

ADDITIONAL CONDITIONS OF ENCROACHMENT PERMIT

In addition to the following conditions, this permit is also subject to conditions included in the City of Thousand Oaks Municipal Code Section 7-2.

Applicant herein is defined as Owner/Developer/Permittee/Contractor and their agents.

TIME FOR COMMENCEMENT AND COMPLETION Time is of the essence for construction of the Improvements. Applicant shall commence the construction and installation of the Improvements within 30 days from the date of issuance of this permit, and shall diligently proceed to complete the construction of all of the Improvements including final punch list items within the time frame listed on the permit. Failure of Applicant to work on the Improvements for 30 consecutive days is a breach of this permit subject to the notice requirements in these conditions. Upon good cause shown, the City Engineer may waive a breach under this section. The City Engineer shall be the sole and final judge as to whether or not good cause has been shown. Any waiver by the City Engineer under this section shall not relieve the sureties' liability on the bond to secure the faithful performance under this permit, including providing site erosion control, clean-up, and security during any work stoppage.

The Applicant is hereby put on notice that the additional and revised fees may be charged, and new or updated improvement standards may be imposed, as a condition of any waiver granted by the City Engineer under this section.

GUARANTEE OF IMPROVEMENTS Applicant shall guarantee the Improvements constructed under this permit for a period of one year following acceptance by the City Engineer against any defective work or labor done, or defective materials furnished. A guarantee security in an amount of at least ten percent (10%) of the estimated cost of the Improvements shall be posted guaranteeing the replacement or repair of any defect in the Improvements; however, the amount of the guarantee security shall not limit the Applicant's obligations under this section.

In the event any Improvements are determined to be defective within the guarantee period, Applicant shall, without delay and without any cost to City, repair, replace or reconstruct any such defective work or material upon written notice by City. Should Applicant fail to act promptly or in accordance with this requirement, or should the exigencies of the case require repairs or replacements to be made before Applicant can be notified, City may, at its option, make the necessary repairs or replacements or perform the necessary work, and Applicant shall pay to City the actual cost of such repairs, plus an amount for overhead authorized by the City Municipal Code.

RECORD DRAWINGS Applicant shall keep accurate records on a set of project blue line prints of all additions and deletions to the work, and of all changes in location, elevation and character of the work, not otherwise shown or noted on the Improvement Plans. Prior to acceptance of the work, Applicant shall deliver to the City Engineer for approval and retention a set of record drawings or update existing record drawings showing the facilities actually installed. The drawings shall be on 4 mil thick Mylar and will become City property.

UTILITY ARRANGEMENTS Applicant shall file with the City Engineer, prior to commencement of any work to be performed pursuant to this permit, a written statement signed by Applicant and each public utility serving the property, confirming that Applicant has made all arrangements required and necessary to provide public utility service to the project. For purposes of this paragraph, the term “public utility” shall include, but is not necessarily limited to, a company providing natural gas, water, wastewater, electricity, telephone, or cable television service.

COSTS AND ATTORNEY FEES In the event that Applicant fails to perform any obligation hereunder, Applicant agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including cost of suit and reasonable attorneys’ fees.

BINDING ON SUCCESSORS IN INTEREST All provisions of this permit shall be binding on the parties and their executors, administrators, assigns and successors in interest.

APPLICANT NOT AGENT OF CITY Neither Applicant nor any of Applicant’s agents or contractors are or shall be considered to be agents of City in connection with the performance of Applicant’s obligations under this permit.

NOTICE OF BREACH AND DEFAULT If Applicant refuses or fails to complete the Improvements, or any severable part, in accordance with the requirements of this permit, or if the Applicant should be adjudged bankrupt, or Applicant should make a general assignment for the benefit of Applicant’s creditors, or if a receiver should be appointed in the event of Applicant’s insolvency, or if Applicant, or any of Applicant’s contractors, subcontractors, agents, or employees, should violate any of the provisions of this permit, City may serve written notice of breach and default upon Applicant and Applicant’s surety.

BREACH OF PERMIT: PERFORMANCE BY SURETY OR CITY In the event of any such notice of breach of this permit, Applicant’s surety shall have the duty to take over and complete the work and the improvements herein specified. This duty includes providing erosion control, clean-up, and security of the improvement site during any work stoppage. The surety shall, within five days of receipt of the Notice of Breach, advise the City of its intention to take over performance of the permit. If the surety does not commence performance of the permit within 20 days, the City may take over the work and pursue the same to completion, by contract or by any other method City may deem advisable, for the account and at the expense of Applicant, and Applicant’s surety shall be liable to City for any excess cost or damages occasioned City thereby; and, in such event, City, without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to Applicant as may be on the site of the work and necessary therefore. The rights of City provided in this section are in addition to and cumulative to any and all other rights of City as provided by law, and any election by City to proceed pursuant to the provisions of these conditions shall not be construed as being in lieu of any other such rights provided by law.