



TOWN OF  
**DIAMOND  
VALLEY**

## SUBDIVISION AND DEVELOPMENT SECURITIES

# PROCEDURE

PlanDev-022

Responsible Department: Planning & Development

Effective Date: November 6, 2024

CAO Approval: November 6, 2024

### 1. Legislative Requirements

**1.1.** This policy is subject to any specific provision of the:

- a. *Municipal Government Act*, RSA 2000, Chapter M-26, as amended;
- b. *Bank Act*, SC 1991, Chapter 46, as amended;
- c. *Credit Union Act*, RSA 2000, Chapter 32, as amended;
- d. *Insurance Act*, RSA 2000, Chapter I-3, as amended; and
- e. any subsequent federal or provincial legislation, regulation, or agreement governing municipal planning, development, or finance.

### 2. Definitions

Where a term is not defined in this Procedure, the definition under Part 17 of the *Municipal Government Act* will prevail, and where a term is not defined there, Part 1 of the *Municipal Government Act* will prevail.

- 2.1.** **Administration** means the operations and employees of the Town, under the direction of the CAO.
- 2.2.** **Administrative Directive** means a direction, which may include a procedure, for Administration to perform a task or set of duties. An Administrative Directive, and any related procedures are established by the authority of the CAO.
- 2.3.** **ATB Financial** means the provincial financial institution regulated under the *ATB Financial Act*, RSA 2000, Chapter A-45.2, as amended.
- 2.4.** **Bank** means a commercial financial institution listed in Schedule I of the *Bank Act*, SC 1991, Chapter 46, as amended.
- 2.5.** **Chief Administrative Officer (CAO)** means the person appointed by the Council of the Town to carry out the powers, duties and functions of the Chief Administrative Officer, appointed under Section 205 of the *Municipal Government Act*.
- 2.6.** **Chief Financial Officer (CFO)** means a person hired by the Town to carry out the powers, duties, and functions of the Chief Financial Officer, particularly those designated officer duties described in the *Municipal Government Act* Sections 213(4), 270(1) and 270(2).
- 2.7.** **Construction Completion Certificate** means a certificate issued by the Town, in accordance with a Development Agreement, confirming the completion of construction of a local improvement.
- 2.8.** **Council Policy** means a direction or course of action authorized by Council, which primarily governs the actions of Council or Councillors, but may also direct Administration. Procedures related to Council Policy will be provided to Council for review but are established by the authority of the CAO.
- 2.9.** **Credit Union** means a commercial financial institution regulated under the *Credit Union Act*, RSA 2000, Chapter 32, as amended, and registered to operate in Alberta.

A handwritten signature in blue ink, appearing to read "B. W." or "B. Williams".

A handwritten signature in blue ink, appearing to read "M. J. A." or "Mayor".



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**2.10.** **Developer** means the party entering into a Development Agreement with the Town which must be either

- a. the registered and equitable owner of the development lands, or
- b. the registered owner's representative authorized to apply for a development permit or subdivision.

**2.11.** **Development** means

- a. an excavation or stockpile and the creation of either of them,
- b. a building or an addition to or replacement or repair of a building and the construction or placing of any of them on, in, over or under land, or
- c. a change of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the use of the land or building, or
- d. a change in the intensity of use of land or a building or an act done in relation to land or a building that results in or is likely to result in a change in the intensity of use of the land or building.

**2.12.** **Development Agreement** means

- a. an agreement referred to in sections 648, 650, or 655 of the *Municipal Government Act*;
- b. an indemnity agreement;
- c. a road construction agreement; or
- d. a servicing deferral agreement.

**2.13.** **Development Authority** means a development authority established pursuant to Division 3, Part 17, of the Municipal Government Act.

**2.14.** **Development Permit** means a document that is issued under a land use bylaw and authorizes a Development.

**2.15.** **Final Acceptance Certificate** means a certificate issued by the Town, in accordance with a Development Agreement, following the maintenance period confirming acceptance of a local improvement.

**2.16.** **Financial Institution** means a Bank, Credit Union, or ATB Financial.

**2.17.** **Local Improvement** means the roadways, public utilities, and other developments defined in the Development Agreement.

