



City of Beaverton

4755 SW Griffith Drive, PO Box 4755, Beaverton OR 97076

Bank Assignment of Account for Performance Security

To: DEVELOPMENT SERVICES STAFF
SITE DEVELOPMENT PERMIT DIVISION

From: BILL SCHEIDERICH, ASSISTANT CITY ATTORNEY

Re: ASSIGNMENT OF ACCOUNT AS SECURITY
FOR COST OF PUBLIC IMPROVEMENTS

This is in response for requests from development applicants for a “standard form” of assignment of a bank account to serve as security for public improvements. We have declined to draft a standard form in the past because of various banks’ and lenders’ insistence on use of their own forms. What follows will, instead, constitute the minimum requirements as to the format of an assignment of account offered to the City as performance or maintenance security.

1. The document shall be on the depository’s letterhead, signed with bank or depository’s officer’s name and title printed below signature, with signed acknowledgment of contents of document by the development applicant. By “depository” I mean the institution where the money is held, not the office or place where the account holder does business. In other words, the document is to be furnished by the bank where a real estate company (for example) has the funds in question on deposit – it is not to be furnished by the real estate company as holder or “owner” of that account.
2. The original document with live ink signatures must be submitted to the City and kept in the City’s custody for the duration. Facsimiles and photocopies are acceptable only as a one or two day interim measure while the original is in transit. The facsimile must be the complete (signed, on letterhead) document, not a “draft” copy. Failure to submit originals within two business days of sending a facsimile of the signed, complete original will be cause to stop work.

3. The document shall identify the account holder by name, the amount of funds on deposit (the amount shall be sufficient to meet the City's required security amount), the account number, and the City's reference number(s) for the development in question, for example, "DR- or CU-" as to site development permits.
4. The document shall verify that the account owner (who will be the development applicant or another acting on the applicant's behalf) has assigned the funds in question for the use and benefit of the City of Beaverton as security for the cost to complete (or the cost to maintain against defects) the public improvements required to be constructed at the Property as per [City reference document number, as per No. 3 above]. The document shall describe the means by which the City can draw on the account (a letter to the depository from the City Engineer stating that the development applicant has failed to complete or maintain, should be sufficient).
5. The document shall provide that interest, if any, earned on the amount on deposit shall accrue to the benefit of the depositor. It shall also provide that the funds will remain on deposit until release to the depositor is authorized by the same person entitled to draw on the account as per No. 4 above, or until the one-year maintenance period has elapsed (in the case of maintenance security only).
6. As this format still allows for variations, as per usual practice, all such submittals shall be subject to the approval of the City Attorney.