**20.30.2 Performance Guarantee**

In the event a developer/owner desires to record a subdivision plat with the Utah County Recorder before starting the Required Improvements, the developer/owner must first post an acceptable performance guarantee, which assurance shall guarantee the proper and timely completion of all such Required Improvements. The performance guarantee must be provided to Payson City in the form of a cash bond or irrevocable letter of credit from a financial institution acceptable to the City.

The performance guarantee shall be in an amount equal to one hundred ten (110) percent of the estimated cost for construction of all required public improvements for the project, including: (1) cost of materials; (2) cost of installation; (3) warranty amount for the public improvements; (4) cost for clean-up of the site following completion of construction; and (5) amount of reimbursement for public improvements constructed by previous developers, if any.

The amount of the performance guarantee shall be determined by the city engineer, or designee. The following procedure should be utilized by the city engineer to establish the amount:

1. Applicant shall provide to the city engineer a detailed cost estimate for construction of all required public improvements for the project, including all costs associated with the improvements listed above. The estimate should be the construction bid from the contractor who will be performing the work and include the unit cost, unit description, unit quantity, and the total cost for each item.
2. The city engineer shall review and accept or decline the proposed costs from the applicant. In the event the city engineer declines to accept the proposed cost estimate, staff shall provide notice to the applicant of which line items are not acceptable and the reason for the declination.
3. Applicant shall resolve the line items declined by the
city engineer and re-submit a detailed cost estimate.
4. The city engineer shall review the re-submittal to determine the amount of the performance guarantee.

The approved engineer’s estimate for a project shall be valid for a period of sixty (60) days. If a developer has not provided the performance guarantee to the City within sixty (60) days of submission of the estimate, the developer may be required to submit an updated engineer’s estimate to the city engineer for consideration.

If the estimate is a higher dollar value, the applicant shall be subject to the new estimate. Furthermore, if substantial construction has not commenced within ninety (90) days of final approval, the city engineer may choose to require the developer to submit an updated engineer’s estimate to ensure that performance guarantee amount remains sufficient to cover the improvement costs of the project.

The performance guarantee must be posted, and all inspection and supply fees must be paid prior to the developer/owner beginning any work on the Required Improvements, and before the recordation of any corresponding subdivision plat. Said assurance must also be in the form acceptable to the City, approved by the city attorney, and must be issued by a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Association (NCUA).

The performance guarantee requirement is established to guarantee completion of the required improvements and the assurance is not to be used to satisfy contractor or mechanics liens or other unrelated obligations.

**20.30.3 Completion of Improvements In-Lieu of Posting Performance Guarantee**

As an alternative to posting financial assurance, the land use authority may authorize the actual construction of required public improvements in-lieu of posting a performance guarantee. All required public infrastructure and project landscaping shall be completed prior to any plat recordation or building permit issuance. Additionally, city and developer shall enter into an agreement that includes the following:

1. Proof of developer’s ownership of the land in question; and
2. A notarized guarantee from the developerthat construction of the required public improvements will commence immediately following approval; and
3. A commitment from the developer that construction of the required public improvements and project landscaping will be diligently executed to completion within the timeframe authorized under Section 20.30.5; and
4. A schedule showing the expected timeframe for constructing the public infrastructure and landscaping improvements; and
5. An acknowledgment from the developer that failure to complete the required public improvements within the timeframe set forth herein, or to request and receive approval of an extension of time to complete the public improvement, shall constitute grounds for termination of all previous approvals.

Further, the developer shall complete the following:

1. Submit a blanket easement over the entire project area authorizing the installation of required public improvements and project landscaping in the locations shown on the approved final plat and engineering drawings.
2. Provide actual payment of the portion of the performance guarantee amount attributable to costs of inspection, clean-up, reimbursement of prior constructed public improvements, and other city costs.
3. Submit actual payment of the improvement warranty in the form of ten (10) percent of the total estimated cost of Required Improvements.
4. Obtain a land disturbance permit.

**20.30.4 Change in Condition**

1. A developer/owner is not permitted to change the bonding option chosen at the beginning of the project. Whether an applicant decides to post a traditional performance guarantee or complete improvements in-lieu of posting a bond, both the applicant and the City acknowledge that the bonding option chosen will remain the same for the duration of the project.

**20.30.5 Timeframe for Construction of Required Improvements—Extensions permitted**

 1. The maximum period of time for which the land use
authority’s approval action of a development project and requires recording at the office of the county recorder shall remain valid (delay-in-recording period) not more than two hundred seventy five (275) days from the date of action by the land use authority. An extension of the time, not to exceed ninety (90) days may be granted by the land use authority provided:

1. Application is made by the developer and submitted sixty (60) days prior to the end of the two hundred seventy five (275) day period; or
2. The land use authority finds the developer has been delayed by circumstances beyond the control of the developer.

 2. At the end of the approved delay-in-recording period
and any extensions that may have been granted, the city may declare the project inactive and proceed to terminate approval as provided in this Title.

**20.30.6 Deferral Agreement**

The performance guarantee must be provided prior to recordation of a Final Plat, except as provided herein. The city council may approve a request to delay the submission of the performance guarantee provided the applicant satisfies the following:

1. The property included in the development is located along an existing public street containing required infrastructure.
2. A performance guarantee shall be provided prior to
commencement of any construction, including excavation and grading.
3. A building permit will not be issued for new construction until the required improvements are installed by the applicant, and inspected and approved by Payson City.
4. A Deferral Agreement and Release shall be signed by the owner(s) of property and recorded in the office of the Utah County Recorder.
5. The deferral process does not waive or modify any other regulations of this Title, including the requirements of Chapter 19.8 herein. (12-19-18)

**20.30.7 Temporary Improvements**

The applicant shall build and pay for all costs of temporary improvements required by the city council, planning commission, or staff and shall maintain them for the period specified. Prior to construction of any temporary facility or improvement, the developer shall file with the City a separate suitable guarantee, in accordance with this Title, for temporary facilities, which ensures that the temporary facilities will be properly constructed, maintained, and removed.

**20.30.8 Costs of Improvements**

All required improvements shall be completed by the applicant, at their expense, without reimbursement by the City or any improvement district therein, and in accordance with related codes, fee schedules, and ordinances.

**20.30.9 Acceptance of Dedication Offers**

Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be under the direction of the city council. The recommendation for approval by the planning commission and approval by the city council of a Preliminary Plan shall not be deemed to constitute or imply the acceptance by the city council of any street, easement, or park shown on the Preliminary Plan. (12-19-18)