



PUBLIC WORKS DEPARTMENT
1812 Main St., Lake Stevens, WA 98258
(425) 377-3222, (425) 334-0835 FAX

Assignment of Bank Account for Security Purposes

Any party installing, repairing, extending or modifying utility lines in public right-of-way/easement, which lines are connected, or to be connected, to the city's utility system, shall comply with the following:

14.12.800 Security Mechanisms--General.

- (a) As security the City may accept any of the following: bonds, letters of credit from an insured bank, a secured account with an insured bank, or a cash deposit. Other forms of security may be accepted if approved by the City Finance Director in consultation with the City Attorney.
- (b) In each case where the City requires or allows an applicant to post a security, the Public Works Director shall determine the type of security to be used.

14.12.810 Performance Securities.

- (a) Except as provided in Subsection (d), a performance security shall be required for any project on a site greater than 1 acre in size to guarantee that a site can be closed and/or winterized if necessary, or that measures can be taken by the City to respond to weather-related emergencies.
- (b) In addition, an augmented performance security may be required by the Public Works Director to cover the cost of installing any system-wide public improvements that an applicant has agreed to install as part of his project where the lack of installation would cause the system to fail or not be completed in a timely manner.
- (c) Performance securities may be presented to the City after preliminary approval of a project but in all circumstances shall be presented prior to any site work, including clearing, grading, or construction.
- (d) Submission of a performance security may be waived by the Public Works Director if, in his opinion, said guarantee of installation is not necessary.

14.12.820 Completion Securities. In lieu of installing public improvements per this Title or a condition of a permit, a developer may propose to post a security to ensure completion of the improvements within one year of permit approval. An extension not to exceed one (1) year may be approved by the Public Works Director upon extension of the security or submission of a new one.

14.12.830 Maintenance Securities. Any developer shall provide to the City a maintenance security to cover the cost of replacing or repairing any of the public improvements installed per this Title or a condition of a permit.

14.12.850 Amount of the Security.

- (a) The amount of a security shall be a percentage, as specified below, of the estimated cost of design, materials, and labor, based on the estimated costs on the last day covered by the device, of installing, replacing, or repairing (whichever is appropriate) the improvements covered by the security.
- (1) Performance--One hundred fifty percent (150%) of the costs specified in Subsection (a).
 - (2) Completion--One hundred fifty percent (150%) of the costs specified in Subsection (a).
 - (3) Maintenance--Twenty percent (20%) of the costs specified in Subsection (a). (Ord. 468, 1995)
- (b) The Public Works Director shall approve the amount of a security under paragraph (a) of this Section. The applicant shall prepare for the Public Works Director' review and approval an cost estimate of the items to be covered by the security. (Ord. 501, Sec. 3, 1995; Ord. 468, 1995)

14.12.860 Reduction of Securities. In those cases where improvement securities have been made, the amount of the guarantee may be reduced upon acceptance of the dedication of a portion of the required improvements. The amount of the reduction shall not exceed the percentage which the improvements just accepted for dedication made up of all originally required improvements. In no case, however, shall the guarantee be reduced to less than fifteen percent (15%) of the original amount. (Ord. 468, 1995)

14.12.870 Duration of Securities. All securities shall be held until released by the Public Works Director; however, the standard duration of the various securities should be as follows: (Ord. 501, Sec. 3, 1995; Ord. 468, 1995)

- (1) Performance--One year or until all improvements are installed and accepted by the City, whichever is greater.
- (2) Completion--One year or until all improvements are installed and accepted by the City, whichever is greater.
- (3) Maintenance--Two years; extendable by the City if repairs are made at the end of the bonding period which, in the opinion of the Public Works Director, require additional guarantee of workmanship.

14.12.880 Supplemental Administrative Costs. In addition to the security, the applicant shall pay a fee to the City covering the City's actual expenses of administering, and if necessary, using the proceeds of the security. The amount of this fee will be set by Resolution.

14.12.890 Security Agreement. In each case where a security is posted, the applicant and the Public Works Director shall sign a notarized security agreement, approved in form by the City Attorney. This agreement shall be recorded with the Snohomish County Auditor. The agreement shall provide the following information:

- (1) A description of the work or improvements covered by the security.
- (2) Either the period of time covered by the maintenance security or the date after which the City will use the proceeds of the performance security to complete the required work or improvements.
- (3) The amount and nature of the security and the amount of the cash deposit.
- (4) The rights and duties of the City and the applicant.
- (5) An irrevocable license to run with the property to allow the employees, agents, or contractors of the City to go on the subject property for the purpose of inspecting and, if necessary, doing the work or making the improvements covered by the security.
- (6) The mechanism by and circumstances under which the security shall be released. At a minimum, after the work or improvements covered by a performance security have been completed, or at the end of the time covered by a maintenance security, the applicant may request the City to release the security. If the applicant has complied with the security agreement and this Code, the Public Works Director shall release the security remaining. If the work has not been completed or repairs not made, then the City shall not release the security until such work is completed per Section 14.12.895. Partial release of the security may be allowed provided that the developer provide a new security in the amount specified in Section 14.12.850 for the remaining work.
- (7) Upon release of any recorded security mechanism a copy of the letter of release shall be filed with the Snohomish County Auditor.