**2.18.** **Master Fee Schedule** means the Master Fee Schedule adopted by Council resolution, as amended or replaced from time to time.

**2.19.** **Planning and Development Manager** means the person employed by the Town as Planning and Development Manager.

**2.20.** **Private Infrastructure** means local improvements that do not transfer to the Town upon issuance of a Construction Completion Certificate or Final Acceptance Certificate.

**2.21.** **Security** means the sum of money provided by the Developer to the Town and held in trust.

**2.22.** **Subdivision** means the division of a parcel of land by an instrument and "subdivide" has a corresponding meaning.

**2.23.** **Subdivision Approval** means the Notice of Decision which approves a subdivision application.

**2.24.** **Subdivision Authority** means a subdivision authority established pursuant to Division 3, Part 17, of the Municipal Government Act.

**2.25.** **Surety** means a corporation licensed under the *Insurance Act*, RSA 2000, Chapter I-3, as amended.

**2.26.** **Town** means the incorporated municipality of the Town of Diamond Valley.



- 2.27. **Town's Engineer** means a person hired by the Town, either as an employee or through a consulting contract, to fulfill the responsibilities of a Professional Engineer.
- 2.28. **Waiver of Security** means the formal written permission from the Town, on the prescribed form, to waive Security requirements per the Subdivision and Development Policy.

### 3. Provision of Security

#### 3.1. Requirement for Security

- a. Security collected for a Subdivision Approval must be provided as stated in the conditions of the Subdivision Approval.
- b. Security collected for a Development Permit must be provided as stated in the conditions of the Development Permit.
- c. Notwithstanding 3.1(a) and 3.1(b), Security may be collected within a Development Agreement in accordance with the requirements of the *Municipal Government Act*.

#### 3.2. Waiver

- a. A Waiver of Security may be requested by filling out the form attached to this policy as Appendix 'A'.
- b. If applicable, a Development Agreement must include a Waiver of Security in the form attached to this policy as Appendix B'.
- c. If applicable, a Notice of Decision for a Development Permit must include a Waiver of Security in the form attached to this policy as Appendix 'B'.
- d. Acceptable forms of Security are:
  - i. an irrevocable letter of credit;
  - ii. a surety bond;
  - iii. a bank draft;
  - iv. an e-transfer;
  - v. a certified cheque to a maximum of \$75,000; or
  - vi. cash to a maximum of \$1,000.

#### 3.3. Amount of Security Required

- a. Security for Developments not requiring a Development Agreement is required in the amount specified in the Master Fee Schedule adopted by Council.
- b. Security for Developments and Subdivisions requiring a Development Agreement is required in the amount of 125% of all estimated construction costs.
  - i. Estimated construction costs are based on certified engineering estimates prepared by the Developer's engineer.
  - ii. At the Town's sole discretion, estimated construction costs may be subject to third-party review to ensure sound engineering judgements are followed and that industry prices and standards are utilized.

#### 3.4. Requirements for Letter of Credit

- a. A letter of credit must be issued by a:
  - i. Bank;
  - ii. Credit Union, or
  - iii. ATB Financial.
- b. A letter of credit must:
  - i. be provided in the format attached to this procedure as Appendix 'C';
  - ii. be irrevocable;



- iii. be unconditional, with no restrictions that will hinder the Town's ability to demand the Security;
- iv. permit partial drawings;
- v. not be transferable or assignable;
- vi. contain the Uniform Customs and Practices clause;
- vii. include the letter of credit number on all pages; and
- viii. be payable on demand to the Town at a branch within 80 km of the Town's office at 301 Centre Avenue in Diamond Valley AB.

- c. A letter of credit must be issued for a minimum term of one year and must renew automatically from year to year unless the issuing bank gives notice of its intention not to renew the letter of credit upon expiry at least ninety days before expiry.
- d. Without limiting the requirements of s. 1.2(d) of this procedure, the Developer must immediately notify the Town upon the issuing Financial Institution giving notice of its intention not to renew the letter of credit upon expiry.
- e. If the issuing Financial Institution gives notice of its intention not to renew the letter of credit upon expiry, the Town may demand payment under such Letter of Credit and retain the funds as Security.

