

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Subdivision of Land-Substitution of One Form of Improvement
Security for Another - Reduction of Security

**Policy
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I-19

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Purpose

To establish a procedure whereby a subdivider who has furnished improvement security in accordance with the County Subdivision Ordinance and Sections 66462 and 66499 of the Government Code to secure the completion of improvements required as a condition of approval of a subdivision map may substitute any other form of security as prescribed in the County Subdivision Ordinance for said security, and to establish a procedure whereby a subdivider may obtain a partial release of the security for completed work.

Policy

It is the policy of the Board of Supervisors that:

A. Replacement Security: A subdivider who has furnished improvement security in the form prescribed in the County Subdivision Ordinance, pursuant to Sections 66462 and 66499 of the Government Code (Subdivision Map Act), may substitute in place of said security any other form of security as prescribed in the above ordinance. On request of a subdivider to make such substitution, the Director of Public Works (Director), with the assistance of County Counsel where necessary, shall cooperate with the subdivider in the preparation of an appropriate form of substitute security to replace the present security. Substitute security for faithful performance shall be in an amount equal to 100% of the estimated cost as determined by the Director of required improvements at the time of the substitution request. Substitute payment security to guarantee payment to contractors, subcontractors and the persons furnishing labor materials or equipment for the completion of required improvements shall be in the amount of 50% of the unreduced faithful performance security.

Upon approval, the Director will forward the substitute security to the Clerk of the Board of Supervisors (Clerk) for filing. The Clerk will release the original security to the appropriate surety/owner in writing.

B. Reduction in Security: Subdividers are required by the County Subdivision Ordinance and Subdivision Map Act to provide payment and performance security to guarantee the completion of required subdivision improvements and the payment of workers and suppliers engaged in the construction of the improvements. Payment securities are not subject to partial reduction. As work progresses, the Director is hereby authorized and delegated the authority to partially release performance securities pursuant to the following rules and procedures:

1. Performance security may be released only upon written request by the subdivider who posted such security.

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2. The Director is authorized to consider requests by a subdivider for the partial release of security only twice for any one improvement agreement.

3. Upon receipt of a written request for the partial reduction of performance security, together with detailed estimates of the value of the work remaining to be completed, the Director shall make an initial determination whether such request exceeds the number allowed and the security is sufficient in amount to be reduced. If satisfied that the security may be reduced, the Director shall inspect the improvements and verify the percentage and the value of the work remaining to be completed. The Director may then authorize a reduction in the amount of security as follows:

a) No reduction of performance security is authorized where the Director determines that more than 50% of the value of work remains to be completed.

b) Whenever 50% or more of the value of work has been completed, the security may be reduced pursuant to an engineer's estimate supplied by the engineer of work in accordance with the following schedule:

<u>Percent of Construction Completion</u>	<u>Percent of Original Security Retained</u>
<u>0%</u>	<u>100%</u>
<u>50%*</u>	<u>50%*</u>
<u>60%*</u>	<u>40%*</u>
<u>70%*</u>	<u>30%*</u>
<u>75 - 87%</u>	<u>25%</u>
<u>88%</u>	<u>24%</u>
<u>89%</u>	<u>22%</u>
<u>90%</u>	<u>20%</u>
<u>91%</u>	<u>18%</u>
<u>92%</u>	<u>16%</u>
<u>93%</u>	<u>14%</u>
<u>94%</u>	<u>12%</u>
<u>95%</u>	<u>10%</u>
<u>96%</u>	<u>8%</u>
<u>97%</u>	<u>6%</u>
<u>98-100%</u>	<u>5%</u>
<u>Warranty Period</u>	<u>5%</u>

* For situations where 50% to 75% of the construction is complete, the percent of the original security that will be retained is 100% - X% Construction completed.

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c) Upon the completion of the improvements to the satisfaction of the Director, the performance security may be reduced to an amount up to 95% of the total required performance security. The remaining 5% shall remain in place for a period of one year following the completion of the improvements as a warranty against defective materials and workmanship.

d) Upon a determination that the performance security may be partially released, the Director shall notify the holder of the security, the Clerk of the Board of Supervisors and the subdivider in writing of the amount of the reduction. The partial reduction does not apply to the warranty period. Sunset Date

This policy will be reviewed for continuance by 12-31-18.

Board Action

11-10-69 (63)
1-13-76 (15)
12-11-84 (8)
8-8-89 (33)
12-15-93 (5)
5-15-96 (11)
08-07-02 (5)
12-09-08 (33)
10-12-11 (12)
09/25/2012 (11)

CAO Reference

1. Department of Public Works
2. Department of Planning and Development Services
3. County Counsel