

Proposed Edits to UDO Adoption Draft

20.06.60(C)iii – Secondary Plat – Financial Surety Required

CURRENT LANGUAGE

1. **Review**

The City Planning and Transportation Department shall review the estimate upon receipt of a complete petition and supportive documents. The City Planning and Transportation Department shall verify that the performance bond or letter of credit shall:

- [a] Be in a sum of not less than one hundred twenty-five percent of the approved estimate of the total improvement construction cost of the project in order to be sufficient to complete the improvements and installations in compliance with this UDO and City Planning and Transportation Department requirements;
- [b] Provide surety satisfactory to the city or to the county;
- [c] Run to and be in favor of the city or the county;
- [d] Specify the time for the completion of the improvements and installations (both on- and off-site);
- [e] Be in effect and shall not terminate until a period of two years after the date of substantial completion of the public improvements, but in no situation shall the performance bond or letter of credit be permitted to have an effective period greater than three years. The performance surety will remain in effect during this two-year period in the amount of five percent of the original performance surety, or \$10,000.00, whichever is greater, or as determined by the Transportation and Traffic Engineer; and
- [f] Be in a form approved by the City Legal Department.

2. **Report**

The City Planning and Transportation Department shall recommend approval or rejection of the performance surety to the Board of Public Works.

3. **Record**

The City Planning and Transportation Department shall maintain records of all petitions, plans, and permits filed for a performance surety.

4. **Time Limit**

The completion of public facility improvements and installations shall be within two years of the approval of the project.

5. **Extension of Completion Time**

Should the petitioner not complete the public facility improvements and installations as herein required within a two year period, the City Planning and Transportation Department may approve the petitioner's written request for an extension of time for up to one additional year, granted at six month intervals and conditioned in every case upon extension or renewal of the surety accordingly, for completion of the required public facility improvements and installations, but in no situation shall an extension of a performance bond or letter of credit be permitted to have an effective period greater than three years.

6. **Nonperformance**

Should the petitioner not complete the public facility improvements and installations as required by this UDO within the two year period or within any time extension approved by the City Planning and Transportation Department, the city may take the necessary steps to proceed with the completion of the public facility improvements and installations, making use of the performance bond or letter of credit.

7. **Expiration**

The performance bond or letter of credit shall be in effect and shall not terminate until 30 calendar days after the certificate of final acceptance is approved by the City Planning and Transportation Department, and the maintenance surety has been accepted.

8. **Performance Surety Reductions**

- [a] Annual partial releases of performance sureties held by the city shall be approved by the City Planning and Transportation Department in accordance with a partial release schedule agreed to in a signed written document, after that document has been signed by the Planning and Transportation Director or his or her designee, and the developer or his or her designee.
- [b] The following standards shall apply to any request for a bond reduction:
 - i. No more than three reductions shall be permitted within any 24-month period.
 - ii. No performance surety shall be reduced beyond 75 percent of the original bond amount.
 - iii. Periodic partial releases shall not occur before completion of at least 30 percent of the improvements covered by the performance surety.

PROPOSED LANGUAGE

3. **Review**

The City Planning and Transportation Department shall review the estimate upon receipt of a complete petition and supportive documents. The City Planning and Transportation Department shall verify that the performance bond or letter of credit shall:

- [a] Be in a sum of not less than one hundred twenty-five percent of the approved estimate of the total improvement construction cost of the project in order to be sufficient to complete the improvements and installations in compliance with this UDO and City Planning and Transportation Department requirements;
- [b] Provide surety satisfactory to the city or to the county;
- [c] Run to and be in favor of the city or the county;
- [d] Specify the time for the completion of the improvements and installations (both on- and off-site);
- [e] Be in effect and shall not terminate until a period of two years after the date of substantial completion of the public improvements, but in no situation shall the performance bond or letter of credit be permitted to have an effective period greater than three years. The maintenance surety ~~performance surety~~ will remain in effect during ~~the~~ is two-year period after the certificate of final acceptance is approved in the amount of five percent of the original performance surety, or \$10,000.00, whichever is greater, or as determined by the Transportation and Traffic Engineer; and
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