

509 SECURITIES

A. Deferred Improvement

1. In certain circumstances a Developer, who can demonstrate development project permit/approval/construction progress, may request to defer County-required improvements prior to completing construction. If the Developer elects to pursue this option, a formal request must be submitted to the County Engineer, detailing the specific improvements or construction activities to be deferred, and containing a description of how or why either of the conditions below would apply:
 - a) Circumstances beyond the Developer's control prevent the Developer from completing all said County-approved improvements; or
 - b) Deferring the completion of specific improvements would be in the best interest of the Public.
2. Upon receipt of a formal request to defer specific improvements, the County Engineer will evaluate the request for health and safety concerns, environmental or weather related constraints, permit/project expiration, code compliance and/or restrictions, and other Public interests. If the County Engineer approves the Developer's Deferred Improvement Request, the Developer shall provide a security that conforms to the following conditions:
 - a) The security shall explicitly identify each County-approved deferred improvement, together with its corresponding target completion date; and
 - b) The security value:
 - i. Shall be equal to 125% of the Developer's Engineer's certified construction opinion of probable cost, or 150% of other construction cost estimate(s) as approved by the County Engineer, to complete all County-approved deferred improvements; and
 - ii. An amount calculated by the Developer's Engineer to ensure the completion of record drawings, when required.

3. A fee shall be collected at the time that a security is posted to cover the administration costs as set forth in the current Whatcom County Unified Fee Schedule.
4. Types of securities may include cash deposits, assigned savings, bonds, letters of credit, and other assurance devices as may be approved by the County Engineer. The security shall be of a form approved by the Prosecuting Attorney's office.
5. The security shall be for a period of up to one (1) year, which may be extended at the option of the County Engineer. The amount of the security shall be recalculated at the time of any extension.
6. If the deferred improvements are not completed in the allotted time, the County Engineer shall:
 - a) Use the security to complete the deferred improvements; and/or
 - b) Initiate vacation of the development; and/or
 - c) Pursue other lawful remedies.
7. The County Engineer will release deferred securities when:
 - a) Construction of the improvements to public facilities are provisionally accepted and the warranty security has been received by the County Engineer; and/or
 - b) Construction of the improvements to private facilities have been approved.
8. In the event that forfeiture of a security is necessary, all costs related to said forfeiture and completion of deferred improvements shall be deducted from the security amount prior to release of any residual monies.

B. Performance

The County Engineer may require a developer to post a performance security to complete County-required improvements, to repair developer-inflicted damage, and/or to restore pre-existing conditions, within County rights-of-way and/or to County roads. Said security shall conform to the following conditions:

1. The security value:
 - a) Shall be equal to 125% of the Developer's Engineer's certified construction opinion of probable cost, or 150% of other construction cost estimate(s), but not less than \$5,000, as approved by the

County Engineer, to complete all County-required improvements;
and

- b) An amount calculated by the Developer's Engineer to ensure the completion of record drawings, when required.
2. A fee shall be collected at the time that a security is posted to cover the administration costs as set forth in the current Whatcom County Unified Fee Schedule.
3. Types of securities may include cash deposits, assigned savings, bonds, letters of credit, and other assurance devices as may be approved by the County Engineer. The security shall be of a form approved by the Prosecuting Attorney's office.
4. The County Engineer shall determine the security period, which may be extended. The amount of the security shall be recalculated at the time of any extension.
5. Performance securities assuring construction of the improvements to public facilities shall not be released until the facilities are provisionally accepted and the warranty security has been received by the County Engineer.
6. In the event that forfeiture of a security is necessary, all costs related to said forfeiture and completion of secured improvements shall be deducted from the security amount prior to release of any residual monies.

C. Warranty

Prior to final acceptance by the County of any road or stormwater facility for public maintenance, the developer shall cause to be posted with the County Engineer's office a warranty security device that conforms to the following:

1. The security period shall be in effect for two (2) years from the effective date that the County Engineer shall determine; and
2. Types of securities may include cash deposits, assigned savings, bonds, letters of credit, and other assurance devices as may be approved by the County Engineer. The security shall be of a form approved by the Prosecuting Attorney's office; and
3. The warranty security shall be for an amount equal to \$5,000 or 10% of the County-approved construction costs (whichever is greater); and
4. During the two (2) year warranty security period the developer is responsible to correct defects as may be determined by the County

Engineer. The posted security shall ensure the corrections of defects in design, materials, and workmanship of all constructed and approved facilities; and

5. The County may perform emergency repairs if there is a public hazard. If emergency repairs are performed:
 - a) The County will be reimbursed for its work when the damage was caused by faulty workmanship, materials, or design, or
 - b) If the emergency did not relate to workmanship, materials, or design, then the County will bear any cost associated with the repairs; and
6. The release of this security on the expiration date shall be for the amount of the security minus all costs attributed to the developer as set forth in paragraphs 4. and 5.a) above.

Private stormwater facilities out of county rights-of-way shall comply with the provisions of Chapter 2 – Stormwater Management.