

**PERFORMANCE AND COMPLETION BOND
RIGHT OF WAY PERMIT**

PRINCIPAL (Name, Address and Phone):

SURETY (Name, Address and Phone):

OBLIGEE:

City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
503-618-3000

**ESTIMATED COST OF RECONSTRUCTING THE IMPACTED PUBLIC FACILITIES
WITHIN THE PUBLIC RIGHT OF WAY: _____**

AMOUNT OF OBLIGATION: _____ (110% of the estimated cost)

PROJECT:

Project Name:
Project Address:
Permit No.:
Project No.:

DESCRIPTION OF RECONSTRUCTION WORK (hereinafter referred to as “Reconstruction Work”) Principal is obligated to construct the reconstruction of impacted public facilities within the public right of way, generally described as follows:

RECITALS

WHEREAS, the Principal and Surety, which is duly authorized to conduct a general surety business in the State of Oregon, are held and firmly bound unto the Obligee, in the penal sum set forth above as the Amount of Obligation, for which payment, well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by the terms and conditions stated below;

WHEREAS, Obligee has issued to Principal a Right of Way Permit (hereinafter referred to as the “Permit”) whereby Principal is authorized to do certain work in the public right of way as described in the permit; and

WHEREAS Principal is required under the terms of the Gresham Revised Code and the Permit to furnish a guaranty for the faithful performance and completion of the reconstruction of impacted public facilities within the public right of way as generally described above.

AGREEMENT

Now therefore, for good and value consideration, the Parties agree as follows:

1. Principal agrees to perform the Reconstruction Work, described generally above in the Description of Work, and in accordance with the Gresham Public Work Standards, the plans and specifications, and the Permit.
2. If Principal shall well and truly, at its own cost and expense, at or within the time required under the Permit, faithfully perform the Reconstruction Work, in substantial compliance with the plans and specifications for the reconstruction work, including the Permit and Gresham Public Works Standards, then this obligation shall be void, otherwise to remain in full force and effect, subject to the below terms and conditions.
3. In the event Principal fails to perform the Reconstruction Work within the time allowed by the Permit, or any extension thereof, as may be granted by the Obligee, then the Surety shall perform the Reconstruction Work and deliver it to the Obligee for approval or, at the election of Obligee, Surety shall tender to Obligee the amount necessary, in no event to exceed the penal sum hereof, based upon estimates provided by the Obligee, to perform the Reconstruction Work, it being further understood that upon completion of the Reconstruction Work, any unexpended funds shall be returned to Surety.
4. This bond shall be continuous in effect and shall remain in full force and effect until (a) the Reconstruction Work has been completed and accepted by Obligee, or (b) the release and surrender of this bond by Obligee, whichever shall first occur.
5. It is further understood that ten percent (10%) of the estimated cost of reconstructing the impacted public facilities in the public right of way, or \$1,000, which ever is greater, shall remain in effect and continue after completion and acceptance of the improvements by the Obligee for a period of two years from the date of acceptance to guaranty the construction against any defective work or labor done, or defective materials furnished, in the performance of the improvements. Obligee may require a separate warranty guarantee for any repairs done pursuant to the warranty obligation. Such warranty guarantee shall be for a period of two years from the date of completion of such repairs.
6. Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Permit, or to the work to be performed there under, or to the specifications relating to the improvements shall, in any way, affect its obligation on this bond, and Surety does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Permit, or to the work or to the specifications.
7. As part of the obligation secured hereby and in addition to the penal sum specified hereunder, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

8. No right of action shall accrue hereunder to or for the use of any persons, firm or corporation, other than Obligee. The rights and obligations under this bond are for the exclusive benefit of Obligee and may not be assigned, hypothecated or transferred for any purpose, unless consented to, in writing, executed by Principal and Surety.
9. Surety waives any defense related to the impossibility, illegality, incapacity, bankruptcy or receivership of Principal in connection with the obligation of Principal hereunder and Surety further expressly waives any defense to the extent that it may require the creditor to proceed against the Principal as a condition precedent to any claim or demand hereon.

Witness my hand and seal this _____ day of _____, _____.

PRINCIPAL:

SURETY:

By: _____

By: _____
Attorney-in-Fact

STATE OF OREGON)
) ss:
County of Multnomah)

On _____, 20___, PRINCIPAL_____ personally appeared before me, who being duly sworn did say that he or she is PRINCIPAL_____, that said instrument was signed and sealed on his or her behalf, and acknowledged said instrument to be a voluntary act and deed.

Notary Public for Oregon
My Commission Expires: _____

STATE OF OREGON)
) ss:
County of Multnomah)