

City of Springfield, Oregon
Irrevocable Letter of Credit in Lieu of Bond



Project Title: _____
Project Number: _____
Project Description: _____
Project Location: _____
Financial Institution: _____
Developer/Borrower: _____

THIS AGREEMENT made and entered into this _____ day of _____, 20____ by and between _____, hereinafter referred to as “Developer,” and _____, hereinafter referred to as “Bank” and the City of Springfield, Oregon, a municipal corporation of the state of Oregon, hereinafter referred to as “City” for the purpose of guaranteeing the Completion and Acceptance of Project Number _____, titled _____, hereinafter referred to as “Project.”

WHEREAS, City requires a Guaranty by Developer insuring the Completion and Acceptance of Project as specified in the Engineering Design Standards and Procedures Manual, Chapter 12.00 et al, including its corresponding warranty period as specified in the Engineering Design Standards and Procedures Manual, Chapter 12.08, for a period of one (1) year, or two (2) years if street trees are a part of the public improvements, following the date of City’s Letter of Acceptance of Project, that Project is free from defects including materials and workmanship; and,

WHEREAS, Developer herein, in lieu of bond, wishes to provide such a guarantee through an Irrevocable Letter of Credit from the bank named above.

IN CONSIDERATION of the mutual covenants set forth below, the undersigned parties do covenant and agree as follows:

1. City agrees that Developer, in lieu of posting a Performance Bond with respect to Project, may provide an Irrevocable Letter of Credit with the above named Bank for the sum of _____ (\$_____) to guaranty the completion and acceptance of Project in accordance with all terms and specifications including but not limited to the warranty period as set forth in the Engineering Design Standards and Procedures Manual.
2. Bank agrees to provide an Irrevocable Letter of Credit upon the following conditions:
 - 2.1 Release of the Irrevocable Letter of Credit to the Developer, prior to completion and acceptance of Project will not be made without the written approval of the Finance Director of the City or his/her designated representative.
 - 2.2 Should the Irrevocable Letter of Credit reach its expiration date prior to the completion and acceptance of Project, the expiration date of the Irrevocable Letter of Credit shall be extended with a future expiration date of not less than six (6) months from the original date of expiration.
 - 2.3 Developer shall be responsible for any and all charges or costs charged by the Bank for the Irrevocable Letter of Credit.

- 2.4 Funds shall be released by Bank to City upon the written demand of the City's Finance Director stating that the City of Springfield has determined that the required work has not been performed within applicable time limits, or that the work has not been properly performed. The Bank shall not have the duty or right to evaluate the correctness or appropriateness of any such written demand, notice or determination by City, and shall not interplead or in any manner delay payment of said funds to City.
- 2.5 Developer hereby agrees to this provision of a guarantee through the Irrevocable Letter of Credit, and that its obligation to perform the required project work is not limited to the amount of the Irrevocable Letter of Credit. Developer agrees that the cost of completion, repair, or replacement of the defects as required by Project is not limited to the amount of the Irrevocable Letter of Credit. Developer agrees that in the event the completion or cost of repair or replacement of the defects exceeds such amount, the Developer is responsible for and shall immediately deposit sufficient funds to pay for the necessary repair and replacement.
3. Signing this agreement by the Bank acknowledges creation of an Irrevocable Letter of Credit in the Bank by Developer under Account No. _____ for the purposes stated herein and under the terms and conditions stated. This assignment of funds is irrevocable and cannot be canceled by the Bank or the Developer.
4. Developer agrees and understands that the purpose of this Irrevocable Letter of Credit in lieu of bond is to guaranty the completion and acceptance of Project as well as its corresponding warranty period, and Developer shall maintain and remedy the facilities from defects for a period of one (1) year following the date of the letter of acceptance by City of the facilities.
5. The Developer agrees that, in the event the cost of completion or of repair or replacement of defects exceeds the amount of the Irrevocable Letter of Credit, the Developer will be responsible for, and immediately deposit sufficient funds to pay for, the necessary repair or replacement.
6. City shall notify the Bank of any known condition that in City's opinion constitutes a lawful claim against said funds for repair or replacement deemed necessary.

Financial Institution *(Please Print)*

Address *(Please Print)*

City State Zip Code

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Phone Number

Financial Institution Representative *(Please Print)*

Signature of Financial Institution Representative

Title *(Please Print)*

Date

Name of Borrower *(Please Print)*

Address *(Please Print)*

City State Zip Code

()

Phone Number

Name of Borrower *(Please Print)*

Signature of Borrower

Title *(Please Print)*

Date