

ESCROW AGREEMENT
(Example Form)

THIS AGREEMENT entered into by and among Pender County acting through the Pender County Planning Director, hereinafter referred to as "County", \_\_\_\_\_, the developer of \_\_\_\_\_, hereinafter referred to as "Developer", and \_\_\_\_\_, hereinafter referred to as "Escrow Agent." (The designation County, Developer and Escrow Agent, as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine, or neuter as required by context);

WITNESSETH:

WHEREAS, \_\_\_\_\_, the developer has applied for approval of a subdivision development in Pender County known as \_\_\_\_\_ under Pender County's Unified Development Ordinance, herein referred to as " Ordinance"; and

WHEREAS, the approved plat proposes improvements which have not been completed; and

WHEREAS, pursuant to the Ordinance, developers are required to provide performance guarantees that proposed improvements will be completed in accordance with the Ordinance and with plans submitted for the subdivision development; and

WHEREAS, the Developer wishes to tender cash deposits to comply with the Performance Guarantee Agreement.

Now, Therefore, the Developer tenders with this agreement the sum of (\$ \_\_\_\_\_) dollars to the Escrow Agent to assure compliance with the Performance Guarantee Agreement for the construction of the improvements listed in the Performance Guarantee for subdivision. The Escrow Agent will deposit those funds in an account and by their execution of this agreement, the parties hereto agree that such funds will only be disbursed upon the authorized signature the County, through the County Planning Director in accordance with the following escrow instructions:

- 1. The funds may be deposited in a federally insured institution at interest payable to the Developer.
2. Funds will be disbursed after improvements secured by the Performance Guarantee Agreement are completed.
3. Upon completion of the prescribed improvements, the Developer will submit a written request for disbursement to the County through the Planning Director, together with a certification satisfactory to the County from an engineer or other qualified person that the prescribed improvements have been completed in accordance with the Ordinance and approved plans.
4. Upon receipt of the request for disbursement the County Planning Director will determine if the prescribed improvements have been completed as required and proposed, and shall either inform the Developer of any deficiencies in order that they may be corrected, or authorize disbursement in the event they have been satisfactorily completed as prescribed.
5. Upon submission, execution and approval of the request for disbursement by the Developer and the County through the Planning Director, it shall be forwarded to the Escrow Agent who shall make disbursements in accordance with the approved request.
6. Upon completion of improvements and receipt of an approved Final Request and Authorization for release of escrow funds, the Escrow may be terminated.
7. In the event that Developer and/or his contractor does not complete the improvements provided for herein by the \_\_\_ day of \_\_\_ 20 \_\_\_, then County may, at its sole option give the Developer 30 days notice of its intent to declare the Agreement in default. If the Developer does not complete the improvements provided for herein within the 30 day period, or reach other satisfactory arrangements with the County, then the County may in its sole discretion declare this Agreement to be in default and may demand that the Escrow Agent forthwith pay all sums held by him and not previously released for \_\_\_\_\_ subdivision to the County. The County agrees that it will use such sums so

received to apply toward the completion of the improvements to the extent that said sums last, and will refund to Developer any surplus not needed to complete said improvements. Provided, that the County does not agree to complete the improvements using any of its own funds, nor does it obligate to ensure the completion of the improvements beyond the sums made available under this Agreement to pay for same.

**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers by authority of its Board of Directors, the day and year first above written.

**FOR: PENDER COUNTY**

\_\_\_\_\_  
Planning Director

\_\_\_\_\_  
Date

**FOR: SUBDIVIDER**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**FOR: ESCROW AGENT**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Notary Public

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged that he is President of \_\_\_\_\_, a non profit corporation of the State of North Carolina and that authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by him as its President. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Notary Public

**STATE OF NORTH CAROLINA, COUNTY OF PENDER**

I, \_\_\_\_\_, a Notary Public, certify that \_\_\_\_\_, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Notary Public