

COUNCIL POLICY

SUBJECT: PARTIAL RELEASE OF PERFORMANCE BONDS AND OTHER TYPES OF SURETIES
POLICY NO.: 800-11
EFFECTIVE DATE: May 4, 1998

BACKGROUND:

Occasionally, a developer will complete a portion of the construction required by a Subdivision Improvement Agreement or an Improvement Permit and then request that the bond or other surety posted to ensure faithful performance be reduced in proportion to the value of work completed.

PURPOSE:

To establish a policy and procedure covering the partial release of sureties.

POLICY:

Partial release of sureties over \$25,000 will be considered when all of the following conditions exist:

1. The City has received a written request from the developer or developer's engineer containing a detailed estimate of both the value of work completed as well as the value of work remaining.
2. The Subdivision Improvement Agreement or Improvement Permit has at least six months remaining before expiration.
3. The Job Order Account has a sufficient balance to cover all anticipated costs before close out.
4. The developer has provided the City with evidence acceptable to the City Engineer and City Attorney that the surety to be partially released is unencumbered by claims pursuant to the Mechanic's Lien Law.
5. The work for which the developer is requesting a partial release has been inspected by the City Engineer and he has determined that the work has been completed in a satisfactory manner.

All partial releases may be approved by the City Manager unless in the opinion of the City Manager City Council action is required.

The maximum amount released shall not exceed 75% of the value of work completed. In no case shall less than 25% of the original bond amount be retained in force until all work is completed and the "Notice of Completion and Acceptance" is recorded and a "Full Release" is issued. Notwithstanding the requirement for 25% retention, alternative security may be required to assure developer's timely performance of any specific remaining item(s) of work. In addition, alternative security may be required in any case where the 25% bond otherwise retained would have a value of \$25,000 or less. The alternative security, when required, shall be in the form of a cash deposit or an acceptable equivalent and will be required when the work remaining to be done may be needed to

serve adjacent development or the general public before the Improvement Agreement or Improvement Permit expires.

A PARTIAL RELEASE OF THE SURETY DOES NOT REPRESENT AN ACCEPTANCE OF ANY PORTION OF THE WORK.

PROCEDURE:

Request for partial release of surety shall be submitted to the Development Services Division of the Engineering and Development Department. Those connected with subdivisions will be processed by the Subdivision Section. Those connected with Improvement Permits will be processed by the Permit Section. A copy of the request will be submitted to the Field Division for verification of the completion of the work and the percent of construction completed.

After receiving verification from the Field Division, the Subdivision Section or Permit Section will verify that all the conditions of this Policy have been satisfied and will prepare a "Request for Council Action" (1472) (if required) and a "Notice of Partial Release." If the "Request for Council Action" is required it will be processed in accordance with Administrative Regulation 3.20.

The City Attorney will review the evidence that the surety is unencumbered by claims pursuant to the "Mechanic's Lien Law" when they review the "Request for Partial Release".

After Council approval (if Council authorization is required), the Deputy City Manager will sign the "Notice of Partial Release" and forward it to the originating section of the Development Services Division of Engineering and Development which will distribute the appropriate copies.

The City Attorney will review the evidence that the surety is unencumbered by claims pursuant to the "Mechanic's Lien Law" when they review the "Request for Partial Release".

After Council approval (if Council authorization is required), the Deputy City Manager will sign the "Notice of Partial Release" and forward it to the originating section of the Development Services Division of Engineering and Development which will distribute the appropriate copies.

The City Attorney will review the evidence that the surety is unencumbered by claims pursuant to the "Mechanic's Lien Law" when they review the "Request for Partial Release".

After Council approval (if Council authorization is required), the Deputy City Manager will sign the "Notice of Partial Release" and forward it to the originating section of the Development Services Division of Engineering and Development which will distribute the appropriate copies.

HISTORY:

Adopted by Resolution R-258278 04/18/1983

Amended by Resolution R-281362 01/25/1993

Amended by Resolution R-290041 05/04/1998