



Surety Reduction and Release

Background

This document summarizes the City of North Las Vegas (CNLV) surety reduction and release process, which was developed as part of the effort to improve the quality and transparency of our land development related services. Through a collaborative process with all land development related industrial groups in the valley, CNLV increased the line item unit costs to public costs for all private land development bond estimates effective October 1, 2009. Such an increase not only provides the City with a surety that closely reflects the City's costs to complete project should the developer choose not to fulfill their obligation, but also the flexibility to reduce surety when requested during the construction process.

Authority: Title 16 of the City of North Las Vegas Municipal Code designates the Director of Public Works as the acceptor and administrator of the sureties posted for the construction of civil improvement plans. More specifically, 16.16.100 Pledge of surety states the following:

“After the improvement plans are in their final form, the director of public works, or his designee, will approve an amount of surety of one hundred (100) percent construction costs, plus ten (10) percent for contingencies, based on costs shown on the city's bond and fee estimate, and as may be modified by the director of public works, or his designee, to be filed with the city clerk and accepted by the city manager, or his designee, guaranteeing that the proposed improvements will be completed within eighteen (18) months, or within such time period as the city manager, or his designee, may determine to be required for such construction.”

Bond Reduction: The Director of Public Works may consider requests by a developer for the partial release of surety provided the following requirements are met:

- A. The developer may only request up to two surety reductions for any one offsite improvement agreement. The processing and inspection costs for each bond reduction is to be paid to the City of North Las Vegas and will be charged in accordance with CNLVMC Title 2.36.060J.
- B. The Offsite Improvement Agreement is not in default; however, a reduction request may be considered concurrently with an Offsite Improvement Agreement extension.
- C. The developer must request the reduction in writing to the Department of Public Works Construction Services Division. On company letterhead, the written request must include the project name, contact person, and a time table for completion of the outstanding improvements.
- D. The Director of Public Works, or designee, shall make an initial determination whether the request exceeds the number of reductions allowed and the surety is sufficient in amount to be reduced.
- E. If satisfied that the surety may be reduced, the Director of Public Works, or designee, shall inspect the improvements and determine the percentage and the value of the work remaining to be completed.

- F. The Director of Public Works, or designee, may then authorize a reduction in the amount of surety as follows:
1. No reduction of improvement surety will be allowed if it is determined that more than 50% of the value of work remains to be completed.
 2. Whenever 50% or more of the value of work has been completed, the original security may be reduced to an amount equal to the current value of the remaining work, plus 10% of the current value of the remaining work as a contingency. At no time shall a surety reduction result in a remaining balance less than 10% of the original surety amount.
 3. The guarantee/warranty period of the improvements begins at final release of the surety. Reductions do not impact or begin the warranty period.
 4. Upon a determination that the improvement security may be reduced, the Director of Public Works shall notify the holder of the security, the City Clerk, the City Manager, and the subdivider in writing of the amount of the reduction and that the partial reduction does not apply to the warranty or guarantee period or the amount of security deemed necessary for such warranty or guarantee.

The Director of Public Works shall approve or disapprove any reduction request within thirty (30) days of receipt of the written reduction request. If the request is disapproved, the Director of Public Works, or designee, shall notify the developer in writing of the specific reasons for disapproval.

In the event the Director of Public Works disapproves the surety reduction, a qualified applicant may, within thirty (30) days from the date of such refusal, appeal to the City Manager for a review of the action by the Director of Public Works.

Bond Release

- I. **Residential Subdivision Development:** CNLV has two categories for bond release associated with residential development: (1) *all offsite improvements are fully constructed and accepted by the City and all onsite lots are fully developed* OR (2) *all offsite improvements are fully constructed and accepted by the City and onsite lots are only partially developed*. Note that a fully developed onsite lot is defined as having building certificates of occupancy or the dwellings “finaled” for occupancy if the development is a multi-family development. For both of the abovementioned categories, the following applies:

All Projects:

- A. The site’s punchlist is compiled by the City’s Inspector with input from all applicable departments and is mailed to the contractor.
- B. Within 90 days of the original punchlist date, CNLV’s inspector will review/walk the project and update the punchlist, which will then be mailed to the contractor. This process will be repeated approximately every 90 days until the site is acceptable to the City. If the contractor makes no reasonable progress to correct the punchlist deficiencies within 180 days of initial punchlist inspection, the Manager of Construction Services will initiate the bond collection process.

Category (1): *All offsite improvements are fully constructed and accepted by the City and all onsite lots are fully developed*. For these instances, the following is required in addition to the above listed items in A and B:

- C. Upon completion of the punchlist to the satisfaction of Department of Public Works Construction Services Division, applicable departments and divisions are notified that the process to release the project has been initiated. For specific project close out items, see the Construction Services Division's "Technical Procedure - Project Close Out Process."
- D. The Construction Services Division notifies the Development and Flood Control Division that the project is acceptable and that the surety may be released.
- E. Once the Development and Flood Control Division releases the surety, the one year warranty period begins for the offsite improvements.
- F. The Department of Public Works Construction Services Division will initiate a warranty review of the site approximately 10 months into the warranty period. If there are needed corrections found in the site review, CNLV will generate warranty update letters that will outline the required repairs to be mailed to the contractor. This warranty repair process will follow the punchlist process noted above in items A and B.

Category (2): *All offsite improvements are fully constructed and accepted by the City and onsite lots are only partially developed.* For these instances, the following is required in addition to the above listed items in A and B:

- C. Upon completion of the punchlist to the satisfaction of Construction Services, the applicable departments and divisions are notified that the process to release the project has been initiated. For specific project close out items, see the Construction Services Division's "Technical Procedure - Project Close Out Process."
- D. The Construction Services Division notifies the Development and Flood Control Division that the offsite construction for the project is acceptable and that the surety may be released once either a damage bond in the amount of \$2500/lot is received or a restrictive covenant not to build is to be executed and recorded.
 - 1. If the developer chooses to utilize the damage deposit, the surety and a damage deposit agreement must be provided to Development and Flood Control, along with any applicable fees prior to release of the original surety.
 - 2. If the developer chooses to use the restrictive covenant option, the restrictive covenant not to build document will be provided to the developer by the Construction Services Division. An originally signed version of the restrictive covenant must be provided to Development and Flood Control for processing and recordation. Once the document is recorded, Development and Flood Control will process the surety release.
- E. Once the Development and Flood Control Division releases the original surety, the one year warranty period begins for the offsite improvements.
- F. Construction Services will initiate a warranty review of the site approximately 10 months into the warranty period. If there are needed corrections found in the site review, CNLV will generate warranty update letters to the contractor that will outline the required repairs. This warranty repair process will follow the punchlist process noted above in items A and B.

II Commercial/Industrial Subdivision Development: In the event that a commercial or industrial complex/subdivision has a vacant lot component at the time of original surety release, a new surety will be required for the completion of the vacant lots as a condition of approval of the civil plans for the pad development.