



PERFORMANCE ESCROW AGREEMENT

For _____ Subdivision

Account # _____

THIS AGREEMENT, entered into this _____ day of _____, 20____ between _____ (hereinafter called the "Subdivider"), with its principal place of business at _____ and the County of Paulding, a political subdivision of the State of Georgia, (hereinafter called "County"), and _____, (hereinafter called "Escrow Agent"), with its principal place of business at _____.

WITNESSETH:

WHEREAS, the Development Regulations of the Paulding County, as amended, require the deposit of a security for performance of construction and installation of improvements in amounts not less than 125% of the actual construction cost; and

WHEREAS, the Subdivider has received approval of the construction plans in accordance with the plans and specifications on file with the Paulding County Community Development Department for the improvements within _____ Subdivision; and

WHEREAS, the Subdivider certifies that any and all persons, firms, or corporations providing labor and/or materials required for construction of said improvements will be paid in full; and

WHEREAS, the Community Development Department has accepted a plat of the said Subdivision to be filed for record subject to the posting of the required performance security; and

WHEREAS, the parties have agreed that the Escrow Agent is acceptable to all parties to act in such capacity;

NOW, THEREFORE, in consideration of the foregoing premises, it is hereby agreed:

1. The Subdivider has deposited in escrow the sum of _____ dollars (\$ _____) with the Escrow Agent, to guarantee that the improvements, including but without limitation to the final layer of asphalt on streets, will be constructed as required by the Paulding County Development Regulations, construction plans, and specifications for said subdivision, said plans and specifications being specifically incorporated herein by reference thereto.
2. The Escrow Agent agrees to hold said funds and to pay out said funds only upon receipt of "Proper Authorization" as hereinafter defined. "Proper Authorization" shall mean authority in written form from the Paulding County Community Development Department Director stating that a disbursement is authorized:

- (a) To the Subdivider, or to any party designated in writing by the Subdivider, upon delivery of "Proper Authorization" from the Community Development Department Director authorizing such payment. The County, through the Community Development Department Director, shall issue such "Proper Authorization" when the construction has progressed satisfactorily to the state of development for which payment is made and upon receipt by the County of a certificate to that effect signed by the Subdivider and the Registered Engineer for the subdivision and upon proof satisfactory to the County that all bills therefore have been paid to date, including but not limited to bills for surveying, engineering, land clearing, construction of improvements, and materials which are included in the plan of development.
 - (b) To the County upon delivery of "Proper Authorization" from the Community Development Department Director, upon the Director's determination that any portion or all of the said improvements have not been constructed, maintained, or repaired by the Subdivider in compliance with County rules, regulations, and ordinances. The County is authorized, but not obligated, to take over and perform any such uncompleted construction and to use the escrow funds on deposit with the Escrow Agent for such purposes.
 - (c) To any person or corporation upon direction from the County, through the Community Development Department Director, that such funds be paid for any labor and/or materials used in constructing the improvements. The County will direct such payments if it determines that claims for labor and/or materials are just and unpaid. The Subdivider hereby consents to any such payments and authorizes and ratifies any such action on the part of the County and agrees to protect and save harmless the County from any claims of any persons whatsoever on account of any improvements which have not been completed or paid for.
3. A further condition of this Agreement is that the improvements to be made as shown on subdivision plans and specifications approved by the Community Development Department including surveying, engineering, and land clearing for _____
_____ Subdivision shall be completed within eighteen (18) months from the date of acceptance of this Agreement by the Community Development Department Director and all costs incurred in connection therewith shall be paid in full and in accordance therewith and with the documents and specifications referred to therein or attached thereto. Upon acceptance of the improvements by the County, this Agreement shall be null and void; otherwise, it shall remain in full force and effect. If the improvements are not completed within the specified 18-month period, the County is hereby authorized to (1) direct the escrow agent to hold the escrow funds for an additional period of up to twelve (12) months, or (2) the County may deliver Proper Authorization to the Escrow Agent to disburse the escrowed funds as specified in Item 2(b) or 2(c) above, or the County Ordinance, using the funds escrowed under this Agreement.
4. The Escrow Agreement shall not be terminated or otherwise allowed to expire without at least 30 days written notice to that effect from the Escrow Agent to both the County and Subdivider.
5. If the funds are inadequate to pay for any costs covered by this Agreement, the Subdivider shall pay any and all costs beyond coverage.
6. The Escrow Agent hereby acknowledges that it holds the funds referred to in Item 1 above and represents that it has no obligation whatsoever to any of the parties hereto except to release said

funds within 10 days upon delivery of "Proper Authorization" from the Community Development Department Director, and the Subdivider does hereby release and hold the Escrow Agent harmless from any and all claims whatsoever by it against the Escrow Agent for releasing such funds to the County in accordance with the terms thereof.

7. In the event that this escrow agreement should fail for any reason to cover the costs of performance, including any deficiency as to form or execution, then Subdivider knowingly and voluntarily agrees and consents that all real estate of the project held by Subdivider, its successors, transferees, or assigns, is subject to being charged for the costs of such performance and such costs shall be a lien upon such real estate for the benefit of Paulding County, Georgia. The lien shall be filed in the records of the Paulding County Superior Court Clerk. The lien shall be assessed coequal to and enforced in the same manner as liens for state and county ad valorem property taxes by issuance of a fi. fa. and levy and sale as set forth in Title 48 of the Official Code of Georgia. The lien shall have a duration of ten (10) years.

WITNESS the hands and official seals of the parties hereto on the day and year first above written.

PAULDING COUNTY, GEORGIA

By: _____
Community Development Director

(Corporate Seal)

SUBDIVIDER: _____

By: _____

Title: _____

(Corporate Seal)

ESCROW AGENT: _____

By: _____

Title: _____

Approved as to form:

By: _____
County Attorney



SECURITY INFORMATION SHEET

Project: _____

Land Lot(s): _____ District(s): _____ Section(s): _____

Type of Security: Maintenance: _____ Performance: _____

Bond: _____ LOC: _____ Escrow: _____

Amount of Security: _____

Starting Date: _____

Security Holder: _____

Contact Person: _____

Phone Number: _____

Project Owner: _____

Contact Person: _____

Phone Number: _____

Note: If performance security, explain below what part of the construction is being secured: