

CITY OF OAK HARBOR
Development Services Department



Letter of Credit Application

What is the purpose of Letter of Credit?

The OHMC allows for the posting of performance bonds, or other surety, in lieu of the completion of improvements associated with plat approvals, condominium plats, binding site plans, landscaping requirements other similar site development projects. A letter of credit is an acceptable substitute for a performance bond in some cases.

The surety is used to guarantee that conditions of approval are completed after building occupancy or final plat approval. The surety provides a third party assurance to the City that the improvements will be completed. The City may also require a surety to be posted as condition of approval. In general, a performance bond from a surety company licensed to operate in the State of Washington is preferred.

When is a Letter of Credit acceptable in lieu of a performance bond?

Letters of credit will be considered by the City in the following:

1. Completion of public street and utility improvements associated with long and short plats as defined in OHMC 21.30.010
2. Completion of public street and utility improvements associated with site plan improvements as defined in OHMC 21.80.150
3. 1-year Maintenance guarantees on public street and utility improvements as defined in OHMC 21.30.010 and OHMC 21.80.150
4. Completion of landscaping required by OHMC 19.46 or as a condition of the development permit approval
5. Guarantees of completion associated with land clearing activities as required under OHMC 19.47

Amounts for Letter of Credit?

Performance Bonds provide assurance by a third and disinterested party that the work will be completed. A letter of credit provides for funds to complete work, however, the City may be required to undertake the work. Based on this premise, letters of credit constitute a higher risk to the City of Oak Harbor than bonds. Accordingly the amounts for a letter of credit shall be higher than required for a performance bond as follows:

1. Letters of credit for performance guarantees shall be for 150% of the cost to complete the improvements.
2. Letters of credit for maintenance guarantees shall be for 15% of the cost of construction.

Conditions of acceptance for a Letter of Credit

1. The letter of credit must be issued by a bank or a savings and loan and must be irrevocable.
2. The bank must not be able to assert the defenses of the developer.
3. The prescribed form of the letter of credit shall be as shown in the attached. Changes to the prescribed form shall not be allowed.
4. The letter of credit, whether for performance or maintenance, must be irrevocable and must have duration beyond the final date of completion by at least 6-months.
5. The letter of credit shall be on the issuer's stationary.
6. A notarized acknowledgement, as shown in the attached, must accompany the letter of credit indicating that the bank officer has the authority to issue the letter of credit.
7. A specific written agreement, using the attached form or an equivalent form, shall be tendered by the developer indicating the undertakings being guaranteed by the letter of credit which is separate and independent of the letter of credit. The date of completion for the project must be prominent. The agreement must also authorize the City to access the property and do the work if the developer does not complete the same within the set period of time. The agreement shall indicate the value or cost of the work for which the surety is to be provided.

Letter of Credit Review Process

The following steps are included in the Letter of Credit review process:

1. Submittal of a draft agreement to complete work for review together with the application and fee. (*The list of work to be completed is often generated from an inspection punchlist developed by City Staff once requested by the project proponent*)
2. Corrections or revisions to the agreement following review by Staff
3. Submittal of the draft letter of credit for review
4. Corrections or revisions to the letter of credit following review by Staff
5. Submittal of final agreement and original letter of credit
6. Final review of the letter of credit and signature by City Engineer and City Attorney

Fees

- Letter of Credit fee: **\$155.00**, plus **\$50 per hour** of review beyond the first 3 hours for each letter of credit.

If you have any questions regarding the letter of credit review, please contact the Engineering Technician at (360) 279-4524.

Letter of Credit Submittal Checklist

1. __ APPLICATION FORM (attached) – The application form shall be completed and the applicant shall sign at least one original copy in ink;

2. __ APPLICATION FEE – The fee for the letter of credit review shall accompany the application;

3. __ AGREEMENT COMPLETE CERTAIN WORK (see attached)

- Completed agreement
- List of Certain Work to be Completed
- Exhibit No. 1 Legal description of property

4. __ LETTER OF CREDIT (see attached)

- Completed letter of credit on issuer's stationary
- Acknowledgement of Bank official
- Blank Exhibit A



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**Letter of Credit
Application Form**

Project Name:

Application Fee: \$146.00

Type of Letter of Credit:

- Performance** **Maintenance**

BANK/SAVING & LOAN NAME/ CONTACT PERSON:	Address:
E-mail Address:	Phone and Fax:
DEVELOPER / OWNER NAME (list multiple owners on a separate sheet):	Address:
E-mail Address:	Phone and Fax:
CONTRACTOR NAME:	Address:
E-mail Address:	Phone and Fax:
Following section to be completed by the City	
LIST OF IMPROVEMENTS COVERED:	
Issued Date:	Letter of Credit Number:
Expiration Date:	Amount:

AUTHORIZATION:

The undersigned hereby certifies that this application has been made with the consent of the lawful property owner(s) and that all information submitted with this application is complete and correct. False statements, errors, and/or omissions may be sufficient cause for denial of the request.

I declare under penalty of the perjury laws that the information I have provided on this form/application is true, correct and complete.

Authorized Signature

Date