



CITY OF COLORADO SPRINGS

INSTRUCTIONS FOR FINANCIAL ASSURANCES

April 21, 2014

Pursuant to Chapter 7 “*PLANNING, DEVELOPMENT AND BUILDING*” of the Code of the City of Colorado Springs, Article 7, Part 11, the following required improvements must be completed and accepted by Engineering or approved financial assurances guaranteeing completion must be placed on file prior to the issuance of building permits:

- Public street improvements
- Public drainage improvements
- Private drainage improvements when required by City Engineering
- Landscaping, Private Streets or any other improvements required by Planning

(Erosion control measures are required for Grading and Erosion Control Plan approval and do not affect building permits)

Financial Assurance Forms- the following forms of financial assurances are acceptable:

- Company/personal check
- Cashier’s or certified check
- Lending institution letter of credit
- Certificate of Deposit with Assignment of Deposits agreement
- Subdivision Bond

Checks made to “City of Colorado Springs” are deposited into the City’s escrow account. All other forms are kept by the City Engineer’s office until their release. All term financial assurances must have a minimum expiration date of 90 days from issue date. Include the name, address and telephone number of the Owner, Subdivider, Developer or Contractor submitting financial assurances. The submitter is responsible to keep current all financial assurances filed with the City and provide renewal documentation to City Engineering a minimum of five working days prior to the expiration date for improvements not completed.

Release- financial assurances are released upon the written Probationary Inspection letter and receipt of assurances for warranty retainage equaling 10% of the original estimate of improvements. In lieu of posting the warranty retainage, a partial release of funds can be executed which retains said 10% of the original estimate. Upon completion of improvements, provide a written request for Probationary Inspection along with Engineer’s and Geotech’s Certifications to Engineering Inspections at the address below:

Development Review and Stormwater
P.O. Box 1575, Mail Code 410
30 S. Nevada Avenue, Suite 401
Colorado Springs, CO 80901-1575
(719) 385-5918

At the end of the two-year warranty period, a written request for a Final Inspection shall be submitted to the address above. Upon final acceptance of Public Facilities/Improvements, the 10% warranty retainage will be released.

Note: Erosion Control assurances are not subject to Probationary Inspection, and are released in full at the time of Final Inspection.

Financial Assurance Information – contact Development Review and Stormwater at the address below:

Andrea Acker
P.O. Box 1575, Mail Code 410
30 S. Nevada Avenue, Suite 401
Colorado Springs, CO 80901-1575
(719) 385-5046
aacker@springsgov.com

Or,

Patrick S. Jernigan, PLS
P.O. Box 1575, Mail Code 410
30 S. Nevada Avenue, Suite 401
Colorado Springs, CO 80901-1575
(719) 385-5098
pjernigan@springsgov.com

IRREVOCABLE LETTER OF CREDIT GUIDELINES

Irrevocable Letters of Credit submitted to the City of Colorado Springs for the purposes of financial assurances for subdivision development improvements are acceptable only in the format on the attached form "Irrevocable Letter of Credit." This form is acceptable for lending institutions within Colorado Springs as well as outside the city. The following list outlines key items to assist the lending institution to complete the form:

- Letter of Credit must be on bank letterhead.
- Letter of Credit must include Subdivision Name or, for unplatted parcels, the Legal Description of the affected property.
- Expiration date must be a minimum of 90 days from the Letter of Credit date.
- Any references to the "Uniform Customs and Practices for Documentary Credits" or "Article 5 of the State of Colorado Uniform Commercial Code" **are unacceptable. Letter of Credit will be rejected.**
- Letter of Credit shall have the full address, phone number and signature of an Officer of the lending institution.

Contact Andrea Acker, Engineering Technician II (719-385-5046 or aacker@springsgov.com) or Patrick Jernigan, Licensed Surveyor (719-385-5098 or pjernigan@springsgov.com) for assistance.

Development Review and Stormwater
P.O. Box 1575, Mail Code 410
30 S. Nevada Avenue, Suite 401
Colorado Springs, CO 80901-1575
(719) 385-5918

IRREVOCABLE LETTER OF CREDIT

Date of Issue: _____

Place of Issue: _____

To: City of Colorado Springs
City Engineering
P.O. Box 1575, Mail Code 410
Colorado Springs, CO 80901-1575

Irrevocable Letter of Credit No.: _____ Expiration Date: _____

Account Party: _____ Address: _____

Beneficiary: City of Colorado Springs
Attn. Patrick S. Jernigan, Licensed Surveyor
P.O. Box 1575, Mail Code 410
30 S. Nevada Avenue, Suite 401
Colorado Springs, CO 80901-1575

Gentlemen:

_____ hereby issues this Irrevocable Letter of Credit in your favor for the amount of \$_____, which is available by drafts at sight for payment accompanied by the following documents:
Written certification from the City of Colorado Springs that the account party has failed to complete the following improvement(s):

Subdivision: _____

This Letter of Credit shall not be transferable and it shall be governed by the laws of the State of Colorado. This letter may be extended or otherwise renewed with the Beneficiary's consent.

