



Financial Guarantee Guide

Ogden City Customer Service Center
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Many development approvals require the owner or developer to submit a financial guarantee ensuring the completion of public improvements, landscaping or other required improvements. The submission and approval of the guarantee usually happens prior to the issuance of building permits or final approval of a subdivision plat. The guarantee must cover **100%** of the estimated cost of the improvements. As improvements are completed, **90%** of the guarantee may be released with the remaining **10%** held as a **one-year warranty** against defects or damage to the improvements after completion, inspection and approval or acceptance of the improvements. There are three types of financial guarantees that are accepted by the City:

Cash Form: (2 ORIGINAL FINANCIAL GUARANTEE REQUIRED) This type of guarantee involves money being deposited in escrow with the City. It is the simplest and quickest way of providing a financial guarantee for small projects. One of the drawbacks for the applicant is that no interest accrues during the escrow, unlike escrows established with a bank. If a personal check is used, the check must clear before the City will approve the agreement.

Irrevocable Letter of Credit: (2 ORIGINAL FINANCIAL GUARANTEE REQUIRED) This type of guarantee requires the owner/developer to obtain an irrevocable letter of credit ("LC") issued by a federally insured bank or credit union in favor of Ogden City that will operate under a signed agreement between the City and the owner/developer. The financial institution and the form of the LC must be approved by the City. Most banks will only issue an LC for a term up to one year. **Ogden City will not accept an LC with a term of less than two (2) year.** Because of the limited time frame, this type of guarantee involves a continuing responsibility for the owner/developer to provide a new letter of credit at least 30 days before expiration of the current LC, as long as any obligation remains under the agreement. If not replaced, the City will draw on the LC prior to its expiration.

Escrow Agreement – 3rd Party: (3 ORIGINAL FINANCIAL GUARANTEE REQUIRED) This type of guarantee is among three parties: the City, the owner/developer, and a federally insured bank or credit union that acts as an escrow agent, or "depository" holding the money for the benefit of the City. The money held **may not be based on a line of credit** but must be in the form of actual funds that cannot be released without the City's approval.

Basic Requirements:

1. Only the City's approved agreements may be used. Do not make changes to the form itself.
2. All blanks in the agreement must be filled in, by either **typing or printing in ink**. Explanations for each blank space are provided in the agreement. If you have any questions please ask before filling in and submitting the agreement.
3. An **Exhibit A** must be attached that describes the required improvements, along with the cost estimate for its completion. The exhibit must be approved by staff. We recommend that the exhibit be approved prior to your submission of the guarantee for approval.
4. The agreement must be **signed and notarized by all parties**. Make sure that you use the right notary block depending upon whether you are signing as an individual, a corporation, a partnership etc.
5. The owner/developer should sign and submit an **original for each party** to the agreement. For a 3rd party escrow and bond agreement this requires 3 originals rather than two. An "original" means that all signatures and notaries are originals, not copies.
6. A 3rd party escrow must be executed by the financial institution prior to submission.
7. There should be no cross-outs or changes to the information inserted in the agreement unless initialed by the parties.
8. The applicant is the person guaranteeing that all improvements will be made as required by the City. It should reflect the same person seeking and obtaining the development approvals.
9. After execution by the City, duplicate originals will be mailed to the other party or parties at the address provided.
10. For questions re inspections, approvals or release of funds, please call JoAnn Brookins at 629-8174.

Approved 06/15/2013