

FORM 8-T

MAINTENANCE 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", and _____, hereafter referred to as "BANK", and the Board of County Commissioners of Highlands County, Florida, hereafter referred to as "BOARD".

WITNESSETH

WHEREAS DEVELOPER has completed construction of the required subdivision improvements according to the Improvement Agreement for the subdivision plat in Highlands County, Florida, described as:

_____ 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 the 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 maintain the required subdivision improvements, and (3) inducing BOARD to approve the release of the Improvement Agreement and security, and (4) inducing BOARD to approve the acceptance of improvements for perpetual county maintenance upon satisfactory completion of the maintenance period, and

WHEREAS DEVELOPER has completed construction of the required subdivision improvements shown on the plat to those specifications required by BOARD and those improvements have been certified by DEVELOPER's engineer (including "As Built" construction plans) and accepted by the County Engineer, and

WHEREAS as a condition precedent to said plat approval, BOARD requires assurance that the subdivision improvements will be maintained by DEVELOPER for a continuous period beginning with the date of said approval and continuing for the greater of either twelve (12) months or until ten percent (10%) of the lots fronting on each road within the subdivision contain building structures, and

WHEREAS DEVELOPER's engineer has certified the cost of the subdivision improvements to be _____ Dollars (\$_____), and

FORM 8-T

WHEREAS BOARD has established a requirement that DEVELOPER secure its maintenance obligation with funds equal to twenty percent (20%) of the cost of those subdivision improvements, that amount being _____ Dollars (\$_____), for a minimum period of sixteen (16) months, 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 Florida, and rules, regulations and resolutions of the BOARD in order to secure this maintenance obligation, and

WHEREAS DEVELOPER shall continuously maintain all subdivision improvements at its expense during the period when this Agreement is in force and effect, and at any time during the maintenance period BOARD may notify DEVELOPER and BANK of needed maintenance, and within thirty (30) days from receipt of such notice, DEVELOPER shall perform the required maintenance or BOARD may thereupon withdraw all or part of the funds deposited to be used at its direction for the performance of such maintenance, and

WHEREAS at such time at or after twelve (12) months from the date of this Agreement, when ten percent (10%) of the lots fronting on each road within the subdivision contain building structures, DEVELOPER or its project engineer may request that BOARD accept the subdivision improvements for county maintenance according to the rules, regulations, and policies of BOARD then in effect, and

WHEREAS DEVELOPER shall have the obligation to repair and reconstruct the subdivision improvements to County specifications until those improvements have been accepted by BOARD for county maintenance, and

WHEREAS upon BOARD's acceptance of the subdivision improvements for county maintenance, DEVELOPER's obligation to maintain those improvements shall cease, and

WHEREAS BANK has consented to act as Escrow Agent;

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.

FORM 8-T

2. BANK has made the assignment of the escrow funds to BOARD and will pay to BOARD, upon its written demand, those amounts specified by BOARD to the full extent of the escrow funds.
3. If DEVELOPER maintains all subdivision improvements to the satisfaction of BOARD, the escrow funds will be released to DEVELOPER when BOARD accepts the subdivision improvements for county maintenance. 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.
4. 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.
5. Nothing herein, except BOARD's acceptance of the subdivision improvements for county maintenance, shall relieve DEVELOPER of its obligation to maintain those improvements, and DEVELOPER shall be responsible for and shall complete to county specifications all maintenance, repairs, and reconstruction until its request for acceptance of improvements for county maintenance is approved by BOARD.
6. 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.
7. 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.
8. 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.

FORM 8-T

- 9. 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.
- 10. BANK will disburse its funds only as provided herein.
- 11. 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.
- 12. BOARD shall not be responsible for any decision relating to the investment or reinvestment by DEVELOPER of the escrow funds represented by the _____ 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.
- 13. Nothing contained in this Agreement shall impose upon BANK any obligation to see to the proper application of any disbursements made under this Agreement.
- 14. 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.
- 15. 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 judgement, and DEVELOPER agrees to indemnify and hold BANK, and its successor, harmless from all claims, demands, attorney fees, court costs, and losses it may incur as Escrow Agent.
- 16. Notices under this agreement shall be provided to the following:

Name of Developer

Address of Developer

Name of Bank

Address of Bank

Highlands County Engineer

Address

FORM 8-T

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 appeared _____ 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 _____

FORM 8-T

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 _____