### 3.5. Requirements for Surety Bond

- a. A surety bond must be issued by a Surety.
- b. A surety bond must be provided in the format attached to this procedure as Appendix 'D'.

### 3.6. Tracking Security Deposits

- a. A Letter of Credit or Surety Bond must be provided to the Planning and Development Manager upon receipt to ensure the proper form and amount have been provided.
  - i. If the Letter of Credit or Surety Bond are rejected for any reason, the Planning and Development Manager must inform the Financial Institution or Surety within 48 hours of receipt.
  - ii. A photocopy of the Letter of Credit or Surety Bond must be put in both the physical and digital land file for the property within 48 hours of receipt.
  - iii. A receipt for the deposit of a Bank Draft, E-Transfer, Certified Cheque, or Cash must be put in both the physical and digital file for the property within 48 hours of receipt.
- b. Once satisfied with the Letter of Credit or Surety Bond, the Security will be provided to the Chief Financial Officer, or designate, for secure storage of the original.
- c. Security provided in any other form than a Letter of Credit or Surety Bond will be considered received once the money has been deposited in the Town's account at our Financial Institution.
- d. The Planning and Development Manager, or designate, will maintain a record of all Securities received by the Town, including:
  - i. Developer's name and contact information;
  - ii. file number (2024-98DP, 2023-89SUB, etc.);
  - iii. roll number;
  - iv. legal address;
  - v. civic address;
  - vi. Security amount;



- vii. type of Security (LOC, Surety Bond, cash, etc.); and
- viii. date the Security was received.

e. The Chief Financial Officer, or designate, will maintain an independent record of all Securities received by the Town, including:

- i. Security amount;
- ii. receipt number;
- iii. roll number;
- iv. legal address;
- v. civic address;
- vi. file number (2024-98DP, 2023-89SUB, etc.);
- vii. type of Security (LOC, Surety Bond, cash, etc.)
- viii. date the Security was received; and
- ix. General Ledger account (GL) where the Security was deposited, if applicable.

#### 4. Returning Securities

##### 4.1. Request Required

- a. The Developer is responsible for requesting a return of Security and providing the appropriate documentation and site access for the Town to determine if the conditions of the approval have been met.

##### 4.2. Inspections

- a. The Town must inspect physical developments before returning Security.
- b. Re-inspections may be subject to additional fees.
- c. If a visual site inspection is insufficient to determine compliance with the conditions of a subdivision or development approval, the Town may require any additional information necessary to confirm compliance at the Developer's expense.

##### 4.3. Documents

- a. All documents, including, but not limited to, reports, plans, caveats, and agreements, must be provided to the satisfaction of the Town, in accordance with any subdivision or development approval before returning any Security, including partial returns contemplated under Section 4.4 of this Procedure.

##### 4.4. Total Value Return

- a. The Security must be released in full within 45 days of a written request from the Developer if the Final Acceptance Certificate(s) has been signed by the Town's engineer.
- b. Notwithstanding Section 4.1(a), when no Development Agreement exists and no Final Acceptance Certificate(s) are issued, the Security must be released in full within 45 days of the Town accepting the Development Permit conditions as complete.
- c. If the Developer fails to commence construction of the development during the period of the validity of the Subdivision Approval or Development Permit approval, then the Security must be released in full within 45 days of a written request from the Developer.
- d. The Planning and Development Manager will sign requests to release funds, which will be provided to the Chief Financial Officer or their designate for processing.

##### 4.5. Partial Return



- a. The Security may be released in part within 45 days of a written request from the Developer if the Certificate of Completion Certificate has been signed by the Town's Engineer.
- b. The amount of Security retained is required in the amount of 125% of all estimated outstanding construction costs plus 50% of the actual construction cost of any Local Improvements required to undergo a Maintenance Period.
  - i. Estimated construction costs are based on certified engineering estimates prepared by the Developer's engineer.
  - ii. At the Town's sole discretion, estimated construction costs may be subject to third-party review to ensure sound engineering judgements are followed and that industry prices and standards are utilized.
  - iii. Actual construction costs of Local Improvements are based on actual costs provided by the Developer's engineer and accepted by the Town's Engineer.
- c. The Planning and Development Manager will sign requests to partially release funds, which will be provided to the Chief Financial Officer or their designate for processing.

#### **4.6. Tracking Security Returns**

- a. The Planning and Development Manager, or designate, will update the record of Securities by including the:
  - i. amount of Security returned; and
  - ii. date the Security return was requested from Finance.
- b. The Chief Financial Officer, or designate, will update the record of Securities by including the:
  - i. cheque or EFT number;
  - ii. date that the Security was returned; and
  - iii. General Ledger account (GL) where the Security was withdrawn from, if applicable.

### **5. Drawing on Security**

#### **5.1. Drawing on a Letter of Credit**

- a. The CAO or Planning and Development Manager must sign the demand letter.
- b. Money received from the Financial Institution will be provided directly to the Chief Financial Officer, or designate, for deposit into a Town account.

#### **5.2. Drawing on a Surety Bond**

- a. The Planning and Development Manager must use and sign the "Notice of Default and Demand for Payment" form in Appendix D.
- b. Money received from the Surety will be provided directly to the Chief Financial Officer, or designate, for deposit into a Town account.

#### **5.3. Drawing on a Bank Draft, E-transfer, Certified Cheque, or Cash**

- a. The Planning and Development Manager must sign the request provided to Finance to draw on a Security held by the Town as cash.

#### **5.4. Tracking Security when Drawn Upon**

- a. The Planning and Development Manager, or designate, will update the record of Securities by including the:
  - i. date the Security draw was requested; and
  - ii. date the demand letter was sent to the financial institution to draw on the Letter of Credit;



- b. date the Notice of Default and Demand for Payment was sent to the Surety; or
- c. date that Finance was requested to provide Security held as cash;
- ii. amount of Security drawn/requested.
- b. The Chief Financial Officer, or designate, will update the record of Securities by including:
  - i. cheque or EFT number;
  - ii. date that the Security was returned; and
  - iii. General Ledger account (GL) where the Security was withdrawn from, if applicable.
  - iv.

## 6. Forfeiting Security

*Intentionally left blank.*

## 7. Transferring Security

### 7.1. Change in Developer

- a. When the Developer changes, sections in this Procedure related to the collection and return of Security must be followed.
- b. When the Developer changes, the Development Agreement(s) must be assigned before the original security is released.
- c. If a property is sold before the Security is released and there is no Development Agreement:
  - i. The Security will be returned in its normal fashion to the original Developer stated on a Subdivision Approval or Development Permit (example: a home builder sells a home before the Security is returned, then the Security will be returned in the normal fashion according to this procedure to the home builder); or
  - ii. The Town will release the Security from the original Developer within 20 days once the new Developer has provided Security in its place.
- d. When the Developer changes, the Planning and Development Manager, or designate, will update the record of Securities by:
  - i. updating the Developer's name and contact information;
  - ii. noting the date the Developer changed; and
  - iii. updating any other information as necessary.

### 7.2. Change in Security Form

- a. When the form of Security changes, sections in this Procedure related to the collection and return of Security must be followed.
- b. If a Developer provides an acceptable form of Security to replace a Security being held, they may do so.
- c. The Town will release the original Security within 20 days of receiving an acceptable replacement Security.
- d. When the form of Security changes, the Planning and Development Manager, or designate, will update the record of Securities by:
  - i. updating the type of Security (LOC, Surety Bond, etc.);
  - ii. date the Security was received; and
  - iii. updating any other information as necessary.



## 8. Appendices

- 8.1. Appendix A – Waiver of Security for Development Agreement
- 8.2. Appendix B – Waiver of Security for Development Permit
- 8.3. Appendix C - Letter of Credit
- 8.4. Appendix D – Development Agreement Surety Bond Contract



CHIEF ADMINISTRATIVE OFFICER

## PROCEDURE Revision History

Policy Name	Revision Date	Revision Description	Approved by CAO	Effective Date





## WAIVER OF SECURITY Request Form

This form must be used to request a waiver to securities under Council Policy PlanDev-022.

A Waiver of Security for a private development may **only** be issued when the development is for private infrastructure and:

- there is no future transfer of Local Improvements to the Town; and
- the ongoing maintenance requirements for the Private Infrastructure will not be passed on to the Town.

The following information must be filled out in its entirety to process the waiver of security request.

### Permit Information

Subdivision Approval (File) Number: \_\_\_\_\_

Development Permit (File) Number: \_\_\_\_\_

Other: \_\_\_\_\_

### Applicant Information

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

### Subject Property

Civic Address: \_\_\_\_\_

Legal Description: \_\_\_\_\_

I understand and accept that any changes to the development that impact the Town, including but not limited to the transfer of infrastructure or ongoing maintenance obligations, will void this waiver, and Security will be required before the development can proceed.

Initial: \_\_\_\_\_

I hereby declare I am / I represent the owner of the property in which the work identified in this application will be conducted in accordance with the plans submitted and, upon approval, will adhere to the conditions and terms of any approval, plan, bylaw, policy, or requirement set forth by the Town.

\_\_\_\_\_  
Signature of Registered Owner / Agent

\_\_\_\_\_  
Date of Application

This personal information is being collected under Section 33(c) of the Freedom of Information and Protection of Privacy Act and will be used to administer the Waiver of Security. If you have any questions contact the Legislative Services Manager at 403-933-4348.

*(Handwritten signature)*

For internal use only:

Roll: \_\_\_\_\_

File Manager: \_\_\_\_\_

Align with Policy(circle)? Y / N

*(Handwritten mark)*

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## WAIVER OF SECURITY

Your request to waive the security requirements has been approved under Section 6 of the Subdivision and Development Securities Policy.

File Number / Approval: (insert)

Date requested: (insert)

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Signature of CAO or Planning & Development Manager

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Date Signed





## LETTER OF CREDIT

(Date)

The Town of Diamond Valley  
PO Box 10, Black Diamond  
301 Centre Avenue  
Diamond Valley AB T0L 0H0

Re: **Standby Letter of Credit No. \_\_\_\_\_**

We hereby authorize you to draw on the (The issuing Bank's name), (Street Address), (City AB Postal Code) (the "Bank") for the account of our Customer, (The Developer's name) (the "Customer")

up to an aggregate amount of \$ (numerical value) (CAD).

Pursuant to the request of the Customer, we the Bank, hereby establish and give the Town of Diamond Valley (the "Municipality") an Irrevocable Letter of Credit in favour of the Municipality in the above amount, which may be drawn on by the Municipality at any time and from time to time, upon written demand for payment made upon us by the Municipality, which demand we shall honour without inquiring whether the Municipality has the right as between the Municipality and the Customer to make such a demand, and without recognizing any claim of the Customer, or objection by the Customer to payment by us.

This Letter of Credit, we understand, relates to an Agreement between the Customer and the Municipality dated (date) and referred to as the (name of the project; ex. Development Agreement Royalite Greens Phase 2).

The amount of this Letter of Credit may be reduced from time to time as advised by notice in writing to us from time to time by the Municipality.

It is a condition of this Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof unless, at least 90 days prior to such expiration date, we notify the Municipality in writing by registered mail, that we elect not to consider this Letter of Credit to be renewable for any additional period.

We engage with the Municipality that all drawings presented under, or in compliance with, the terms of this credit will be duly honoured on delivery of documents as specified, if present at the counters of the Bank, on or before (expiry date), or any automatically extended date as hereinbefore set forth.

Except so far as otherwise expressly stated, this Letter of Credit is subject to the "Uniform Customs and Practice for Documentary Credits" (2007) International Chamber of Commerce (Publication No. 600) effective July 1, 2007.

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Countersigned

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Authorized Signature



## DEVELOPMENT AGREEMENT SURETY BOND CONTRACT

Bond Number: Click or tap here to enter text.

Bond Amount: \$Click or tap here to enter text.

KNOW ALL PERSONS BY THESE PRESENTS THAT

Click or tap here to enter text.  
(the "Principal")

AND

Click or tap here to enter text.

a corporation created and existing under the laws of Canada, and duly authorized to transact the business of suretyship in the Province of Alberta as Surety (the "Surety"), are held and firmly bound unto the Town of Diamond Valley, a municipal corporation, as Obligee (the "Obligee"), in the amount of Click or tap here to enter text. dollars (\$Click or tap here to enter text.).

lawful money of Canada (hereinafter called "Bond Amount"), for payment of which sum, well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally firmly by these presents.

