

# Land Development Release of Security

41000 Main Street  
Temecula, CA 92590  
Phone: 951-694-6444  
www.temeculaca.gov



## PROCEDURE FOR RELEASE OF SECURITY FOR PUBLIC IMPROVEMENTS

---

The purpose of this document is to establish procedures and guidelines for the release of securities posted to cover the cost of public improvements that subdividers are required to construct. The release of securities shall be pursuant to the requirements of the [Subdivision Map Act](#) (Government Code Section 66499.7).

All inquiries regarding the release of bonds shall be processed through the Department of Public Works Land Development Division at [LandDev@temeculaca.gov](mailto:LandDev@temeculaca.gov)

### **Release of Security in “Bond” Form:**

1. **Faithful Performance Bond.** The Faithful Performance bond ensures performance of the improvements. This bond is in the amount of **100%** of the estimated cost of the improvements. The security furnished by the subdivider may be released in full or in part in the following manner:
  - A. **Full Release.** The performance bond shall be released upon final completion and acceptance of the improvements, subject to the provisions noted below:
    - (1) Per the State Government Code, once the work is **100% complete** (no partial reductions prior), the subdivider may request for the release of security. The subdivider shall provide the City Engineer a written notice that includes, but is not limited to: a statement that the project is 100% complete, a list of the completed work and a formal request to release the security.
    - (2) Upon receipt of the written notice, the City Engineer shall have 45 days to review the notice, the list of completed work, the site and confirm that all work is complete.
      - a. If the City deems the work complete:
        - i. The City will confirm that utility (sewer and water) agencies have cleared and accepted their systems, if applicable; and if so, the City Engineer will deem the project acceptable and reduce the performance security by refunding **90%** of the security to the subdivider.
        - ii. The City Engineer will hold the remaining 10% of the security for one year (as a warranty/maintenance security), following acceptance by the City, against defective work or labor done or defective materials furnished, etc.
        - iii. After the one year period, the subdivider shall provide a letter to the City Engineer requesting for a final inspection of the improvements prior to release of the final 10% security.
      - b. If the City deems the work incomplete:
        - i. The subdivider shall pay associated fees for premature inspection requests per City resolution(s). Within the 45 day review period, the City Engineer will provide a punch list of incomplete items to the subdivider. All outstanding punch list items shall be completed to the satisfaction of the City Engineer prior to re-scheduling another site inspection.
        - ii. The subdivider shall complete all outstanding punch list items and start the process again by notifying the City Engineer that all required work has been completed.

# Land Development

## Release of Security

41000 Main Street  
Temecula, CA 92590  
Phone: 951-694-6444  
www.temeculaca.gov



- B. Partial Release. In accordance with the requirements of Government Code Section 66499.7, the City Engineer shall allow a partial release of the faithful performance securities upon partial performance of the work or acceptance of the work as it progresses, pursuant to the following procedures:
- (1) A reduction in the performance security shall not be deemed to be an acceptance by the City Engineer of the improvements and the risk of loss and/or damage to the improvements. The obligation to maintain the improvements shall remain with the subdivider until all improvements have been accepted by City Council and all other required improvements have been fully completed.
  - (2) If partial reduction of performance security is granted, the subdivider shall be responsible to continue to construct the improvements until all remaining items are accepted by City Council.
  - (3) Subdivider shall have only **one (1) opportunity** to engage in the process of partial release of performance securities between the start of work and completion and acceptance of all work.
  - (4) A partial release of performance security shall be allowed only when, at least, 80% of the total work has been completed. The process allowing for a partial release of performance security shall occur when the cost estimate of the remaining work does not exceed 20% of the total original performance security.
  - (5) If the subdivider is confident that 80% or more of the total work is completed, he shall provide the City a written notice that includes, but is not limited to: a statement that the project is more than 80% complete, a list of the completed work along with a cost estimate showing the completed work as well as the remaining work (which should not exceed 20% of the total original performance security) and a formal request for partial release of security.
  - (6) Upon receipt of the written notice, the City will have 45 days to review, comment or approve the completion of the work.
    - a. If the City deems 80% (or more) of the work complete:
      - i. The City will approve the cost estimates and notify the subdivider that at least 80% of the improvements have been found to be complete.
      - ii. The City will then schedule for City Council the partial release of security. Upon City Council approval, the City can release all performance security except for security in an amount up to 200% of the cost estimate of the remaining work.
      - iii. All remaining work shall be completed prior to the City releasing the remaining performance security.
      - iv. The release of any remaining performance security shall be scheduled for City Council for acceptance of improvements and release of any remaining performance security.
    - b. If the City deems 79% (or less) of the work complete:
      - i. The subdivider has not met the criteria to be eligible for a partial reduction. The City will provide the subdivider a punch list of all remaining work to be completed as well as a letter stating that he has exhausted his one opportunity to engage in the process of a partial release of security.
      - ii. The subdivider shall complete all remaining work; and when ready, shall formally request for a full release of security based on 100% completion of improvements.

