

## CHAPTER 13 - PERFORMANCE AGREEMENT

### SECTION:

#### 13.01: Purpose and Procedure

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Upon approval of a conditional use permit, variance, site and/or building plan the City may require the applicant to enter into a performance agreement prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said agreement shall guarantee conformance and compliance with the conditions of the approval and the codes of the City. The performance agreement shall include, without limitation, the following items and conditions:

- A. **Performance Security.** The applicant may be required to provide financial security to assure compliance with the agreement and conditions of the approval. The security shall be in the form of cash escrow or irrevocable letter of credit. Other security arrangements may be allowed at the sole discretion of the City. The security shall be in an amount determined by the Zoning Administrator or Building Official under the direction and approval of the City Council, to cover estimated costs of labor and materials for the proposed improvements or development. The proposed improvements or development may be implemented in stages with prior approval of the City Council.
- B. **Security Release.** The City may hold any required financial security until the proposed improvements or development are completed and a certificate of occupancy indicating compliance with the application approval and Building Code of the City has been issued by the City Building Official, or a certificate of completion has been issued by the City Engineer.
- C. **Security Forfeiture.** Failure of the applicant to comply with the conditions of the application approval and/or the ordinances of the City shall result in forfeiture of the security.
- D. **Hold Harmless and Indemnification of City.** The applicant shall agree to indemnify and hold harmless the City, its agents, employees, representatives and consultants against any and all claims, demands, losses, damages and expenses (including attorney's fees) arising out of, related to or resulting from the applicant's negligent or intentional acts, or any violation of any safety law, regulation or code in the implementation of the performance agreement, without regard to any inspection or review made or not made by the City, its agents, employees, representatives or consultants or failure to take any other prudent precaution.
- E. **Fees.** The applicant shall agree in writing to pay any and all reasonable attorney's fees, consultant fees and related costs incurred by the City to enforce the terms and conditions of any application approval or provisions of any performance agreement relating to said permits. The performance agreement shall also include additional standard conditions as approved from time to time by the City Council, as well as specific conditions related to the approval. This section is not a limitation on reasonable conditions to be included in any specific performance agreement.