



HENDERSON COUNTY PLANNING DEPARTMENT
100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

APPLICATION FOR IMPROVEMENT GUARANTEES

1) Subdivision Name _____

2) Name of Developer: _____

Address _____

Phone: _____

Name of Owner (if different from Developer): _____

Name of Authorized Agent (if different from Developer): _____

Phone: _____

3) Amount of guarantee (including 25% overhead) \$ _____

4) Projected completion date: _____

5) Type of improvement requested:

___ Cash on Deposit (Certified Check)

___ Irrevocable Letter of Credit

___ Bank Escrow Account

___ Surety Performance Bond

Name of bank or bonding company _____

6) Engineer Name: _____

Phone: _____

7) Has engineering and design work been completed?

___ Complete

___ Partially complete

___ Incomplete

8) Please explain the work that has been completed on the project and what percentage it represents of the whole project.

9) Has all the initial rough grading for all proposed roads been completed?



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100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

___ Yes ___ No ___ Partially

10) Please list all required Federal, State and local permits. Explain where they are in the process. Please provide staff copies of all permits.

11) What, if any, mitigation fees are there? Have they been paid? If they have been paid, please provide staff proof of payment.

In order for your application to be reviewed, please provide the Subdivision Administrator with the following documents in addition to a complete application:

- Cost estimates
- Copies of all permits
- Timeline for completion with benchmarks
- All associated design plans and construction specifications
- Engineer certification
- Temporary Access and Construction Easement
- Financial Guarantee (letter of credit, cash on deposit, etc).

Please read §42-115 through §42-119 of the Henderson County Land Development Code to be aware of the requirements and prohibitions regarding Improvement Guarantees. Please be aware of the following:

- This improvement guarantee application and subsequent agreement will be valid for 18 months after execution of the agreement.
- No improvement guarantee may be extended longer than 30 months. No extensions will be permitted without adequate financial security. No project that has any violations of federal, state, or local ordinance or the Improvement Guarantee Agreement shall be extended.
- Cost estimates and design plans require a professional seal either by engineer, land surveyor or landscape architect.
- Financial guarantees must be licensed to do business in North Carolina, and be from a national association or FDIC registered group. Prior to execution of the agreement, the financial instrument must be approved by County Attorney's Office.
- No project can get more than 4 releases at minimum completions of 25%, 50%, and 75%. At all times 125% of the remaining work will be retained by the County. No releases will be provided for any project in violation of federal, state, local law or the Improvement Guarantee Agreement.

I have read and understand all requirements stated in Article III of the Land Development Code regarding subdivision improvement guarantees. I certify that all the information above is true to the best of my knowledge.



HENDERSON COUNTY PLANNING DEPARTMENT
100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

Developer's Signature: _____ Date: _____

Owner's Signature (if different from Developer): _____ Date: _____

Received By: _____ Date: _____

Application Fee Paid: _____ Date: _____



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100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

Engineering Certification

I, (Engineer Name) _____ certify that the following plans have been paid for by _____, Developer for (Project Name) _____ and in an instance where the Developer defaults on the Improvement Guarantee Agreement, the County will have the right to use said plans for the completion of the associated phase or section of the project. The plans may be access from the Developer or from my office at no additional cost to the County.

The following plans have been completed for this Phase of the project:

I certify that this information is true to the best of my knowledge.

Print Name: _____

Signature: _____

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

I, _____, Notary Public for said State and County certify that _____ came before me this day and acknowledged that he/she is the _____ of engineer for this project, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name.

THIS the _____ day of _____, 20____

Notary Public

My Commission Expires: _____

[NOTARIAL SEAL]



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TEMPORARY ACCESS & CONSTRUCTION EASEMENT

THIS TEMPORARY ACCESS and CONSTRUCTION EASEMENT granted this _____ day of _____, 20____, by and between _____ (the "Grantor"), whose mailing address is _____ and the County of Henderson, a North Carolina body politic (the Grantee) whose address is 100 N. King Street, Hendersonville, NC 28792. (Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and their respective heirs, legal representatives, successors and assigns.)

WITNESSETH:

That Grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants to the Grantee, its successors, contractors, agents, and assigns, a Temporary Access and Construction Easement, more particularly described in Exhibit "A"(the "Temporary Easement Premises"), attached hereto and incorporated herein by reference.

The Temporary Easement Premises shall be used by the Grantee for the purpose of access to and construction of public utility improvements. This Temporary Access & Construction Easement shall expire one year from the date of execution or upon completion of the public utility construction, whichever occurs first. The undersigned hereby covenants and warrants that Grantor owns the said land described herein and the undersigned, as or on behalf of Grantor, has the right to grant this temporary easement.

