

SEC. 300.11 OFF-SITE PERFORMANCE GUARANTEE

(Ord. No. 2007-130, 11-13-07)

At or prior to the preconstruction conference with the City, the owner/developer shall provide to the Community Development Director, or his or her designee(s), a performance guarantee for off-site improvements meeting the following criteria:

- A. Amount.** The owner / developer shall provide a letter of credit or a cashier's check to the City of Bentonville for an amount 100% of the total estimated cost for improvements within the public right-of-way and any off-site improvements. The cost estimate shall be prepared by the owner / developer's engineer-of-record and approved by the Community Development Director or his or her designee(s).
- B. Term.** The term of the performance guarantee shall be agreed to in writing by the owner/ developer's engineer-of-record and by the Community Development Director or his or her designee(s).
- C. Letter of Credit Standards.** Performance guarantee letter of credits shall be irrevocable and shall list the City of Bentonville as the beneficiary. The letter of credit shall be in a format as provided by the City or as approved by the Staff Attorney or his or her designee.
- D. Cashier's Check.** The cashier's check will be deposited immediately.
- E. City Action.** Prior to expiration of the term agreed to in subsection B above, the City shall inspect the improvements. If the improvements are not complete to the City's satisfaction, the owner / developer or engineer of record may request in writing an extension. If the City does not agree to the extension, the City may construct the remaining improvements using the amount of the cashier's check or letter of credit. If the improvements are complete, the City shall release the performance guarantee in accordance with Subsection H.
- F. Excess Monies.** The owner / developer shall not be entitled to any excess monies until the off-site improvement has been completed and the performance guarantee is released in accordance with Subsection H.
- G. Excess Costs.** The owner / developer shall be liable for any cost exceeding the amount of the cashier's check or letter of credit.

H. Release of Performance Guarantee.

- 1. Certificate of Completion.** To request a release of a performance guarantee, the owner / developer's engineer-of-record shall submit a certification of completion to the City Engineer or his or her designee(s) that the development is complete and functional.
- 2. Final Inspection.** The City Engineer or his or her designee(s) shall conduct a Final Inspection of the off-site improvement. The Final Inspection must be approved prior to releasing the performance guarantee.
- 3. Guarantee Released.** The performance guarantee is released and the City shall reimburse the owner / developer for the amount of the cashier's check or return the letter of credit to the owner/developer.

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