



PRIVATE FINANCIAL ASSURANCES PROCESSING GUIDE

CONTEXT

To ensure the appropriate and timely installation of private site improvements, City Code Section 7.4.912 *Landscape Installation, Verification, and Deferral* affords flexibility to owners or project representatives to make arrangements with the City in the form of an acceptable assurance. Assurances are typically used to ensure survival of installed landscaping materials, to cover uncomplete site improvements, or as a maintenance guarantee. The required improvements vary project-to-project but are either required by City Code or the approving body as a condition of approval. All required private improvements are illustrated and noted on the approved development plan and/or Final Landscape and Irrigation Plans. The use of assurances is subject to City approval and are required prior to the issuance of building permits or commencement of construction activities.

WHAT ARE PRIVATE IMPROVEMENTS

Private improvements consist of development specific amenities/facilities required per the approved entitlements and/or Final Landscape and Irrigation Plans. Improvements covered by a building permit or separate assurance shall not require additional or duplicative financial guarantees. Example improvements can be found below:

- active or passive recreation equipment when required as a condition of approval as noted on the development plan (i.e. benches, play equipment, sail awnings, etc.);
- buildings or structures not requiring building permits when the structure is required as a condition of approval as noted on the development plan (i.e. gazebos, pergola etc.);
- fencing when required as a condition of approval as noted on the development plan AND when required as screening and buffering.
- retaining walls when required as a condition of approval as noted on the development plan AND when the retaining walls are required as part of the overall site design and shown on the grading and erosion control plan.
- private roads and driveways
- flat work (i.e., paths, sidewalks, curb and gutters, parking facilities, etc.)
- landscaping materials (i.e. mulches, plants, native seeding, ornamental grasses, etc.); and
- other facilities (i.e. lighting, signage, etc.).
- irrigation system components (i.e. water lines, valves, spray and drip heads, tap fee, etc.)

HOW IS THE FINANCIAL ASSURENCE AMOUNT DETERMINED

The assurance amount is based on an amount equal to the cost estimate for uncompleted landscaping, irrigation, and private site improvements, plus a labor charge (25% of the total estimated costs). The estimated costs may be submitted in the form of an itemized cost estimate or executed contractor's bid and will be reviewed/verified by City staff. Per the City's financial policies, there are no minimum or maximum amount limits for assurances.

ACCEPTABLE FINANCIAL INSTRUMENTS

The following forms of financial instruments are acceptable: cashiers, certified, company, or personal checks; certificate of deposit; irrevocable letters of credit; and subdivision bonds. Certain financial instruments must adhere to the City's template guidelines or agreements. Please refer to the *Instructions for Financial Assurances*, dated October 19, 2023, document for further guidance on each specific type of financial assurance instrument.

FINANCIAL ASSURANCE SUBMITTAL PROCESS

As noted above, all commercial, industrial, and residential projects must post assurances for required improvements, both public and private, prior to building permit issuance or commencement of construction activities.

Requests for financial assurances for private improvement are submitted to the Development Review Enterprise (DRE). All requests are to be submitted to the DRE's main email address at: DREPlaninfoSMB@coloradosprings.gov.

Assurance Submittal Checklist

To ensure each assurance is processed in a timely manner and conforms with approved development documents, City Code and other regulatory policies, the following is a list of all the required documents for an assurance to be accepted:

- Explanation and Documentation of Uncomplete Improvements:
 1. Description of uncomplete work.
 2. Exhibit(s) (Site As-builts or copies of approved development plan and/or Final Landscape Irrigation Plans) illustrating uncomplete work.
 3. Executed contractor's bid or cost estimate:
 - a. The uncomplete materials or work shall provide as an itemized breakdown of quantities and unit costs.
 - b. A labor charge in the amount of 25% of the total estimated cost.
 - c. Irrigation tap fees:
 - i. Should be included in the estimate when the irrigation system is run from a to-be established tap.
 - ii. If the irrigation plan indicates the system being installed off existing system and tap NO irrigation tap fee assurance is required.
 - iii. If the irrigation plan indicates the system being run from a buildings potable water tap (sub meter) No irrigation tap fee assurance is required.
- Executed Financial Assurance Agreement;
- Executed Statement of Authority (*only needed for an individual to sign on behalf of corporate entities*); and
- Acceptable Financial Instrument (*provided after the cost estimate is approved*).

Assurance Intake

The following outlines the step-by-step process for assurance in-take:

1. Applicant submits a complete assurance package for review and acceptance.
2. City staff reviews the assurance package for acceptance. Upon receipt, DRE staff, in coordination with other agency partners, reviews the submitted documents within one (1) week or less, and issues a response. Review times depend on various factors, but are most frequently impacts by incomplete submittals,

seasonal workload, and complexity of the assurance. Resubmittals of disapproved assurance packages will be prioritized for re-review.

3. City staff routes copies of the executed agreement and statement of authorities to the City Attorney's Office (CAO) for review and acceptance. While the CAO has two (2) weeks to review the provided documents, this review typically takes less than one (1) week.
4. Upon final acceptance, City staff will deliver the package to Andrea Acker (*Builders/Developers are not to go directly to Andrea with financial instruments or assurance paperwork, unless separate arrangements are made.*). Deposits for financial instruments (i.e. cashiers, certified, company, or personal checks) are processed upon receipt (typical two (2) business days).
5. City staff will transmit digital copies of the executed Financial Assurance Agreement to the applicant.

Per City Code Section 7.4.912.B.2, all landscaping, irrigation or site development work covered by an assurance must be completed within one (1) year or less. Please contact DRE staff to discuss an assurance that will be expiring soon or that has lapsed.

Assurance Release

The following outlines the step-by-step process for requesting the release of a posted assurance:

1. Applicant's may make a request to release a posted assurance either by emailing the DRE's main email address at: DREPlaninfoSMB@coloradosprings.gov or requesting an inspection through Pikes Peak Regional Building Department's (PPRBD) system. Each release request must be accompanied by executed copies of the City issues Landscape Affidavit, Irrigation Affidavit, and soil amendment receipts.
2. Upon receipt, City staff will coordinate with the applicant to schedule a site inspection with five (5) business days. Please note, an inspection will NOT be schedule if the above referenced affidavits and soil receipt have not been provided.
3. Following the inspection, City staff will determine whether the posted assurance can be partially or fully release. Should only a partial release be authorized, City staff will determine whether a new assurance agreement is needed based on the remaining performance period.
4. Communication of a partial or fully release of assurance funds will be transmitted to the applicant and Andrea Acker. Depending on the type of financial instrument used for the assurance, the release of funds could take two (2) to Four (4) weeks.

Per City Code Section 7.4.912.B.3.b, City staff's verification shall occur during the active growing season. The Manager shall determine the dates when inspections will stop for the year and start the following spring.