

FORM 8-S

IMPROVEMENT AGREEMENT

Note: Final form shall be approved by Board Attorney

THIS AGREEMENT made and entered into this _____ day of _____, 20____, between _____, a _____ corporation, hereafter referred to as "DEVELOPER", the Board of County Commissioners of Highlands County, Florida, hereafter referred to as "BOARD", and _____ hereafter referred to as "BANK".

WITNESSETH

WHEREAS DEVELOPER has made application to the Board of County Commissioners of Highlands County, Florida hereafter referred to as "BOARD", for the approval of _____ in Highlands County, Florida, described as: (a subdivision plat / an improvement plan for an existing platted subdivision)

_____ according to the plat thereof recorded in Plat Book _____, Pages _____ of the Public Records of Highlands County, Florida, and

WHEREAS it is mutually agreed and understood by the parties to this Agreement that this Agreement is entered into at the direction of the BOARD for the purpose of (1) protecting purchasers of the above described lands, and (2) protecting the County of Highlands in the event DEVELOPER fails to complete the construction of required subdivision improvements, and (3) inducing BOARD to approve the plat of the above described subdivided lands for recordation in the Public Records, and

WHEREAS DEVELOPER has represented to BOARD that it intends to improve said subdivided land by construction of all subdivision improvements, according to the specifications and timetable provided in Attachment A, required by the Land Development Code of Highlands County, Florida, in effect at the time said plat was recorded, and

WHEREAS the estimated cost of these improvements is _____ Dollars (\$_____) as provided by the DEVELOPER's engineer in Attachment B, and

WHEREAS BOARD has established a requirement that DEVELOPER secure its obligation to complete required subdivision improvements with escrow funds equal to one hundred and ten percent (110%) of the estimated cost of those improvements, that amount being _____ Dollars (\$ _____), and

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WHEREAS the construction of improvements on said lands has not progressed to completion and the completion is not assured by reasonable bond, or a similar undertaking, posted with public authority, or by reason of the establishment of an adequate reserve in an escrow account, and

WHEREAS it is the purpose of DEVELOPER in and by this instrument to arrange and agree with BANK for the establishment of an escrow account in accordance with and pursuant to the laws of the State of Florida, and rules, regulations and resolutions of the BOARD in order to secure its obligation to complete the required subdivision improvements, and

WHEREAS BANK has consented to act as Escrow Agent, and

WHEREAS the failure of DEVELOPER to comply with the terms and conditions of this Agreement may cause BOARD to take whatever action may be deemed appropriate to assure the fulfillment of the Agreement including use of the escrow funds towards completion of the required subdivision improvements;

NOW THEREFORE, the parties, for the purposes expressed herein, promise, agree, and covenant as follows:

1. DEVELOPER has paid to BANK, the total sum of _____ Dollars (\$_____) in the form of _____, and irrevocably assigns the escrow funds to BOARD to secure its obligations under this Agreement.
2. DEVELOPER shall have the immediate right to withdraw all of said funds on evidencing to BOARD (a) that said improvements have been completed to the satisfaction of the County Engineer, (b) that the construction thereof has been paid in full, and (c) that DEVELOPER has made a Maintenance Agreement acceptable to BOARD for improvements on the platted lands with a bond or other security acceptable to BOARD in an amount equal to twenty percent (20%) of the cost of those subdivision improvements. Written consent and instructions from BOARD, delivered to BANK, approving and authorizing DEVELOPER to withdraw funds shall be conclusive evidence and proof to BANK, of DEVELOPER's right to withdraw funds so approved and authorized and shall absolve BANK from any liability for release of said funds.
3. The required subdivision improvements shall be completed by DEVELOPER to the satisfaction of the County Engineer within _____ (____) months from the date of recording of the plat of the subdivided lands, unless additional time for completion is granted to DEVELOPER by the County Engineer. The maximum period of this Agreement is sixteen (16) months, however the construction period is limited to twelve (12) months.

