

PERFORMANCE BOND IN LIEU OF CONSTRUCTION

Project Name and Location: _____

KNOW ALL PEOPLE BY THESE PRESENTS, that we _____, as PRINCIPAL, and _____, as SURETY, are held and firmly bound unto the City of Lynden, hereinafter called the OWNER, in the full sum of _____ DOLLARS and _____ CENTS (\$ _____), which is 150% of Contract Construction Costs of improvements as listed below, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal is obligated by virtue of _____ dated _____ ("Contract"), which Contract is referred to herein and is made a part of this Performance Bond as though attached hereto, for providing for such work in connection with the project known as _____ located at _____; and

WHEREAS, however, on _____, the Lynden City Council granted deferral of the following improvements: _____]; and

WHEREAS, the said Principal has accepted, or is about to accept, the Contract, and undertake to perform the work therein provided for in the manner and within the time set forth;

NOW, THEREFORE, if the above Principal shall well, truly and faithfully perform all of the provisions and fulfill all of the undertakings, covenants, terms, conditions and agreements of said Contract in the manner and within the time therein set forth, or within such extensions of time as may be granted by the Owner, with or without notices to the Surety; and during the life of any guarantee required under said Contract, and shall also well and truly perform and fulfill all of the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications, revisions, or amendments ("modifications") of said Contract that may hereafter be made; notice of which modifications to the Surety being hereby waived; and furthermore shall pay all laborers, mechanics, subcontractors and material men, and all persons who shall supply such person or persons and such Principal or subcontractors with provisions and supplies for the carrying on of such work, shall indemnify and save harmless Owner from all costs and damages due to carelessness or negligence by reason of the Principal's or subcontractor's performance default as specified in said Contract, and shall pay the State of Washington sales and use taxes, and amounts due to said State pursuant to Titles 50 and 51 of the revised Code of Washington then this obligation to be void, otherwise to remain in full force and effect.

The Surety, for value received, herein stipulates and agrees that no change, extension of time, alteration or addition to the terms of said contract or the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligations of this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or to the work or to the specification.

This obligation and bond shall remain in full force and effect until such time as the above described improvements are fully constructed and accepted by the City of Lynden; PROVIDED that, after

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the construction and acceptance of the improvements and the expiration of the lien period, and if there are no liens pending, then the full sum of this bond shall be reduced to the sum of _____ DOLLARS and _____ CENTS (\$ _____), which is 10% of Contract Construction Costs of improvements deferred, to insure against defects appearing or developing in the material or workmanship provided or performed under said contract within a period of two (2) years after the acceptance; notwithstanding the reduction of this bond, the Principal and Surety shall hold the City of Lynden harmless from all defects appearing or developing in material or workmanship provided or performed under this contract within a period of two (2) years after acceptance, then and in that event this obligation shall be void; but otherwise it shall be and remain in full force and effect.

Any legal action is to be brought under the conditions of this bond shall be brought in the State of Washington in Whatcom County Superior Court and that the decisions of the Courts of the State of Washington shall be binding.

IN WITNESS WHEREOF, the bonded parties have executed this instrument this _____ day of _____, 20_____.

Principal

Attorney in Fact Countersigned

ATTEST: (If Corporation)

TWO WITNESSES:

By: _____

Title: _____

Corporate Seal:

SURETY

By: _____

Title: _____

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CERTIFICATES AS TO CORPORATE SEAL

I hereby certify that I am the _____ of the Corporation named as Principal in the within Bond: that _____ who signed the said Bond on behalf of the Principal was _____ of said Corporation, that I know his/her signature thereto is genuine, and that said Bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

Title: _____

A copy of this bond shall be filed with the County Auditor, except in the case where the contract is with a City or Town.