

# Performance Bond



CITY OF  
**TUKWILA**

Tukwila Community Development Dept.  
6300 Southcenter Blvd # 100  
Tukwila, WA 98188  
*Tukwilawa.gov*

<input type="checkbox"/> Landscape Bond	Bond Number: _____
<input type="checkbox"/> Site Work Improvement Bond	Bond Amount: _____
<input type="checkbox"/> Other: _____	

## PROJECT INFORMATION:

Project Name: \_\_\_\_\_

Parcel No.: \_\_\_\_\_ Permit Number: \_\_\_\_\_

Project Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Property Owner/Contractor: \_\_\_\_\_

## KNOW ALL MEN BY THESE PRESENTS:

**THAT** we, \_\_\_\_\_, as Principal, and \_\_\_\_\_, a corporation organized and doing business under and by virtue of the laws of the State of \_\_\_\_\_ and duly licensed to conduct surety business in the State of Washington, as Surety, are held and firmly bound unto the City of Tukwila, as Obligee, in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) Dollars, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, assigns, and successors, jointly and severally firmly by these presents.

## THE CONDITIONS OF THE OBLIGATION ARE SUCH THAT:

**WHEREAS**, the above named Principal entered into, or is about to enter into, an agreement or agreements with said Obligee to complete the following improvement(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

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**WHEREAS**, the agreement or the approval granted by the City requires that the work shall be completed in full compliance with City standards, within a certain period of time, and in compliance the plans and specifications submitted to the City, unless otherwise specified in writing by the City; and

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

- 1. Description of Work.** The work (“Work”) to be completed by the Principal includes:

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- 2. Compliance of Work with Specifications.** The Principal must complete the Work to conform to the design, location, materials, and other specifications for the indicated work improvements, including any approved amendments thereto, as required by the City in the above-referenced City file. In addition, the Principal must complete the Work according to the applicable ordinances and standards of City, State, and Federal statutes and regulations, as the same now exist or are hereafter amended, to the satisfaction of the City.
- 3. Timely Completion.** The Principal must complete all Work required by the above-referenced conditions, plans and City file within \_\_\_\_\_, which time period shall begin to run from the earlier of \_\_\_\_\_, or the date of the start of development, unless an extension is granted by the City.
- 4. Acceptance of Work by City.** 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 paragraph 2 above. The City shall determine whether Principal has satisfactorily performed as required. Upon City’s determination that Principal has failed to satisfactorily perform, Principal shall be in default and the Surety’s obligations under this bond shall immediately accrue; provided, however, that nothing in this section shall prohibit Surety from subsequently bringing an action to seek repayment from the City for wrongly determining Principal’s unsatisfactory performance.

## 5. Default.

- A. 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:
- i. remedy the default itself with reasonable diligence pursuant to a time schedule acceptable to the City; or
  - ii. 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 (A)(ii) above, 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.

- B. 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. This provision shall not be construed as creating an obligation on the part of the City or its representatives to complete such improvements.
6. **Corrective Work.** The Principal shall be responsible for the cost of any corrective work on or off the site to the extent that such corrective measures are associated with work performed and/or not completed. 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 5 above.
7. **Additional Bond Monies.** The City may require the Principal to post additional bond monies whenever the City determines at its sole discretion, that a change in circumstances has occurred, which makes additional security necessary as a guaranty of performance by the Principal.
8. **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.

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**9. 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.

**10. Bond Expiration.**

**A.** If this is a Landscape Bond, as indicated above, the bond shall remain in full force and effect until the obligations secured hereby have been fully performed and after a period of three (3) years if the plants remain in a healthy growing condition and have achieved full coverage, as determined by the City at its sole discretion. If any portion of the landscaping dies within three (3) years, the City shall notify the Principal, in writing, and require replacement within sixty (60) days. If the dead landscaping is not replaced within the specified time period, the City may use whatever portion of the bond is needed to replace the dead landscaping. The City may use either City employees or private contractors to replace the landscaping and may assess the Principal all actual costs against the bond, if it is sufficient. An additional three (3) year cash deposit or other security device at fifty (50) percent of the value of the landscaping may be required at the discretion of the City's Planning Director or Manager if a significant amount of the plants need to be replaced.

**B.** If this is a Site Work Improvement Bond, as indicated above, the bond shall remain in full force and effect until the obligations secured hereby have been fully performed and after all possibility of erosion has passed, as determined by the City at its sole discretion. If the improvements are not completed in accordance with the City-approved plans, specifications, and permit conditions, the City may enter the property and cause the Work to be completed and shall be reimbursed for all expenses so incurred from the proceeds of the bond.

**11. Notice of Change in Contact Information & Ownership.** It is the Principal's responsibility to notify the City of any change in address, phone number, or change of ownership of property. It is the Principal's responsibility to arrange for replacement of any and all financial guarantees prior to the time that a change of ownership occurs. The Principal, as indicated in this agreement, shall remain responsible for all terms of this agreement until such time as a new owner shall replace the financial guarantees and complete any other documents as required by the City.

**12. Indemnification.** The Principal shall indemnify and hold the City of Tukwila and its agents, employees and/or officers harmless from and shall process and defend at its own expense all claims, damages, suits at law or equity, actions, penalties, losses, or costs of whatsoever kind or nature, brought against the City of Tukwila arising out of, in connection with, or incident to the execution of this agreement and/or the Principal's performance or failure to perform any aspect of this agreement. Provided, however, that nothing herein shall require the Principal hold harmless or defend the City of Tukwila from any claim arising from the sole negligence of the City's agents, employees and/or officers.

**13. Cancellation of Bond.** Until written release of this obligation by the City of Tukwila, this bond may not be terminated or cancelled by the Applicant or Surety for any reason.

**IN WITNESS WHEREOF**, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SURETY**

\_\_\_\_\_

By \_\_\_\_\_

Its: \_\_\_\_\_

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

\_\_\_\_\_

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

**PRINCIPAL**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

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

\_\_\_\_\_

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

**CITY OF TUKWILA**

\_\_\_\_\_

By \_\_\_\_\_

Its: \_\_\_\_\_

**NOTE: To be considered complete, both the Principal and Surety must sign this bond and the Surety must notarize its signature and attach a copy of its power of attorney.**

STATE OF WASHINGTON        )  
  ) ss:  
COUNTY OF KING            )

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 the instrument, on oath state that he/she is authorized to execute the instrument on behalf of [name of entity]: \_\_\_\_\_ 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.

DATED: \_\_\_\_\_, 20\_\_.



\_\_\_\_\_

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

NOTARY PUBLIC in and for the State of

Washington, residing at \_\_\_\_\_

My Appointment expires: \_\_\_\_\_