

CHAPTER VI PROCEDURE

Section 608 Guarantee Of Performance.

1. Type and Amount of Guarantee of Performance.

A. The type of guarantee shall be in the form of a surety corporation bond in an amount equal to the cost of the required utilities and improvements as estimated by the engineer whose services are acquired by the Planning Commission.

B. When approved by the governing body, the subdivider may have part or all of the improvements included under “special improvement district” contract with the county.

2. Duration. The duration of the surety corporation bond shall be for two (2) years from the date of approval by the Board of County Commissioners.

An extension of time may be granted by the governing body upon application by the subdivider, provided such application is submitted at least sixty (60) days prior to the expiration of the bond.

3. Default. In the event the subdivider is in default or fails or neglects to satisfactorily install the required utilities and improvements within two (2) years from date of approval of the final plat by the governing body, County may declare the bond forfeited and the County may install or cause the required improvements to be installed using the proceeds from the sale of the bond to defray the expense thereof.

4. Final Inspection and Release. The subdivider shall be responsible for the quality of all materials and workmanship. At the completion of the work, or not less than thirty (30) days prior to the release date of the bond or mortgage, the engineer shall make a preliminary inspection of the public service facilities and shall submit a report to the governing body setting forth the condition of such facilities. If the condition thereof is found to be satisfactory, the governing body shall release the bond. If the condition or material or workmanship shows unusual depreciation or does not comply with the acceptable standards of durability, the County government may declare the subdivider in default.

5. Special Improvement Contracts. In the event that the improvements are installed under “special improvement district contracts”, the planning and execution of the work shall be carried out as prescribed by laws pertaining thereto. (See Utah Code Annotated S 73-8-1, 11-23-1, 73-9-1, 17-6-1, 17-7-11, 17-29-1, 17-27-17).

6. Type of Bond. Every bond required by this Ordinance shall be approved by the County Attorney as to form and shall be in the form of:

A. A surety corporation bond from a surety company licensed to and doing business in the State of Utah, or,

B. An irrevocable letter of credit from a bank chartered under the laws of the State of Utah or in the United States of America and having an office in the State of Utah, or

C. An escrow bond having as guarantor thereto an organization licensed and regulated by the Department of Financial Institutions of the State of Utah or its successor and which is insured by the Federal Savings & Loan Deposit Insurance Corporation. Escrow bonds shall be submitted on forms provided by the County Engineer and approved by the County Attorney and shall consist of a letter of commitment, signed by both the guarantor and developer and containing at least the following:

(1) Separate itemization of each type of improvement with the estimated cost thereof.

(2) A statement that no more than 80 percent of the face or estimated amount for any given improvement may be released prior to final acceptance.

(3) A statement that the developer certifies that he has or will notify all subcontractors working under him that the County may release no more than 80 percent of the bond as aforesaid prior to final acceptance.

(4) A statement that notwithstanding the itemization of type and cost of improvement, any sum available pursuant to the bond may be used by the County for any other improvement covered by the bond as well as the specified improvement.

(5) A statement that before more than 60 percent of any item shall be released there shall be filed with the Engineer a statement that no material man's liens or mechanic's liens exist with regard to the improvements related to any part of the bond.

(6) A statement that the guarantor shall certify to the engineer every two months the amount existing in the escrowed account pertaining to the bond, item by item, noting the amount of current balance and amounts released and the date of such releases.

7. Terms and Duration and Second Bond

A. Every bond authorized by this Ordinance shall have an express term of at least two years from the date of approval of the final plat of the subdivision to which it applies. Further, such bond shall contain language guaranteeing the performance of the subdivider and a provision for unconditional payment of the face amount of the bond within five (5) days from any declaration of default thereof on the part of the County.

B. No partial release of any bond shall be made prior to the final acceptance of the improvements in the said subdivision, except for escrow bonds. Immediately prior to final acceptance of the improvement of the subdivision, except in the case of escrow bonds, the County shall require and receive from the subdivider a second bond, in the form authorized above, having a term of one (1) year and a face value of 10 percent of the original bond. In case of escrow bonds the guarantor shall extend the escrow of the required time by way of amendment to the original letter. Such second bond may be released at any time after the expiration of six (6) months, when in the opinion of the County Engineer, sufficient time has elapsed to prove the satisfactory nature of the improvement and be thus so approved.