

# MAINTENANCE & DEFECT ASSIGNMENT OF FUNDS

RE: Permit No.: \_\_\_\_\_ Address/Location: \_\_\_\_\_

Project Name: \_\_\_\_\_ Owner/Developer/Contractor: \_\_\_\_\_

We \_\_\_\_\_, ("Bank"), authorized to do so and doing business as a financial institution in the State of Washington, at the direction of \_\_\_\_\_, ("Applicant/Depositor"), for warranty and maintenance of certain improvements for the project known as \_\_\_\_\_, hereby certify that we are holding funds in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_) on deposit with the Bank in Account Number \_\_\_\_\_ for the purposes of warranting against defective materials, workmanship, and installation in connection with the above referenced permit and for faithful maintenance of the work, including replacement and repair, to standards acceptable to the City of Fircrest ("City"), for a period of two (2) consecutive years after final written acceptance by the City ("warranty period"). We have been instructed by the Applicant/Depositor that these funds are to be used for the specific purposes described below.

WHEREAS, the Applicant/Depositor was granted the above referenced permit pursuant to Title 22 of the Fircrest Municipal Code, to do certain work described as follows:

XX	Improvements	Description
	Tree Plantings	
	Shrub Plantings	
	Groundcover Installation	
	Irrigation	
	Other:	
	Other:	

NOW THEREFORE, the Applicant/Depositor does hereby guarantee that the work described above shall remain free of defects in material, workmanship, and installation for the warranty period; and the Applicant/Depositor does further agree to maintain such improvements for the warranty period. Maintenance is defined as acts carried out to prevent decline, lapse or cessation of the state of the improvements as accepted by the City, including but not limited to repair or replacement of defective workmanship, materials, or installations. In the case of landscaping, the vegetation shall survive for a period of 24 consecutive months from the date of final written acceptance by the City ("landscaping period"). In the event that any of the improvements installed or completed under the permit and approved plans fail to remain free from defects in materials, workmanship, or installation for the warranty period, the Applicant/Depositor shall repair or replace the same within ten (10) days of demand by the City. Any repairs or replacements which are made shall be subject to the terms and conditions hereof.

The Applicant/Depositor further agrees and grants to the City, its elected officials, officers, employees, and authorized agents, the right to enter onto the property in order to construct, repair, or maintain the required improvements and to fulfill the conditions of the permit.

In the event the Applicant/Depositor fails to maintain the improvements, or if the improvements installed or completed pursuant to the permit fail to remain free from defects for the warranty period, these funds will be made available to the City upon demand for the specific purposes of constructing, repairing, or maintaining the required improvements, remediation of any damages resulting from the Applicant's/Depositor's failure to do so, and any loss, cost, expense or damage suffered by the City due to any defects or the Applicant's/Depositor's failure to maintain the required improvements.

The Bank hereby certifies and agrees that these funds will be blocked and will be held until released in writing by the City. The Bank shall pay these funds to the City within seven (7) days of receiving written demand by the City. The Bank shall have no duty or right to evaluate the correctness or appropriateness of any such demand or determination by the City that any work has not been properly performed, and shall not interplead or in any manner delay payment of funds to the City.

Failure of the Bank to hold the minimum required amount and make such funds available to the City upon request, until released by the City, will bind the Bank for the amount owed, legal fees and costs necessary to enforce collection of the assignment of funds.

No change, extension of time, alteration or addition to work to be performed by the Applicant/Depositor shall affect the obligation of the Applicant/Depositor or the Bank on this assignment of funds and the Bank waives notice of any such change, extension, alteration, or addition.

This assignment of funds is irrevocable and cannot be cancelled by the Bank or by the Applicant/Depositor. This authorization is to remain in full force and effect until the installed improvements have been maintained and have remained free from defects for the warranty period and a written release is received from the City.

The Applicant/Depositor hereby agrees to this assignment of funds and that the Applicant/Depositor's obligation to perform the required work is not limited to the amount of funds held by the Bank.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

APPLICANT/DEPOSITOR:

BANK: **\*Officer's signature to be notarized below (not the applicant's)\***

\_\_\_\_\_  
Name of Applicant/Depositor

\_\_\_\_\_  
Name of Bank Officer

\_\_\_\_\_  
Signature of Applicant/Depositor

\_\_\_\_\_  
Signature of Bank Officer

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Telephone Number

STATE OF WASHINGTON )  
 )  
 ss.  
COUNTY OF \_\_\_\_\_ )

On this day personally appeared before me \_\_\_\_\_,  
(bank officer), said person having acknowledged that he/she signed this instrument and on oath stated that he/she was authorized to execute the instrument and acknowledged it as the \_\_\_\_\_ (title) of \_\_\_\_\_ (bank) to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

GIVEN under my hand and official seal of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Signature: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at:

My commission expires: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_ Date \_\_\_\_\_  
Office of the City Attorney