IN WITNESS WHEREOF, the Grantor has duly authorized and caused this Temporary Access and Construction Easement to be executed in its name as of the day and year first herein written.

WITNESSES: _____ GRANTOR: _____

Print Name: _____ Print Name: _____

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, and did not take an oath, who [] is known to me, or [] produced _____ as identification.

Signature: _____

Print Name: _____

My Commission expires: _____

Sample Cost Estimate Form

**Please note this form does not need to be used but all requirements for the final plat and the Ordinance must be listed*

Name of Project: _____

Developer Name: _____

Cost estimates Prepared by: _____ Phone: _____



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<u>Item</u>	<u>Units</u>	<u>Unit Price</u>	<u>Total Price</u>
Water Infrastructure	_____	_____	_____
Sewer Infrastructure	_____	_____	_____
Road work			
Grading	_____	_____	_____
Bridges	_____	_____	_____
Paving	_____	_____	_____
Environmental Mitigation			
Slope stabilization	_____	_____	_____
Silt Fence installation and restoration	_____	_____	_____
Sediment control	_____	_____	_____
Stormwater Infrastructure	_____	_____	_____
Utilities			
Phone	_____	_____	_____
Cable	_____	_____	_____
Electric	_____	_____	_____
Natural Gas	_____	_____	_____
Off-site Infrastructure Improvements			
Roadways	_____	_____	_____
Stormwater System	_____	_____	_____
Water System	_____	_____	_____
Sanitary Sewer System	_____	_____	_____
Permitting Fees			
State	_____	_____	_____
Federal	_____	_____	_____



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Local	_____	_____	_____
Mitigation Fees	_____	_____	_____
Professional Fees			
Engineering	_____	_____	_____
Land Surveying	_____	_____	_____
Bidding and Award	_____	_____	_____
Construction Contract Administration	_____	_____	_____
Engineering Certification	_____	_____	_____
			Total: _____
			Total + 25%: _____



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Sample Letter of Credit Language

**Still needs to be reviewed and approved by County Attorney's Office*

[date]
[County Address]
Letter of Credit Number:
Date of Issuance:
Expiry Date:

To Whom It May Concern:

We hereby establish this irrevocable Stand-by Letter of Credit (Number _____) in favor of Henderson County for the account of [Developer name, address]. This Letter of Credit authorizes you to draw to the extent of \$_____ (written out amount U.S. Dollars). This letter of credit is available for payment upon presentation at our counters of your draft(s) on us when accompanied by the original letter of credit. Drafts must clearly specify the number of this letter of credit and be presented no later than [expiration date]. Multiple draws are permitted up to the full amount of this letter of credit. Upon a partial draw, the original letter of credit shall be marked with a notation of the amount drawn, signed by both Henderson County and the issuer, and returned to Henderson County. Drafts must be made prior to the expiry date. The County may draft under this letter of credit at such a time as [Developer] fails to complete the required improvement subject to the Improvement Guarantee Agreement dated on (Improvement guarantee agreement date).

We hereby engage with the bona fide holders of all drafts drawn under and in compliance with the terms of this Letter of Credit that such drafts will be duly honored upon presentation to us. This letter of credit is subject to the International Standby Practices 1998 (ISP98), International Chamber of Commerce Publication Number 590.

[Signature of Authorized party from the financial institution]



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100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

Performance Guarantee Release

Development: _____ Date: _____

Developer Name: _____

Engineer Name: _____

Phone: _____

Percentage of Work Completed: _____

Cost of work completed: Estimated: _____ Actual: _____

Description of work completed (since Performance Guarantee or since last release):

Cost of remaining work: _____

Description of remaining work: _____

Request of Funds to be Released: _____

Please note:

- **No Releases will be given without new professional cost estimates for remaining work and estimates must be signed and sealed.**
- **No more than 4 releases will be provided and only at benchmarks equal to or more than 25%, 50%, 75% of the work and when the project is complete.**
- **Prior to releases, Planning staff may inspect the development.**
- **No releases will be provided if the project has any violations of law or the Agreement.**
- **At no time will the County maintain less than 125% of the remaining work.**
- **Staff can deny any releases where the information provided is unsatisfactory, inaccurate, or incomplete.**
- **Releases can take 10-14 business days depending on the form of guarantee provided.**

Developer Signature: _____



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100 N. King Street | Hendersonville, NC 28792 | 828-697-4819

I, _____ Engineer for said project certify that the work has been satisfactorily completed according to the plans and that the attached cost estimates reflect the amount of remaining work.

Engineer Signature: _____

Date: _____

COUNTY STAFF ONLY

Amount of Improvement before Release: _____

Amount Remaining after Release: _____

Is remaining amount 125% of work remaining? Yes No

Approval : _____ Date: _____