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4. All required subdivision improvements shall be constructed in accordance with the Highlands County Code, in effect at the date of recording of the plat of the subdivided lands. All required subdivision improvements shall be certified to as being constructed to Highlands County requirements by a registered engineer, and they shall be approved by the County Engineer.
5. BANK shall have the authority to invest, or reinvest all or part of the escrow funds as DEVELOPER may from time to time direct in accordance with the following:
 - (a) BANK shall invest only as authorized by Chapter 518 Florida Statutes as now or hereafter amended.
 - (b) All interest or income earned on such investments of the escrow funds shall be added to and remain a part of the escrow account.
6. BOARD shall not be responsible for any decision relating to the investment or reinvestment by DEVELOPER of the escrow funds represented by _____ and will sign documents, as needed by DEVELOPER, to be invested in any FDIC insured bank selected by DEVELOPER subject to the terms of assignment herein.
7. In the event of DEVELOPER's failure to complete the required subdivision improvements to the satisfaction of the County within the period set forth above, the BOARD shall have the right to arrange for satisfactory completion of those improvements by its employees or another contractor and to require BANK to disburse funds required to pay all costs required to complete those improvements to the satisfaction of the County Engineer.
8. Nothing contained in this Agreement shall impose upon BANK any obligation to see to the proper application of any disbursements made under this Agreement.
9. Any controversy arising under this Agreement shall be resolved in accordance with the laws of the State of Florida, keeping in mind that these deposits are given for the protection and benefit of purchasers or prospective purchasers of land in the above described subdivision.
10. Should BANK find itself in doubt of its rights, duties or obligations under this Agreement, then and in that event it may, in its sole discretion, begin a Declaratory Decree in the Circuit Court of Highlands County for the determination of said rights, duties and obligations.

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11. DEVELOPER agrees that it will not directly or indirectly give publicity to or advertise the existence of this Agreement, other than to official agencies in the State of Florida, or any other State or Country.
12. DEVELOPER agrees to pay BANK such reasonable compensation which shall from time to time be agreed upon in writing by DEVELOPER and BANK. In addition BANK shall be reimbursed for any expense, including reasonable attorney's fees incurred by it in this Agreement. Such compensation and expenses shall not constitute a charge upon the amounts held by BANK hereunder.
13. BANK will receive, keep and account for all sums of money in an account separate from any other monies of DEVELOPER. BANK will furnish BOARD with an accounting of the escrow account at such times as may be requested by BOARD.
14. BANK will disburse its funds only as provided herein.
15. BANK shall have the right to resign at any time upon giving thirty (30) days notice to DEVELOPER and BOARD, and DEVELOPER shall, within such period of time, appoint a successor Escrow Agent which shall be acceptable to BOARD to succeed BANK. If within thirty (30) days after notice of resignation has been given by BANK, a successor to BANK has not been appointed, the BANK shall notify BOARD who shall apply to any Court of competent jurisdiction for appointment of successor.
16. Liability of BANK, or its successor, is expressly limited and so long as BANK, or its successor, account and disburse in good faith and in compliance with this Agreement all monies received by it, it shall not be liable for errors of judgment, and DEVELOPER agrees to indemnify and hold BANK, and its successor, harmless for all claims, demands, attorney fees, court costs, and losses it may incur as Escrow Agent. BANK shall be accountable only for the monies actually received by it.
17. Notices under this Improvement Agreement shall be provided to the following:

Name of Developer

Address of Developer

Name of Bank

Address of Bank

Highlands County Engineer

Address

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IN WITNESS WHEREOF the parties have hereunto set their hands and seals and executed this Agreement on the day and year first above mentioned.

Developer
By: _____, President
Attest: _____, Secretary

Bank
By: _____
Attest: _____

Attest: _____
Clerk of the BOARD
By: _____
Board of County Commissioners
Chairman

STATE OF FLORIDA)
) SS
COUNTY OF HIGHLANDS)

I hereby certify that before me personally appear _____ and _____ to me well known to be the President and Secretary respectively of _____, a _____ corporation, who executed the foregoing instrument and who acknowledge that they executed the same freely and voluntarily.

Sworn to and subscribed before me this _____ day of _____, 20____.

(SEAL)

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR
Produced Identification _____ Type of Identification Produced _____

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STATE OF FLORIDA)
) SS
COUNTY OF HIGHLANDS)

I hereby certify that before me personally appeared _____ to me well known to be Officer of _____, BANK who executed the foregoing instrument and who acknowledges that he/she executed the same freely and voluntarily.

Sworn to and subscribed before me this ____ day of _____, 20____.

(SEAL)

(Signature of Notary Public - State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known ____ OR
Produced Identification ____ Type of Identification Produced _____