

There are three pieces of legislation that regulate the type and form of financial security the City can accept in conjunction with Subdivision Improvement Agreements:

1. Section 66499 of the California Government Code
2. Section 13.28.030 of the La Quinta Municipal Code
3. City Council Resolution 96-27 (see pages 2 thru 7 of this document)

Pursuant to the foregoing legislation, the City accepts seven types of financial security, however, three of the authorized types require special circumstances and are rarely used; the most commonly used types of financial security are:

Surety bonds  
Letters of Credit  
Certificates of Deposit  
Cash deposit

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### **How much security is needed?**

Section 13.28.040 of the LQMC regulates the amount security that must be posted with a Subdivision Improvement Agreement.

The subdivider must provide:

- 1) **Performance security** in the amount of one hundred percent (**100%**) of the total estimated cost of the improvement or act to be performed.
- 2) **Labor and payment security** in the amount of one hundred percent (**100%**) of the total estimated cost of the improvement or act to be performed.

## RESOLUTION 96-27

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
LA QUINTA, CALIFORNIA ESTABLISHING ALLOWABLE  
FORMS OF SECURITY FOR SUBDIVISION IMPROVEMENTS  
AND REPEALING RESOLUTION NUMBER 95-78

WHEREAS, the City Council of the City of La Quinta did adopt Ordinance No. 272 revising Chapter 13 of the La Quinta Municipal Code relating to subdivision regulations; and,

WHEREAS, said Ordinance No. 272 requires that the La Quinta City Council specify, by resolution, the forms of and acceptance standards for subdivision improvement security; and

WHEREAS, it is expedient that the City establish evidence of the stability and reliability of financial institutions and sureties providing security for subdivision improvements; and

WHEREAS, the establishment of such evidence and the administration of certain forms of security require the expenditure of time, the acquisition of documentary evidence, and/or the consultation of legal advice or assistance, each of which result in significant cost to the City; and

WHEREAS, the costs of administration of the subdivision of property are rightly borne by the entity subdividing the property;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED by the City Council of the City of La Quinta, in regular session assembled on the 7th day of May, 1996, as follows:

SECTION 1: Improvement security for subdivisions within the City of La Quinta shall conform with Section 66499 of the California Government Code and the following:

- (A) A cash deposit with the City or a responsible escrow agent or trust company, at the City's option.
- (B) Surety bonds, of the form specified in Section 66499.2 of the California Government Code, issued by sureties listed in the U.S. Department of Treasury Circular 570 (latest version) listing of institutions authorized to issue bonds in the State of California and the bonding limitations of those institutions.

- (C) Certificates of deposit, in the City's name, from one or more financial institutions subject to regulation by the state or federal government and having a financial quality rating of "A" or better and a commitment reliability rating of "R-2" or better on the Investment Data Exchange (of the Los Angeles County Treasurer's office).
- (D) Irrevocable letters of credit, issued by one or more financial institutions meeting the requirements of Paragraph (C), pledging that the funds necessary to carry out the completion of the improvements are on deposit, guaranteed for payment, and constitute a trust fund which is not subject to levy or attachment by any creditor of the depositor until released by the City. Letters of credit shall guarantee that all or any portion of the funds available pursuant to the letters of credit will be paid upon the written demand of the City and that such written demand need not present documentation of any type as a condition of payment, including proof of loss. The duration of any such letter of credit shall be for a period of not less than one year from the execution of the agreement with which it is provided and shall state, on its face, that the letter of credit will be automatically renewed until such time that the City authorizes its expiration or until sixty (60) days after the City receives notice from the financial institution of intent to allow the expiration of the letter of credit.
- (E) A lien upon the subdivided property, if the City finds that it would not be in the public interest to require the installation of the improvements sooner than two (2) years after recordation of the final map or parcel map for which the improvements are required. The lien shall provide a collateral value of three (3) times the estimated cost of the improvements secured thereby and shall include the power of sale of the real property, all buildings and improvements thereon, or that may be erected upon or made thereto, together with all hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the reservations, remainders, rents, issues, and profits thereof. The collateral value of the property shall be established at the subdivider's expense through an appraisal approved by the City.
- (F) When any agency of the state, federal, or local government provides at least twenty percent (20%) of the financing for the improvements to be completed, security may be an instrument of credit from an agency of the state, federal or local government.

