

707

CITY OF KENMORE, WA
TWO YEAR MAINTENANCE AND DEFECT
AGREEMENT FOR ROADS, DRAINAGE
FACILITIES AND SITE IMPROVEMENTS



18120 68th Ave NE, Kenmore, WA 98028

425-398-8900

www.kenmorewa.gov

Applicant:		
Address:		
City:	State:	Zip:
Phone Number:	Email:	

Project/Permit #:					
Project Address/Parcel:					
Financial Guarantee Amount:					
Financial Guarantee Type: <small>(must be attached to agreement)</small>	<input type="checkbox"/> Cash Deposit	<input type="checkbox"/> Assignment Of Funds	<input type="checkbox"/> Assignment Of Existing Const. Loan Proceeds	<input type="checkbox"/> Surety Bond	<input type="checkbox"/> Public Agency Agreement

This AGREEMENT is made and entered into this _____ day of _____, 20____, between the City of Kenmore, hereinafter called the CITY, and the above named APPLICANT, hereinafter called APPLICANT.

Basis for AGREEMENT:

WHEREAS the undersigned APPLICANT has constructed roads, site improvements and/or drainage facilities in connection with the above-referenced project; and

WHEREAS the APPLICANT has agreed to secure the successful maintenance and operation of constructed improvements for the above-referenced project pursuant to Kenmore Municipal Code Title 12, Title 17 and 21; and

WHEREAS, this agreement will be administered on behalf of the CITY by the Development Services Director, hereafter called the DIRECTOR;

NOW THEREFORE, the APPLICANT hereby agrees and binds itself and its legal representatives, successors, and assigns as follows:

Terms of the AGREEMENT:

1. The improvements constructed by the APPLICANT or his/her representative shall successfully operate and shall remain free of defects in design, workmanship, materials, and functionality for a minimum period of two years from the date of final construction approval or the date listed above, whichever is later.
2. As used in this AGREEMENT, the term "defects" includes, but is not limited to, damage resulting from construction activities and/or use during the two year period.

3. The APPLICANT shall be responsible for maintaining all records of the final construction approval. APPLICANT shall produce dated evidence of final construction approval upon the CITY's request.
4. The APPLICANT is responsible for maintenance of the road, roadway surface, site improvements and drainage facilities for the two year period as described above.
5. In the event of any failure of the improvements to satisfactorily operate or in the event of a defect in design, workmanship or materials, the APPLICANT shall promptly and adequately repair and/or correct the failure or defect.
6. The CITY shall perform maintenance inspections during the two year period.
7. Upon notification by the CITY, the APPLICANT shall correct and/or make repairs to the improvements within the time period specified by the CITY when defects in the design, workmanship, or materials occur.
8. In the event the CITY determines that repairs must be performed immediately to prevent risk to person(s) and property, the CITY may make necessary repairs and the costs of those repairs shall be paid by the APPLICANT upon demand by the CITY.
9. The APPLICANT shall pay all required fees in accordance with Kenmore Municipal Code Title 20.
10. At the end of the two year period, the APPLICANT shall clean the drainage system and all associated stormwater facilities prior to the CITY's final inspection.
11. Maintenance and defect guarantees shall be released following a final maintenance and defect inspection and acceptance of the facilities for ongoing CITY maintenance.
12. If, at the conclusion of the two year period, the CITY, at its sole discretion, determines that the improvements are not adequately maintained, the APPLICANT shall perform prompt maintenance to the CITY's satisfaction. In the event this maintenance is not performed within the time period specified by the CITY, the CITY will invoke the default proceedings pursuant to Kenmore Municipal Code 21.15.100.
13. The APPLICANT shall be responsible for contacting the CITY and requesting release of this AGREEMENT once all terms have been met. Failure to request release of the AGREEMENT shall not release the APPLICANT from the terms of the AGREEMENT. Failure to request and obtain release of the AGREEMENT does not absolve the APPLICANT of the maintenance and financial guarantee requirements.
14. Any failure by the APPLICANT to comply with the terms of this AGREEMENT in a timely manner shall constitute a default pursuant to Kenmore Municipal Code 21.10.020. Any action or inaction by the CITY following any default in any term or condition of this AGREEMENT shall not be deemed to waive any rights of the CITY pursuant to the agreement or associated financial guarantee.

15. The APPLICANT shall indemnify and hold the CITY 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 any kind or nature, brought against the CITY arising out of, in connection with, or incident to the execution of this AGREEMENT and/or the APPLICANT's performance or failure to perform any aspect of the AGREEMENT. Provided, however, that nothing herein shall require the APPLICANT hold harmless or defend the CITY from any claim arising from the sole negligence of the CITY's agents, employees and/or officers.
16. In the event that any party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action or proceeding shall be brought in a court of competent jurisdiction situated in King County, Washington.

Release Requirements:

This AGREEMENT shall remain in full force and effect and the associated financial guarantee shall not be released until all terms of this AGREEMENT have been completed to the satisfaction of the CITY and the APPLICANT has received written notice of release of the AGREEMENT. The APPLICANT shall be responsible for maintaining all records of release of this AGREEMENT. The APPLICANT shall produce evidence of the AGREEMENT release upon request of the CITY or financial institutions associated with the financial guarantee.

IN WITNESS THEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

APPLICANT

Signature: _____

Print: _____

Date: _____

Received for CITY

Signature: _____

Print: _____

Date: _____

STAFF USE AREA
Release Date:

Released By: