

EXECUTIVE ORDER PROCEDURE for Private Construction Agreements

1. An executive order authorizes the permittee to construct public improvements such as utilities and paving at the permittee's own expense. The city may subsidize oversized water mains, sanitary sewers and storm sewers without public bid to a limit of \$100,000.00 each. The city charter requires that larger city expenditures must be competitively bid. City subsidies larger than \$100,000.00 can be obtained by allowing the city to advertise for, receive, and select bids for the construction. The permittee will enter into a contract with the lowest responsible bidder for the construction, approved by the City. The exact details of the procedure will be developed on a case-by-case basis. The amount of any subsidy to be paid will be stated in the executive order or the annexation agreement.
2. Executive orders are requested by writing a letter to the Department of Public Works and Utilities asking permission to construct the public improvement.
3. Before the Mayor will approve the executive order, these things must be done:
 - A. A copy of the *Unqualified Written Acceptance* must be signed. The *Unqualified Written Acceptance* certifies that the permittee has read the executive order and agrees to all the provisions. A mailing address and e-mail address must also be provided in the designated space.
 - B. A guarantee for the construction must be provided. There are four acceptable guarantees:
 1. A surety bond must be executed on the form attached to the executive order; or
 2. A cash deposit with the City Treasurer. A certified check, payable to the City Treasurer is required. A description of the executive order construction typed on the check will help keep everyone's records straight; or
 - *3. An escrow account with a bank. The standard city of Lincoln escrow agreement form must be used; or
 4. A letter of credit acceptable to the City Attorney's Office.
 - C. A guarantee must also be provided for the retainer to be held by the city for the full two-year guarantee period specified in the executive order. There are three acceptable guarantees for the retainer:
 1. A cash deposit with the City Treasurer. A certified check, payable to the City Treasurer is required. A description of the executive order construction typed on the check will help keep everyone's records straight.

*Please note the account number and the name on the account on the Escrow Form.

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- *2. An escrow account with a bank. The standard city of Lincoln escrow agreement form must be used. If the construction is also guaranteed by an escrow account, the same escrow agreement may be used for the total of the two accounts.
3. Letter of Credit.
4. The guarantees, the executive order, the *Unqualified Written Acceptance* and a check for engineering fees as identified in "Condition 1" of the executive order must be returned to Dennis Bartels, Development Services Center, 555 South 10th St, 2nd Floor, Suite 100, Lincoln, Nebraska 68508.
 - a. The necessary signatures will be obtained and the City Clerk will mail an executed copy to the permittee.
 - b. The plans must be prepared by a consulting engineer. The City Engineer's Office must approve the consulting engineer. All Project Packages must be reviewed and approved ready for construction by the City Engineer's Office prior to the start of construction.
 - c. After the plans are approved, the permittee then contacts his contractor and lets his own contract for the construction. The contractor must be certified as an approved contractor by the city of Lincoln prior to any construction.
 - d. The Department of Public Works and Utilities will assign a ES Project Coordinator. The ES Project Coordinator must be notified 48 hours prior to the start of construction.
 - e. The guarantee for the construction will be released upon final acceptance of the work authorized by the Executive Order.
 - f. The guarantee for the retainer must remain in effect throughout the two-year guarantee period as defined in Section 29 of the General Conditions Applying to Private Construction of Public Facilities. The permittee should request release of the retainer as required by the City's Standard Specifications.
 - g. The City reserves the right to adjust the fixed fee identified in "Condition 1" if the work is not executed in the prescribed manner and in a timely fashion. Written notification of intent to revise the fixed fee shall be delivered to the permittee, with a reason/remedy.