

(Please Attach Cost Estimate for Work to be Performed)

**CITY OF GIG HARBOR
PERFORMANCE BOND for
ENCROACHMENT PERMIT**

City Project EN #: _____

Surety Bond No.: _____

DATE POSTED: _____

PROJECT COMPLETION DATE: _____

RE: 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 Gig Harbor, Washington, in the sum of _____dollars and _____cents (\$_____), 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 been granted a street use permit by the City, for _____ on _____ Street/Avenue within the City;

WHEREAS, the permit granted by the City requires the principal perform certain operations or occupy the public right-of-way and may involve the installation or repair of the street or street improvements upon completion of the work in the public right-of-way;

WHEREAS, the agreement or the approval granted by the City requires that the improvements are to be made or constructed within a certain period of time, unless an extension is granted in writing by the City; and

WHEREAS, because the work will be performed in the public right-of-way, the City requires a bond to ensure that the costs of the principal's repair or installation of the street improvements, or the protection of private and public property and the public safety will be ensured;

NOW, THEREFORE, it is understood and agreed that this obligation shall continue in effect until released in writing by the City of Gig Harbor, but only after the Principal has performed and satisfied the following conditions:

A. Conditions. (Insert complete description below)

1. The improvements to be constructed by the Principal include:

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2. The Principal must construct the improvements to conform to the design, location, materials and other specifications for the indicated site improvements, as required by the City in the Encroachment Permit. In addition, the Principal must construct the improvements according to the applicable ordinances and Public Works Standards of the City and/or state statutes, as the same now exist or are hereafter amended. During the construction period, the principal shall ensure that all necessary precautions are taken in order to protect public and private property and the public safety, as directed by the Public Works Director for use and occupation of public rights-of-way.
 3. The Principal must have completed all improvements required by the above-referenced conditions, plans and City file within thirty days (30), which time period shall begin from the approval date by the City for the said Encroachment Permit, unless an extension is granted by the City.
 4. The Principal must have paid all sums owing to laborers, contractors, mechanics, subcontractors, materialmen and suppliers or others as a result of such work for which a lien against any City property has arisen or may arise.
 5. The Principal must obtain acceptance by the City of the work completed, all on or before thirty (30) days after the completion date set forth in subsection 3 above.

B. Default.

1. If the Principal defaults and does not perform the above conditions within the time specified, then the Surety shall, within twenty (20) days of demand of the City, make a written commitment to the City that it 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 complete all of the above referenced improvements within the time period specified 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 completing the improvements, or correcting the problem caused by the Principal's failure to complete the improvements. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
- C. Corrections. Any corrections required by the City shall be commenced within seven (7) 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 B above.
- D. 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.
- E. 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 attorneys' 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 attorneys' fees, shall be considered a part of the obligation hereunder secured. Said costs and reasonable attorneys' 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 Pierce County Superior Court.
- F. Bond Expiration. This bond shall remain in full force and effect until the obligations secured hereby have been fully performed, and a Right-of-Way Use Maintenance Bond guaranteeing maintenance of all improvements for a period of twenty-four (24)-months from the City's acceptance date has been submitted to the City in the amount of fifteen (15)-percent of the bond amount on the City's form, and until released in writing by the City.

DATED this ____ day of _____, 201____.

SURETY COMPANY
(Signature must be notarized)

By: _____
Its _____
Print Name: _____

Business Name: _____
Business Address: _____
City/State/Zip Code: _____
Telephone Number: _____

OWNER/DEVELOPER/CONTRACTOR
(Signature must be notarized)

By _____
Its _____
Print Name: _____

Business Name: _____
Business Address: _____
City/State/Zip Code: _____
Telephone Number: _____

CITY OF GIG HARBOR

By: _____
Its _____

Date: _____

City of Gig Harbor
3510 Grandview Street
Gig Harbor, Washington 98335
(253) 851-6170

APPROVED AS TO FORM:

By: _____
Office of the City Attorney

CHECK FOR ATTACHED NOTARY SIGNATURE

____ Individual (Form P-1)
____ Partnership or Corporation (Form P-2a)
____ Surety (Form P-2b)

FORM P-1 / NOTARY BLOCK

(Use For Individual/Sole Proprietor Only)

STATE OF WASHINGTON)
) ss.
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 the uses and purposes mentioned in the instrument.

Dated:

(print or type name)

NOTARY PUBLIC in and for the
State of Washington, residing

at: _____

My Commission expires: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF)

Dated: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF)

Dated: _____

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(Rev. 8/25/99)

My Commission expires: _____