

# SUBDIVIDER'S AGREEMENT FOR CONSTRUCTION AND WARRANTY OF REQUIRED OFF-SITE IMPROVEMENTS

This Agreement made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between \_\_\_\_\_, hereinafter referred to as the "Subdivider" and Hillsborough County, a political subdivision of the State of Florida, hereinafter referred to as the "County."

Witnesseth

**WHEREAS**, the Board of County Commissioners of Hillsborough County has established a Land Development Code, hereinafter referred to as "LDC", pursuant to the authority contained in Chapters 125, 163 and 177, Florida Statutes; and

**WHEREAS**, the LDC affects the subdivision of land within the unincorporated areas of Hillsborough County; and

**WHEREAS**, pursuant to the LDC, the Subdivider has submitted to the Board of County Commissioners of Hillsborough County, Florida, for approval and recordation, a plat of a subdivision known as \_\_\_\_\_ (hereafter, the "Subdivision"); and

**WHEREAS**, a final plat of a subdivision within the unincorporated areas of Hillsborough County shall not be approved and recorded until the Subdivider has guaranteed to the satisfaction of the County that the required off-site improvements will be installed; and

**WHEREAS**, the off-site improvements required by the LDC in the subdivision are to be installed after recordation of said plat under guarantees posted with the County; and

**WHEREAS**, the Subdivider has or will file with the Hillsborough County Development Services Department drawings, plans, specifications and other information relating to the construction of off-site roads, streets, grading, sidewalks, stormwater drainage systems, water, wastewater and reclaimed water systems and easements and rights-of-way, in accordance with the specifications found in the aforementioned LDC and required by the County; and

**WHEREAS**, the Subdivider agrees to build and construct the aforementioned off-site improvements; and

**WHEREAS**, pursuant to the LDC, the Subdivider will request the County to accept, upon completion, the off-site improvements for maintenance as listed below and identified as applicable to this project:

- |                                |                                    |                             |
|--------------------------------|------------------------------------|-----------------------------|
| Roads/Streets                  | Water Mains/Services               | Stormwater Drainage Systems |
| Sanitary Gravity Sewer Systems | Sanitary Sewer Distribution System | Bridges                     |
| Reclaimed Water Mains/Services | Sidewalks                          |                             |

Other: \_\_\_\_\_; and

**WHEREAS**, the County required the Subdivider to warranty the aforementioned off-site improvements against any defects in workmanship and materials and agrees to correct any such defects which arise during the warranty period; and

**WHEREAS**, the County required the Subdivider to submit to the County an instrument guaranteeing the performance of said warranty and obligation to repair.

**NOW, THEREFORE**, in consideration of the intent and desire of the Subdivider as set forth herein, to gain approval of the County to record said plat, and to gain acceptance for maintenance by the County of the aforementioned off-site improvements, the Subdivider and the County agree as follows:

1. The terms, conditions and regulations contained in the LDC, are hereby incorporated by reference and made a part of this Agreement.

2. The Subdivider agrees to well and truly build, construct and install all off-site improvements required in connection with development of the Subdivision within \_\_\_\_\_ (\_\_\_\_\_) months from and after the date that the Board of County Commissioners approves the final plat and accepts the performance bond rendered pursuant to paragraph 4 below, to be built and constructed in exact accordance with the drawings, plans, specifications and other data and information filed with the Hillsborough County Development Services Department by the Subdivider.
3. The Subdivider agrees to warranty all off-site improvement facilities required for the construction of the Subdivision against failure, deterioration or damage resulting from defects in workmanship and materials, for a period of two (2) years following the date of acceptance of said improvements for maintenance by the County. The Subdivider further agrees to correct within the above described warranty period any such failure, deterioration, or damage existing in the improvements so that said improvements thereafter comply with the technical specifications contained in the LDC established by the County.
4. The Subdivider agrees to, and in accordance with the requirements of the LDC, does hereby deliver to the County, an instrument ensuring the performance and a separate instruments providing a warranty of the obligations described in paragraph 2 and 3 above, specifically identified as:
  - a. Letter of Credit, number \_\_\_\_\_, dated \_\_\_\_\_  
 \_\_\_\_\_, with \_\_\_\_\_  
 \_\_\_\_\_ by order of \_\_\_\_\_  
 \_\_\_\_\_, or
  - b. A Performance Bond, number \_\_\_\_\_ dated, \_\_\_\_\_  
 \_\_\_\_\_ with \_\_\_\_\_  
 \_\_\_\_\_ as Principal, and \_\_\_\_\_  
 \_\_\_\_\_ as Surety, or  
 A Warranty Bond, number \_\_\_\_\_ dated, \_\_\_\_\_  
 \_\_\_\_\_ with \_\_\_\_\_  
 \_\_\_\_\_ as Principal, and \_\_\_\_\_  
 \_\_\_\_\_ as Surety, or
  - c. Cashier/Certified Check, number \_\_\_\_\_, dated \_\_\_\_\_  
 \_\_\_\_\_ which shall be deposited by the County into a non-interest bearing escrow account upon receipt. No interest shall be paid to the Subdivider on funds received by the County pursuant to this Agreement.