# Land Development

## Release of Security

41000 Main Street  
Temecula, CA 92590  
Phone: 951-694-6444  
www.temeculaca.gov



- C. Substitution Bonds. Substitution bonds may be used as a replacement for the performance security, subject to City approval. If substitution bonds are allowed, the release shall not be effective unless and until the City Engineer receives and approves that form of replacement security.
- D. Warranty. No security given for the guarantee or warranty of work shall be released until the expiration of the warranty period and until all claims filed during the warranty period have been settled. Warranty periods shall not commence until final acceptance of all work by City Council.
- E. Reasonable Expenses and Fees. The City Engineer may retain, from any security released, an amount sufficient to cover costs and reasonable expenses and fees (including reasonable attorney fees) incurred by the City in successfully enforcing the obligation secured.

2. Labor and Materials Bond. The Labor and Materials bond secures payment to any contractor, subcontractor, persons renting equipment or furnishing labor materials for the improvements required to be constructed or installed. This bond, which is in the amount of **50%** of the estimated cost of the improvements, shall be released at least **nine (9) months** after completion and acceptance of the improvements (based on the required periods for claims of lien and stop payment notices).

A. Full Release. This section is pursuant to Article 2, commencing with Section 8412, of Chapter 4 of Title 2 of Part 6 of Division 4 of the Civil Code.

(1) Per the Subdivision Map Act (Government Code Section 66499.7), within 45 days following the expiration of time in which claims of liens are required to be recorded and acceptance of improvements, this security shall be reduced to an amount equal to the total claimed (by all claimants for whom liens have been filed and of which notice has been given to the legislative body) plus an amount reasonably determined by the City Engineer to be required to ensure the performance of any other obligations secured by the security. The balance of the security shall be released upon the settlement of all claims and obligations for which the security was given.

(2) Claims of Lien. Section 8412 of the Civil Code currently provides that such liens must be recorded within:

a. **90 days** after completion of the improvements if no notice of completion (NOC) or cessation has been recorded; or

b. **60 days** after recordation of the NOC or a notice of cessation

(3) Stop Payment Notices. The timeline of a stop payment notice shall also be taken into account. Section 9352 of the Civil Code identifies that a stop payment notice shall comply with the requirements of Chapter 2, commencing with Section 8100, of Title 1. Section 9558 of the Civil Code identifies that a claimant may commence an action to enforce the liability on the bond at any time after the claimant ceases to provide work, but not later than **six months** after the period in which a stop payment notice may be given. Section 9356 states that a stop payment notice is not effective unless given before the expiration of:

a. **90 days** after cessation or completion, if no NOC, acceptance or cessation has been recorded; or

b. **30 days** after the recordation of the NOC, acceptance or cessation

B. Partial Release. No partial release of the Labor and Materials bond shall be allowed.

# Land Development

## Release of Security

41000 Main Street  
Temecula, CA 92590  
Phone: 951-694-6444  
www.temeculaca.gov



- C. Claims/Stop Payment Notices. If no claims have been recorded (during the time within which claims of lien are required to be recorded) or no stop payment notices have been given under Civil Code sections 9356 and 9558, the security shall be released in full.
3. **Subdivision Monument Bond**. The monument bond ensures proper setting of subdivision monumentation. This bond, which is in the amount of **100%** of the estimated cost of setting subdivision monuments, shall be released upon final completion and acceptance of installation of the subdivision monumentation.
    - A. Full Release. The subdivider shall notify the City Engineer in writing that the monuments have been installed pursuant to the Subdivision Map Act and shall submit all required survey documents (centerline ties, etc.). Upon receipt of said notification, the City Engineer shall verify that all required monumentation has been set. If the setting of the monuments is found to be acceptable, the City Engineer shall release the monument bond accordingly. If not, the monument bond shall not be released until the final completion and acceptance of the monumentation is achieved.
    - B. Partial Release. No partial release of the monument bond shall be allowed.

### **Release of Security in "Cash/Certificate of Deposit and Letter of Credit" Form:**

1. The timeline noted in releasing security in bond form shall also be applicable to the release of securities in cash, certificate of deposit and/or letter of credit.
  - A. Cash Deposit/Certificates of Deposit. A cash deposit or Certificates of Deposit may be acceptable in lieu of a bond. The Finance Department is the lead in releasing cash and Certificates of Deposits.
  - B. Letter of Credit. A letter of credit may be acceptable in lieu of a bond. The Finance Department and City Clerk are the leads in communications with the issuing banks and in releasing this instrument of credit.