

Surety Standards (SY)

7.32 SY-01: Surety Standards

This Surety Standards section applies to the following types of development:



- A. Cross Reference: The procedure for each type of approval that may require a surety can be found in *Article 9: Processes*.
- B. Performance Surety: All applicants shall provide a Performance Surety for any public improvement that has not been completed, but is intended to or will be dedicated to the City of Richmond, Wayne County, or a municipal utility. All such facilities, any off-site improvements committed to by the applicant, and any off-site improvements required as a condition of approval shall be covered by the performance surety.
 1. Acceptable Surety: A bond or irrevocable letter of credit may be used as a Performance Surety. However, the City reserves the right to refuse any alternative from a bond offered by the applicant.
 2. Timing: The Performance Surety shall be offered and accepted prior to final approval of the development by the Plan Commission (e.g. final plat for subdivision).
 3. Requirements: The surety shall:
 - a. Amount: Be in an amount equal to 110% of the cost to complete the yet to be completed portions of the public improvements. A cost estimate shall be provided by the applicant's engineer and/or general contractor. However, the cost estimate shall not be binding. All estimates shall be based on the requirements of the Unified Development Ordinance, City of Richmond's Construction Standards, and subject to the City Engineer's review.
 - b. Appropriate Agency: Run to and be in favor of the City of Richmond Board of Public Works and Safety, Wayne County Commissioners (i.e. when improvements are in the extraterritorial jurisdiction of the City), or other agency to which the improvements are intended to be dedicated.
 - c. Timeframe: Specify the timeframe for completion of the improvements. Under no circumstances shall the initial timeframe exceed two (2) years.
 - d. Form: Be on a form approved by the Plan Commission.
 4. Determining Completion of Improvement: A Performance Surety shall not be released until all of the following have been accomplished:
 - a. The applicant shall submit in writing a request for release of the performance surety, provide a description of the public improvement completed, and provide an engineer's certification that the improvements were completed to all applicable requirements.
 - b. Final construction has been determined to be completed, inspected and approved by the City Engineer, Zoning Administrator, and any other applicable city or county agency. Any applicable inspecting agency shall certify that it has been inspected and meets all applicable standards.
 - c. At the election of the City Engineer or Zoning Administrator or any other applicable city or county agency, core borings, video inspection of drainage pipes, or other technical inspections may be conducted at the applicant's expense.
 - d. Plat properly recorded and all as built drawings for the project are received.
 5. Release of Performance Surety: When a public improvement has been determined to be complete and a maintenance surety has been presented by the applicant and accepted by the appropriate agency, then the public agency to which the surety ran to and was in favor of shall release the performance surety. A release of surety is often completed concurrently to the dedication of the public improvement, but shall not be construed a dedication of the public improvement. See *Section 7.04: Dedication of Public Improvement Standards* for the standards applicable to dedication.
 6. Expiration of Timeframe or Default: When a public improvement has been determined to not be constructed to the applicable standards by the Plan Commission, or if the two (2) year timeframe expires, the Plan Commission shall either:
 - a. Require Correction: Require the applicant to install, construct, reconstruct, or resolve the issue within a prescribed timeframe; or
 - b. Extension: Give the applicant additional time to complete the improvement; or
 - c. Default: Declare the Performance Surety in Default and utilize the funds from the surety to complete the public improvement.

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- C. **Maintenance Surety:** When a public improvement is completed and prior to dedication, a Maintenance Surety shall be provided to assure that premature dilapidation, repair, or maintenance costs due to improper design, engineering, materials, or other defects are not the responsibility of a public agency.
1. **Acceptable Surety:** A bond or irrevocable letter of credit may be used as a Maintenance Surety. However, the City reserves the right to refuse any alternative from a bond offered by the applicant.
 2. **Timing:** The Maintenance Surety shall be offered and accepted prior to dedication of the public improvement.
 3. **Requirements:** The surety shall:
 - a. **Amount:** Be in an amount equal to twenty-five (25%) of the total cost of the public improvement. The actual cost of construction shall be provided by the applicant's engineer and/or general contractor and reviewed by the City Engineer. However, the actual cost report shall not be binding when the Plan Commission or Department of Public Works and Engineering establishes the official construction cost to be used to determine the surety amount.
 - b. **Appropriate Agency:** Run to and be in favor of the City of Richmond Board of Public Works and Safety, Wayne County Commissioners (i.e. when improvements are in the extraterritorial jurisdiction of the City), or other agency to which the public improvement was dedicated.
 - c. **Timeframe:** Be provided for a period of three (3) years from the date of dedication before qualifying for release. In the event the Maintenance Surety is not requested by the applicant to be released prior to the end of three (3) years, it shall be automatically renewed for an additional six (6) months. In the event the public improvement was determined to be prematurely dilapidated, in need of repair, or is not properly functioning; upon completion of the repair, a new Maintenance Surety for that portion of the public improvement shall be provided for a period of two (2) years.
 - d. **Form:** Be on a form approved by the Plan Commission.
 4. **Determining Completion of Improvement:** A Maintenance Surety shall not be released until all of the following have been accomplished:
 - a. The applicant shall submit in writing a request for release of the Maintenance Surety, provide a description of the condition of the public improvement, and provide an engineer's certification that the public improvement have not prematurely dilapidated, are not in need of repair, and are properly functioning.
 - b. The City Engineer, Zoning Administrator, and any other applicable city or county agency has inspected the public improvement and has certified that it meets all applicable standards.
 - c. At the election of the City Engineer or Zoning Administrator or any other applicable city or county agency, core borings, video inspection of drainage pipes, or other technical inspections may be conducted at the applicant's expense.
 5. **Release of Maintenance Surety:** When a public improvement has been determined to be in proper condition at the expiration of the Maintenance Surety timeframe, the public agency to which the surety ran to and was in favor of shall release the Maintenance Surety. The appropriate agency shall issue a certificate or write a letter to the applicant indicating full release of obligation and surety.
 6. **Expiration of Timeframe or Default:** When a public improvement has been determined to have prematurely dilapidated, be in need of repair, or to not be properly functioning by the Plan Commission, the Plan Commission or Department of Public Works and Engineering shall either:
 - a. **Require Correction:** Require the applicant to install, construct, reconstruct, or resolve the issue within a prescribed timeframe; or
 - b. **Default:** Declare the Maintenance Surety in Default and utilize the funds from the surety to fix the public improvement.