

ARTICLE V

PERFORMANCE GUARANTEE

§ 14-501. Completion of Improvements Guarantee

At the time of filing a plan for final approval, and as a condition to such approval where the required improvements have not been installed, the applicant shall deposit with the Township a corporate bond, irrevocable letter of credit, or other financial security acceptable to the Board of Supervisors, with the approval of the Township Solicitor, in compliance with Section 509 of the Pennsylvania Municipalities Planning Code and in an amount sufficient to cover the costs of any improvements which may be required, plus ten percent (10%). Such bond or other financial security shall provide for, and secure to the public, the completion of any improvements which may be required within the period fixed for such completion, with a one (1) year maximum period, unless extended by the bank or surety firm in writing and approved by the Board of Supervisors. The amount of such financial security may be increased by an additional ten percent (10%) for each one (1) year period beyond the first anniversary date from posting of the financial security, or to an amount not exceeding one hundred and ten percent (110%) of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one (1) year period by using the bidding procedure. The Township shall not require financial security for highway improvements where financial security is provided to the Pennsylvania Department of Transportation.

§ 14-502. Maintenance Bond

Following completion of required public improvements and the acceptance by the Township of said improvements, a maintenance security shall be posted with the Township for a period of eighteen (18) months to secure the structural integrity of said improvements. The amount of the financial security shall not exceed fifteen percent (15%) of the cost of installation of the improvements as approved, and shall be of the same type as specified in Section 14-501.

§ 14-503. Amount of Security Disputed

The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by the applicant or developer and prepared by a professional engineer licensed as such in the Commonwealth of Pennsylvania and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in the Commonwealth of Pennsylvania and chosen mutually by the Township and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the applicant or developer.

§ 14-504. Release from Improvements Guarantee

- A. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Board of Supervisors in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Board of Supervisors shall, within ten (10) days after receipt of such notice, direct and authorize the Township Engineer, to inspect all of the aforesaid improvements, and shall, thereupon, file a report, in writing, with the Board of Supervisors and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within thirty (30) days after receipt by the Township Engineer of the aforesaid authorization from the Board of Supervisors; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement or reasons for such nonapproval or rejection.
- B. If, for any reason, the required inspections cannot be made by the Township Engineer, the Board of Supervisors shall cause such required inspections and report to be made by a qualified engineer.
- C. The Board of Supervisors shall notify the developer, in writing, by certified or registered mail, within fifteen (15) days of receipt of the Engineer's report of the action of the Supervisors with relation thereto.
- D. If the Board of Supervisors or the engineer fail to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released for all liability pursuant to its performance guaranty bond or other security agreement.
- E. If any portion of the said improvements shall not be approved or shall be rejected by the Board, the developer shall proceed to complete the same, and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
- F. The developer shall deposit with Center Township at the time of issuance of a grading, building or zoning permit, an amount equal to the costs of inspection by the Township Engineer of all public improvements shown on the final plat. Said deposit shall not exceed fifteen percent (15%) of the estimated cost for installation of proposed improvements.
- G. A developer shall not be required to reimburse the Township for any inspection, which is duplicative of inspection conducted, by other

governmental agencies or public utilities. The burden of proving that any inspection is duplicative shall be upon the objecting applicant.

- H. Disputes by an applicant as to any invoice of a professional consultant shall be pursuant to and in accordance with the Pennsylvania Municipal Planning Code, as amended.

§ 14-505. Remedies to Effect Completion of Improvements

In the event that any improvements which are required have not been installed as provided in this Chapter or in accordance with the approved final plan, the Board of Supervisors may enforce any corporate bond, irrevocable letter of credit or other financial security by appropriate legal and equitable remedies. If proceeds of such bond, or other security are insufficient to pay the cost of the installing or making repairs or corrections to all the improvements covered by said security, the Board of Supervisors may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other Township purpose.

§ 14-506. Conditions of Acceptance

- A. The acceptance of any public improvement shall be at the sole discretion of the Township Board of Supervisors and no such improvement shall be accepted by the Board of Supervisors until, and upon, completion of the inspection and approval of the public improvements.
- B. Upon completion and approval of the public improvements, the applicant/developer shall submit a request, in writing, to the Board of Supervisors, to accept the dedication of the public improvements. The request for acceptance shall be accompanied by a legal description of the rights-of-way for all streets to be dedicated to the public, and shall be submitted at least fourteen (14) days prior to the regular meeting of the Board of Supervisors.
- C. Upon favorable report by the Township Engineer, the Board of Supervisors shall enact an Ordinance, at a regular meeting, accepting some, or all, of the public improvements as part of the Township's public facilities, subject to the posting of the Maintenance Bond required by Section 14-502 of this Chapter.
- D. No property or public improvement shown on a Final Plan (Plat) shall be considered to have been finally accepted by the Township until the dedication thereof has been officially accepted by adoption of an

Ordinance of the Township, duly enacted and advertised in accordance with the law, the cost of said advertisement to be at the expense of the applicant/developer.