_____ hereby agrees to honor each draft for payment made in compliance with the terms of this credit if duly presented, together with any documents as specified herein, on or before the expiration date of this letter. In addition, if an out-of-City of Colorado Springs financial institution, the financial institution hereby agrees to honor each draft for payment made in compliance with the terms of this Letter of Credit if duly presented by registered mail or overnight courier, together with any documents, as specified herein, on or before the expiration date of this Letter of Credit.

Lending Institution

Address

Telephone

Lending Institution Officer

ASSIGNMENT OF DEPOSITS GUIDELINES

Certificates of Deposits submitted to the City of Colorado Springs for the purposes of financial assurances for subdivision development improvements are acceptable **ONLY** with the attached form "Assignment of Deposits." The following list outlines key items to assist with completion of the form:

- Include a reference date at the top of the form.
- The Developer's name as it appears on the Certificate of Deposit is entered on line two.
- In the blanks below paragraph 1, describe the improvement for which the Certificate of Deposit is given as a financial assurance and include the legal description; examples:

Shall install and complete the following improvements:
[street, drainage or erosion control improvements].

Subdivision: ["X Y Z..." Subdivision]

PLEASE NOTE: The correct improvements and Subdivision name must be substituted for the example information noted in the brackets above before submitting the Assignment of Deposit. If this information is not correctly labeled, or has been typed then crossed out and then re-written correctly in ink, the Assignment of Deposit will be sent back.

- Include the financial assurance amount in words and figures along with the lending institution's CD identification number.
- Attach as Exhibit "A" the original or copy of the CD document submitted by the lending institution. The City does not require joint ownership of the CD.
- Type the names and titles of the Developer and the lending institution's representative, date and notarize all signatures.
- Expiration date must be a minimum of 90 days from issuance date and must be auto-renewable.
- Include addresses and telephone numbers for the lending institution and Developer.
- Questions and assistance, contact:

Patrick Jernigan
Subdivision Review Surveyor
30 S. Nevada Ave., Suite 401
P.O. Box 1575, Mail Code 410
Colorado Springs, CO 80901-1575
(719) 385-5098

Andrea Acker
Engineering Technician II
30 S. Nevada Ave., Suite 401
P.O. Box 1575, Mail Code 410
Colorado Springs, CO 80901-1575
(719) 385-5046

Assignment of Deposits

This assignment, dated for reference the ____ day of _____, _____, is made and entered into by and between:

_____ Address: _____ (hereinafter "Developer"),

_____ Address: _____ (hereinafter "Bank"),

_____ and the City of Colorado Springs, a home rule city and a Colorado municipal corporation (hereinafter the "City").

1. Pursuant to the Code of the City of Colorado Springs, 2001, as amended, the Developer is required to post an assurance guaranteeing that the developer shall install and complete the following improvements:

For Subdivision: _____

The Developer has deposited with the Bank the principal sum of:

_____ (\$ _____)
in Certificate of Deposit number _____, a copy of which is attached as Exhibit "A" and hereby made a part of this agreement. (Any renewals of this CD shall be attached to Exhibit "A".)

2. Developer hereby assigns all of Developer's rights and title to the deposited funds and certificate of deposit to the City as an assurance that the Developer shall install and complete the improvements identified above. This assignment pertains only to the principal above, or as later amended, and not to any interest due on the principal. All right and ownership to any interest earned remains with and in the Developer. In the event that the improvements are not installed and completed as required by the City prior to the expiration of the designated term of the certificate of deposit, then the City may cash the certificate of deposit with such funds being forfeited to the City. However, if the City has not yet deemed it necessary that the Developer has installed and completed the improvements prior to the expiration of the designated term of the certificate of deposit, the Developer may renew the certificate of deposit for an additional term by notice to the Bank or by auto-renewal or the Developer shall provide another form of assurance acceptable to the City prior to expiration of the designated term of the certificate of deposit. Additional terms shall be for a minimum of ninety days.
3. This Assignment of Deposits is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado home rule city. The Bank agrees that, notwithstanding any term in the certificate of deposit or the Bank's rules and regulations for certificates of deposit to the contrary, the Bank acknowledges and accepts the assignment of all rights and title in the certificate of deposit and the deposited funds to the City, and agrees that the funds therein on deposit shall not be accessed or otherwise used by the Bank for satisfaction of any claim or liability of the Depositor. The Bank further agrees that the funds in the certificate of deposit shall only be released to the City, when and if so requested by the City in writing. Funds in this certificate of deposit shall be released to the developer only in accord with this Agreement of Deposits.
4. The Parties further agree that in the event that the Developer has completed the installation of the improvements and the improvements have been approved and accepted by the City, then on the date of that written acceptance, this Assignment agreement shall become null and void, and all rights and title to the certificate of deposit as granted to the City shall revert to the Developer, and the relationship between the Developer and the Bank shall be as stated in the Certificate of Deposit agreement between the Developer and the Bank.