14.12.895 Use of Security Funds by the City.

- (a) If during the period of time covered by a maintenance security, or after the date by which the required work or improvements are to be completed under a performance security, the Public Works Director determines that the security agreement has not been complied with, he shall notify the applicant of this. The notice must state:
 - (1) The work that must be done or the improvements that must be made to comply with the security agreement; and
 - (2) The amount of time, not to exceed 30 days, that the applicant has to commence and complete the required work or improvements; and
 - (3) That, if the work or improvements are not commenced and completed within the time specified, the City will use the proceeds of the security to have the required work or improvements completed.
- (b) If the work or improvements covered by the security are not completed within the time specified in the notice the City shall obtain the proceeds of the security and shall cause such work to be completed.

- (c) The applicant is responsible for all costs incurred by the City in administering, maintaining, or making the improvements covered by the security(s). The City shall release or refund any proceeds of a performance or maintenance security remaining after subtracting all costs for doing the work or making the improvements covered by the security. The applicant shall reimburse the City for any amount expended by the City that exceeds the proceeds of the security. The City may file a lien against the subject property for the amount of any excess.

- (d) In each case where the City uses any of the funds of a security it shall give the applicant an itemized statement of all funds used. (Ord. 468, 1995)



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Assignment of Bank Account for (select one)

- Performance Purposes Only**
- Maintenance Purposes Only**
- Completeness Purposes Only**

_____ (hereinafter referred to as “Developer”)

hereby assigns to the CITY OF LAKE STEVENS for security purposes only, the sum of:

_____ (Written Amount)

(\$ _____) which is deposited in savings account number

_____ at _____ Bank,

_____, Branch. This assignment shall be on the following

terms and conditions:

1. This assignment shall not relate to any interest which accrues on said account, and said interest may be withdrawn by the DEVELOPER at any time.
2. This assignment is security for performance by the DEVELOPER of the following obligations with respect to:

_____ Name of Development / Project Number / Site Address

3. The obligations referred to above shall be completed to the CITY’S satisfaction on the

following schedule:

4. In the event that the DEVELOPER defaults on the obligation referred to above, as determined by the City Engineer, a written notice shall be sent the DEVELOPER requiring the above obligation to be completed within thirty (30) days thereafter. If said obligation is not complete as required by the notice, the City shall have the right to proceed with the work itself, and shall charge all costs of labor, materials, engineering, taxes, incidental costs and expenses, and a 25% administrative overhead fee to the DEVELOPER'S account. The CITY shall thereupon send an invoice for its charges to the DEVELOPER and to the Bank, and within ten (10) days of receipt of said invoice, the amount of said invoice shall be paid in full by the bank to the CITY from the assigned bank account referenced above. If said funds are insufficient and a deficiency remains, the DEVELOPER shall be responsible for the same, and shall immediately pay said deficiency, in full directly to the City. Any delinquency in the DEVELOPER'S obligation shall accrue interests at the rate of 12% per annum.
5. Upon completion of all obligations referred to above, the DEVELOPER may apply to the CITY for a release of all funds held in the assigned bank account. If the City Engineer, of his designee, finds that the work has been satisfactorily completed, he shall immediately notify the Bank, in writing, that the balance of funds in the assigned bank account may be released to the DEVELOPER. Upon said funds being released, this Agreement shall terminate and no party shall have any further obligation hereunder.
6. This Assignment is irrevocable without the written consent of the City. The assigned funds shall be held exclusively for the benefit of the CITY and shall not be subject to further assignment or encumbrance of the DEVELOPER, or attachment by any creditors of the DEVELOPER. All amounts deposited in the above referenced account which are assigned to the CITY OF MARYSVILLE, unless paid as provided in Paragraph 4, above, shall remain in said account until released as provided in Paragraph 5, above, partial disbursements of such funds shall not be made as the DEVELOPER'S performance progress.
7. Should any disputes arise between the CITY and the DEVELOPER regarding the terms of this Agreement, the Bank shall have the option to hold all matters in a pending status until the dispute is resolved or to join in or commence a court action, and deposit the assigned funds into the registry of the court. In the event of any litigation regarding the terms of the Agreement, the CITY and the DEVELOPER shall indemnify and hold the Bank harmless from any costs or attorney's fees incurred in connection with the same.
8. Time is of the essence of this Agreement. If litigation is filed to enforce any term of the Agreement, the prevailing party, as between the CITY and the DEVELOPER, shall be entitled to judgment for court costs and attorney's fees incurred therein.
9. This Agreement is binding upon the parties, their heirs, successors and assigns.

Dated: _____, 20_____.

DEVELOPER:

Print Name

BANK:

Print Name

Title

**ACCEPTED BY THE CITY OF LAKE
STEVENS:**

By: _____

Title

Date