shall be in accordance with all applicable  
local, state, and federal laws, permits, and regulations. The Improvements  
and their appurtenances shall be constructed in accordance with the  
approved plans.
- B. Principal shall **fully complete** construction no later than **365 days** after  
construction begins unless the City's Public Works Department has, in its sole

discretion, granted an extension of time in writing. Failure to complete construction within 365 days shall result in the requirement that additional Funds be assigned or immediate forfeiture of all assigned Funds, at the discretion of the City.

### **III. TERM OF ASSIGNMENT – GENERALLY**

This Assignment shall remain in force until released in writing by the City, *provided*, partial early release may be allowed as described in Section V below.

### **IV. ASSIGNED FUNDS SHALL BE RELEASED UPON DEMAND OF THE CITY OF KENT, AND ONLY WITH THE CITY'S CONSENT**

It is understood and agreed that all Funds being held under this Assignment will be released to the City of Kent on demand with no other condition of release. It is further understood and agreed that the Bank or Institution named above holds these Funds in its possession and agrees to hold these Funds until a release of this Assignment is received in writing from the City of Kent.

### **V. PARTIAL RELEASE OF FUNDS AS WORK IS SATISFACTORILY PERFORMED**

The parties agree that **100%** of the Funds listed in Section I above shall constitute surety funds to guarantee specific performance by the Principal of the work required to construct and maintain the Improvements. However, in its sole discretion, the City may release in writing, one time only, a portion of the Funds.

### **VI. WHEN ADDITIONAL ASSIGNED FUNDS REQUIRED**

The City may require the Principal to post additional funds if the City demonstrates that a change in conditions or circumstances makes additional security necessary to guarantee performance by the Principal.

### **VII. FORFEITURE DUE TO NON-PERFORMANCE**

- A. Failure by Principal to fully and satisfactorily perform, or to post additional funds as required by the City, shall result in forfeiture to the City of any and all Funds held under this Assignment.
- B. Failure by Principal to satisfactorily complete construction within **365 days** after construction begins, absent any extensions granted in writing by the City, shall constitute non-performance and the City may immediately claim and use the Funds to complete all Improvements guaranteed under this Assignment.

**VIII. FUNDS HELD AS WORKMANSHIP & MAINTENANCE GUARANTEE**

- A. Principal agrees that **20% of the Funds indicated in Section I or \$5,000**, whichever is greater, shall be held in trust as a guarantee against potential costs to the City related to defective materials or workmanship or to ensure performance of other maintenance required by the Improvements. This sum shall be held in trust for a period of **two (2) years** from the date of **final construction approval** of the Improvements by the City.
- B. Principal agrees to promptly correct any deficiencies in construction and/or make any emergency repairs requested by the City during the two year period.
- C. Principal agrees to promptly reimburse the City for any emergency repairs performed by the City or its agents.
- D. Principal agrees to properly maintain the Improvements pending final construction approval of the Improvements by the City.

**IX. FINAL RELEASE OF ALL REMAINING FUNDS**

Any Funds still held under this Assignment that have not been otherwise forfeited due to non-performance shall be released **two (2) years** after the date of **final construction approval** of the Improvements by the City, provided that the City has determined at its sole discretion that all Improvements, including maintenance, have successfully been completed.

**This Assignment will take effect on the date entered below.**

**PRINCIPAL**

\_\_\_\_\_  
Signature Date

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

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

**ACCEPTANCE**

The undersigned hereby accepts the foregoing Assignment of Funds in the sum of: \$ \_\_\_\_\_ to be held in Account Number: \_\_\_\_\_, payment of which shall be made upon demand by the City of Kent to the City with no other conditions of release. The undersigned agrees to hold the Funds until it receives a written release of this Assignment from the City. The undersigned acknowledges that it has no duty to evaluate any dispute that may exist between the City and the Principal regarding the Funds and shall not interplead or in any manner delay payment of the Funds to the City. The undersigned binds itself and its heirs, executors, administrators and assigns, jointly and severally.

\_\_\_\_\_  
Name of Bank or Institution

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Signature of Authorized Person  
(Signature **must be** notarized below)

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Print name

STATE OF WASHINGTON )  
                                      ) ss.  
COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, I hereby 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, on oath stated that he/she is authorized to execute the instrument on behalf of [name of company:] \_\_\_\_\_ as its [title:] \_\_\_\_\_, and such execution to be the free and voluntary act of such party for the uses and purposes mentioned in the foregoing instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC, in and for the State of Washington  
residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_