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- (G) When the subdivider is a non-profit organization, security may be negotiable bonds, of the kind approved for securing deposits of public moneys with the City or in favor of the City, as specified in Section 16430 of the California Government Code, deposited, at the City's option, with the City or a responsible escrow agent or trust company.

**SECTION 2:** The administrative fee shall be applicable to the subdivision (final map, parcel map or waiver of parcel map) rather than to individual security instruments. The fee shall be paid separately for each different form and/or source (surety or financial institution) of security initially submitted and for substitution of securities or substitution of real property serving as collateral for lien agreements, but shall not be required for submittal of warranty security if the warranty security is of the same form and from the same source as the performance security it replaces. The fees, to be paid at time of submittal of security, shall be as follows:

- (A) For certificates of deposit and letters of credit as described in Paragraphs (C) and (D) of SECTION 1, for which establishment of evidence of reliability of the financial institution requires the City's membership in the Investment Data Exchange, the subdivider shall pay an administrative fee of one hundred fifty dollars (\$150.00).
- (B) For liens on real property as described in Paragraph (E) of SECTION 1, for which the City will prepare lien agreements and subordination agreements, administer valuation of the real property and administer the agreements over the life of the lien, all of which require legal assistance and financial advice, the subdivider shall pay to the City an administration fee of one half of one percent (0.5%) of the estimated cost of the improvements secured but not less than five hundred dollars (\$500.00) nor more than five thousand dollars (\$5,000.00).

**SECTION 3:** Resolution Number 95-78 is hereby repealed.

**SECTION 4:** The City Clerk is hereby authorized and directed to record a certified copy of this Resolution in the office of the County Recorder of Riverside County, California.

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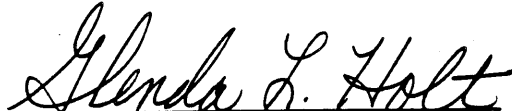
PASSED, APPROVED, AND ADOPTED at a regular meeting of the La Quinta City Council held on this 7th Day of May, 1996, by the following vote, to wit:

AYES: Council Members Adolph, Henderson, Perkins, Sniff, Mayor Holt

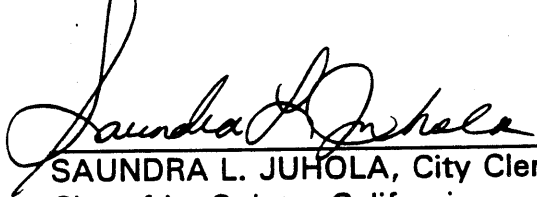
NOES: None

ABSENT: None

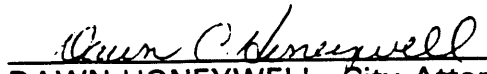
ABSTAIN: None

  
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GLENDA L. HOLT, Mayor  
City of La Quinta, California

ATTEST:

  
\_\_\_\_\_  
SAUNDRA L. JUHOLA, City Clerk  
City of La Quinta, California

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DAWN HONEYWELL, City Attorney  
City of La Quinta, California

PLEASE COMPLETE THIS INFORMATION

192731

Recording Requested By:

When Recorded Mail To:

*City of La Quinta  
78-495 Calle Jampico  
La Quinta, Ca 93353*

RECEIVED FOR RECORD  
AT 8:00 O'CLOCK

MAY 24 1996

Recorded in Official Records  
of Riverside County, California

Recorder *[Signature]*  
Fees \$ *[Signature]*

SPACE ABOVE THIS LINE FOR RECORDER'S USE

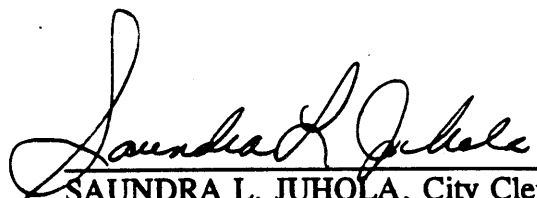
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**M**

*Resolution 96-27*

Title(s) of Document

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) ss.  
CITY OF LA QUINTA )

I, SAUNDRA L. JUHOLA, City Clerk of the City of La Quinta, California, do hereby certify the foregoing to be a full, true and correct copy of **RESOLUTION NO. 96-27** adopted by the La Quinta City Council in a regular meeting on May 7, 1996 and has not been repealed or amended.

  
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SAUNDRA L. JUHOLA, City Clerk  
City of La Quinta, California