

## **Private Financial Assurances Processing Guide/Policy Interpretation**

To ensure the appropriate and timely installation of private site improvements, City Code affords flexibility to staff to accept financial assurances. Assurances are typically used to ensure survival of installed materials, to cover outstanding site improvements, or as a maintenance guarantee. The required improvements will vary between commercial and residential projects, but are required by City Code or the approving body as a condition of approval to ensure the development is compatible with the surrounding area. All required private improvements are illustrated and noted on the approved Planned Unit Development (PUD), development plan or other land use entitlement.

### **What are Private Improvements?**

Private improvements consist of development specific amenities/facilities required per the approved entitlements (confirm with case planner) may be required for a financial assurance. Example improvements can be found below:

- active or passive recreation equipment when required as a condition of approval as noted on the development plan (i.e. benches, play equipment, sail awnings, etc.);
- buildings or structures not requiring building permits when the structure is required as a condition of approval as noted on the development plan (i.e. gazebos, pergola etc.);
- fencing when required as a condition of approval as noted on the development plan AND when required as screening and buffering.
- retaining walls when required as a condition of approval as noted on the development plan AND when the retaining walls are required as part of the overall site design and shown on the grading and erosion control plan.
- flat work (i.e. private roads, paths, sidewalks, curb and gutters, parking facilities, etc.);
- landscaping materials (i.e. mulches, plants, native seeding, ornamental grasses, etc.); and
- other facilities (i.e. lighting, signage, etc.).
- irrigation system components (i.e. water lines, valves, spray and drip heads, tap fee, etc.);

Improvements covered by building permits or public financial assurances shall not require further financial assurances.

### **How is the Financial Assurance Amount Determined?**

The amount determined for a financial assurance includes Private Improvement Costs and a Labor Charge.

1. Private Improvements Costs: Are costs based on an itemized cost estimate or executed bid provided by the builder or developer for 100% of all required private improvements not installed or found not to be in good condition.
2. Labor Charge: This charge is the total Private Improvements Costs multiplied by 25%, and is verified by staff.

To expedite staff's determination of the financial assurance amount as described above, detailed/itemized lists of improvements/materials should be provided on the approved Final Landscape Plan, Final Irrigation Plan, and Site Plan. All extra landscape material or improvements must be labeled as "EX" on the approved plans and documented in a table to separate these improvements from those require by City Code. Examples plan sheets are attached for reference.

### **What is an Acceptable Financial Instrument?**

The following forms of financial assurances are acceptable: cash; cashiers, certified, company, or personal checks; certificate of deposit; irrevocable letters of credit; and subdivision bonds. Per the City's financial policies, there are no minimum or maximum amount limits for the above referenced assurances. Certain financial instruments, however, must adhere to the City's template guidelines or agreements. Please refer to the *Instructions for Financial Assurances*, dated April 10, 2017, document for further guidance.

### **Financial Assurance Collection**

The timing for collecting a financial assurance will vary by project and type of development. While an approved development plan may specify a certain sequence for posting a financial assurance; the general rules for projects are as follows:

**Commercial Projects** – Assurances may be collected for incomplete site improvements at time of a Temporary Certificate of Occupancy or final Certificate of Occupancy.

**Residential Projects** – Assurances are collected at time of Building Permit. At the case planner’s discretion, a certain number of residential units may be released for Building Permit issuance, this is typically limited to 10 units but may vary depending on the size of the subdivision and will be discussed with the case planner.

The following steps should be followed to ensure a complete financial assurance package is received for processing.

1. The Builder/Developer submits a Financial Assurance Request to the City Planner for review and acceptance.
  - a. The package must contain the following to be accepted:
    - i. Financial Assurance Request form;
    - ii. Description of Incomplete Work;
      1. Exhibits (Copies of the approved Final Landscape Plan, Final Irrigation Plan, and Site Plan)
      2. Cost Estimate or Contractor’s Bid (*Executed*), with itemized material breakdown
      3. Irrigation tap fees should also be included in the estimate when the irrigation system is run from a to-be established tap.
        - a. If the irrigation plans illustrate the system being installed off of existing system and tap NO irrigation tap fee assurance is required.
        - b. If the irrigation plans illustrate the system being run from a buildings potable water tap No irrigation tap fee assurance is required.
    - iii. Executed Letter Agreement (*provided after financial assurance amount is determined*); and
    - iv. Acceptable Financial Instrument (*requested after financial assurance amount is determined*).
2. City Planner conducts inspection and issues a response. Response time may vary with additional details described below but will maintain a 3-5 business day response:
  - b. Denial – Necessary changes are noted and/or a request for further information is made. Denial is made after the initial inspection and will be conveyed to the requestor within 3 business days.
  - c. Acceptance – The Builder/Developer is provided:
    - i. Copy of the *Instructions for Financial Assurances*, to submit assurance; and
    - ii. Financial Assurance Letter Agreement for signatures.
    - iii. The turnaround timing on this will vary depending on the size of the site and the completeness of the submitted documentation. A 5 day maximum turnaround is expected from the day of the acknowledgement of the request and the timeframe includes documentation submittal, staff inspection and review of all documentation.
3. City Planner completes final review of Letter Agreement and Assurance, and processes:
  - d. City Planner requests changes to the assurance.
  - e. City Planner accepts executed Letter Agreement and Assurance, and delivers the assurance package to Andrea Acker (*Builders/Developers are not to go directly to Andrea with paperwork, unless the City Planner has made separate arrangements.*).
  - f. City Planner enters assurance information into PlanTrac.
4. City Staff processing and monitoring of assurances
  - g. Cash – The City Planner will schedule a submittal meeting with Accounts Payable and the Builder.
  - h. Cashiers, Certified, Company, or Personal Checks – Are deposited upon receipt (2 business days).
    - i. City Planner releases Building Permit(s)/Certificates of Occupancy immediately upon receipt.
  - i. Certificate of Deposit, Irrevocable Letters of Credit, Subdivision Bonds and Escrow Accounts - Are processed with 2 business days and held until the assurance is released.
  - j. Assurances are intended to be held for One (1) year, unless otherwise stated by the Letter Agreement.

## **Financial Assurance Release**

1. In writing, the Builder/Developer contacts City Planner within One (1) year or according to the term set forth in the Letter Agreement to request the full or partial release of the assurance. Partial release is permitted with clear documentation of what is installed and ready for inspection.
  - a. The request must be accompanied with:
    - i. Release Statement, containing:
      1. Contact information for the Builder/Developer whom secured the assurance.
      2. Assurance type and amount of funds to be released. Partial releases must be accompanied by a new assurance package as stated above under Step 1 of Financial Assurance Collection.
    - ii. Landscape and Irrigation Inspection Affidavits - Executed
    - iii. Soil Receipts
    - iv. Request for Inspection (assuming the site is complete and establishment criteria is met).
2. City Planner will inspect and notify Builder/Developer within 5 business days.
  - a. Initiate Release - If City Planner finds all private improvements to be installed per approved plans.
  - b. Action Needed - The City Planner will coordinate with the Builder/Developer ensure compliance.