SUBDIVISION BOND GUIDELINES

Subdivision Bonds submitted to the City of Colorado Springs for the purposes of financial assurances for subdivision development improvements are acceptable only in the formats on the attached form "Subdivision Bond." These forms are acceptable for Sureties within Colorado Springs as well as outside the city. The following list outlines key items to assist the Surety to complete the form:

- The completion date must be at least 90 days after the issue date.
- Subdivision Bond must include the exact Subdivision name or, for unplatted parcels, the Legal Description of the affected property.
- Principal and Surety signatures must be notarized.
- When applicable, Power of Attorney documents must be attached.
- No hand-lettered text, white-out, or other corrections will be accepted.
- Public Improvements (Street and Drainage) may be combined on one bond and private improvements may be combined on one bond, however, public improvements, private improvements, and erosion control must all be kept separate from each other as they are administered differently.
- Bond "Form A" MUST be used for all Improvements that are NOT required by an associated Development Agreement.
- Bond "Form B" MUST be used for all Improvements that ARE required by an associated Development Agreement.

Contact Andrea Acker, Engineering Technician II (719-385-5046 or aacker@springsgov.com) or Patrick Jernigan, Licensed Surveyor (719-385-5098 or pjernigan@springsgov.com) for assistance.

Development Review and Stormwater
P.O. Box 1575, Mail Code 410
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Colorado Springs, CO 80901-1575
(719) 385-5918

Bond No.: _____

SUBDIVISION BOND

KNOW ALL MEN BY THESE PRESENTS: That we

Address: _____

_____ as principal, and

Address: _____

_____ a corporation

existing under and by virtue of the laws of the State of _____ and authorized to do business in the State of Colorado, as surety, are held and firmly bound under the City of Colorado Springs, a municipal corporation of the State of Colorado, in the penal sum of _____ dollars, the payment of which well and truly to be made, and each of us bind ourselves, our and each of our heirs, executors, administrators, successors and assigns jointly, and severally, firmly by these presents.

NOW THEREFORE, the condition of the above obligation is such that:

WHEREAS, the above bounden principal is the owner of and/or is interested in or developing land and premises known as (Subdivision Name) _____

WHEREAS, said subdivision is subject to the provisions and conditions of the ordinance of the City of Colorado Springs known as the Subdivision Ordinance, which ordinance inter alia requires the installation of various street and other improvements by said principal; and

WHEREAS, under said Subdivision Ordinance the said principal in Colorado Springs, Colorado is required "as part of his responsibility" to install and construct the following improvements:

Form A

Bond No.: _____

NOW THEREFORE, if the above bounden principal shall well and truly install and construct the said described improvements and facilities perform the work hereinabove specified to be performed, all on or before the ___ of _____ 20 __, then this obligation shall be null and void, otherwise this obligation shall remain in full force and effect.

IN WITNESS WHEREOF, these presents have been executed this _____ day of _____, 20_____.

Principal

By _____

Subscribed and sworn to before me this _____ day of _____, 20__

My Commission Expires

Notary Public

Surety _____

Surety _____

Subscribed and sworn to before me this _____ day of _____, 20__

My Commission Expires

Notary Public

Form B

Bond No.: _____

SUBDIVISION BOND

Principal Amount: _____

Surety (Name and Address): _____

Developer (Name and Address): _____

Developer has agreed to construct improvements in the City of Colorado Springs, described fully and based on, the scheduled triggering events contained in the attached Development Agreement (hereinafter referred to as Exhibit A).

We, the Developer and Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, to the City of Colorado Springs in the amount of \$_____, which is divided based on scheduled improvements in Exhibit A. This amount will need to be renegotiated if the Performance Date in the Development Agreements has been reached prior to the Triggering Event, and the City has determined that the Subdivision Bond need not be called.

The condition of this obligation is such that if the Developer fails to construct, or have constructed the improvements referenced in Exhibit A in accordance with the Code of the City of Colorado Springs, City standards, requirements, and applicable approved plans and specifications by the scheduled triggering events for construction of improvements as set forth in Exhibit A, the City will comply with the procedures contained within the applicable Subdivision/Development Agreement and if such failure is not corrected within the time frames provided therein, Surety will, upon demand from the City, pay to the City an amount up to the Financial Assurance amount for the improvement involved as stated in the Subdivision/Development Agreement.

Form B

Bond No.: _____

IN WITNESS WHEREOF, these presents have been executed this _____ day of _____, 20_____.

Principal

By _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

My Commission Expires

Notary Public

Surety _____

Surety _____

Subscribed and sworn to before me this _____ day of _____, 20_____.

My Commission Expires

Notary Public