WHEREAS, the Principal has or will be entering into a development agreement or multiple development agreements (including a Development Agreement, Servicing Agreement, Development Servicing Agreement, and/or Subdivision Servicing Agreement) with the Obligee to develop their development approval number Click or tap here to enter text. including the submitted engineering and/or construction drawings, hereinafter referred to as "the Development Agreement".

NOW, THE CONDITION OF THIS BOND IS SUCH THAT, if the Principal, in the sole and absolute determination of the Obligee, promptly and faithfully performs all its obligations under the Development Agreement, then this Bond is null and void; but otherwise will remain in force and effect to the terms thereof.

On determination by the Obligee, in its sole and absolute discretion, that the Principal is in default of its obligations under the Development Agreement, the Surety and Principal agree that the Surety will make payments to the Obligee for amounts demanded by the Obligee, up to an aggregate of the Bond Amount, within seven (7) business days after the Surety's receipt of a demand from the Obligee at the address noted herein by hand or courier and in the form of a Notice of Default and Demand for Payment, the form of which is attached to this Bond as Schedule "A".

The Surety and the Principal expressly waive any defence that the Principal is not in default of its obligations under the Development Agreement following the delivery of a Notice of Default and Demand for Payment to the Surety as defined in this Bond. The Surety and Principal must accept the Notice of Default and Demand for Payment delivered to the Surety as conclusive evidence that the amount demanded within the Notice of Default and Demand for Payment is payable to the Obligee; and all payments will be made free and clear without deduction, set-off, or withholding.





IF the Surety, at any time, gives ninety (90) days notice by registered mail to both the Principal and Obligee of its intention to terminate this Bond, then this Bond and all accruing responsibility thereunder will from and after the last day of such ninety (90) days aforesaid terminate only if the Principal has provided financial security to the Obligee in an amount no less than the Bond Amount in a form acceptable to the Obligee. If the Principal does not provide such financial security to replace this Bond, then the Surety shall, at its sole discretion, either immediately pay the full Bond Amount to the Obligee within seven (7) business days, or confirm to the Obligee in writing that this Bond will remain in full force.

The Surety will not be liable for a greater sum than the Bond Amount.

This Bond will be governed by and construed in accordance with the laws of the Province of Alberta and the laws of Canada applicable thereto and will be treated, in all respects, as a contract entered into in the Province of Alberta without regard to conflict of laws principles. The Principal and Surety hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of Alberta.

Any notice hereunder is to be given:

in the case of the Obligee, to:

Town of Diamond Valley  
ATTN: Manager, Planning & Development  
Box 10  
Black Diamond AB T0L 0H0

in the case of the Principal, to:

Click or tap here to enter text.  
(name and address)

in the case of the Surety, to:

Click or tap here to enter text.  
(name and address)

IN WITNESS WHEREOF, this bond is duly signed, sealed and delivered this Choose an item. day of Choose an item., Choose an item..

The Principal:

---

Name of Person Signing

Signature

(Affix Seal)

The Surety:

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Name of Person Signing

Signature

(Affix Seal)



## Schedule A

### Notice of Default and Demand for Payment

Date: Click or tap here to enter text.

Surety: Click or tap here to enter text.

Address: Click or tap here to enter text.

Attention: Click or tap here to enter text.

Re: Development Agreement Bond Number: Click or tap here to enter text. (the "Bond")

Principal: Click or tap here to enter text. (the "Principal")

Obligee: Town of Diamond Valley (the "Obligee")

Agreement: Click or tap here to enter text. (the "Development Agreement")

Pursuant to the above-referenced Bond, the Town of Diamond Valley hereby declares a default under the Development Agreement.

We hereby demand that the Surety honour its seven (7) day payment obligation as per the terms of the Bond and we hereby certify that we are entitled to draw on the Bond pursuant to the terms of the Development Agreement and demand payment of \$AMOUNT under the terms of the Bond.

**Payment Instructions:**

Click or tap here to enter text.

Regards,  
The Town of Diamond Valley