Copies of said letter of credit, performance and warranty bonds, escrow agreements, or cashier/certified checks are attached hereto and by reference made a part hereof.

5. Once construction is completed, the Subdivider shall submit a written certification, signed and sealed by the Engineer-of-Record, stating that the off-site improvements are constructed in accordance with:
  - a. The plans, drawings, and specifications submitted to and approved by the County's Development Services Department; and
  - b. All applicable County regulations relating to the construction of improvement facilities.

An authorized representative of the County's Development Services Department will review the Engineer's Certification and determine if any discrepancies exists between the constructed improvements and said certifications.

6. Should the Subdivider seek and the County grant, pursuant to the terms contained in the LDC, an extension of time period established for construction of those improvements described in paragraph 2, the Subdivider shall provide the County with an instrument ensuring the completion

- of said improvements within the extended period. The instrument shall be in the form of a letter of credit, performance bond, escrow agreement, or cashier/certified check, as required by the LDC.
7. In the event the Subdivider shall fail or neglect to fulfill its obligations under this Agreement as set forth in paragraph 2 and as required by the LDC, the Subdivider shall be liable to pay for the cost of reconstruction and installation of the improvements to the final total cost including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequential, which the County may sustain as a result of the failure of the Subdivider to carry out and execute all of the provisions of this Agreement and the provisions of the LDC.
  8. In the event the Subdivider shall fail or neglect to fulfill its obligations under this Agreement as set forth in paragraph 3 and as required by the LDC, the Subdivider shall be liable to pay for the cost of reconstruction of defective improvements to the final total cost, including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequential, which the County may sustain as a result of the Subdivider's failure or neglect to perform.
  9. The County agrees, pursuant to the terms contained in the LDC, to record the plat of the Subdivision at such time as the plat complies with the provisions of the LDC and has been approved in the manner prescribed therein.
  10. The County agrees, pursuant to the terms contained in the LDC, to accept the improvement facilities for maintenance upon proper completion, approval by the County's Development Services Department, and the submittal and approval of all documentation required by this Agreement and the LDC.
  11. The County agrees, pursuant to the terms contained in the LDC, to issue a letter of compliance to allow the release of certificates of occupancy upon receipt of all of the following:
    - a. The Engineer-of-Record's Certification referred to in paragraph 5 above; and
    - b. Acknowledgement by the Development Services Department that all necessary inspections have been completed and are satisfactory, and that no discrepancies exist between the constructed improvements and the Engineer's Certification; and
    - c. Provided that all applicable provisions of the LDC have been met.
  12. In the event that the improvement facilities are completed prior to the end of the construction period described in paragraph 2, the Subdivider may request that the County accept the improvements for maintenance at the time of completion. In addition to the submittal, inspections, and approvals otherwise required by this Agreement and the LDC, the Subdivider shall accompany its request for acceptance with a new or amended warranty instrument, in a form prescribed by the LDC, guaranteeing the obligations set forth in paragraph 3 for a period of two (2) years from the date of the final inspection approval. Provided that said warranty instrument is approved as to form and legal sufficiency by the County Attorney's Office, the County's Development Services Department may accept the new or amended warranty instrument on behalf of the County, and release the original warranty instrument received pursuant to this Agreement, where appropriate. All portions of this Agreement pertaining to the warranty shall apply to any new or amended warranty instrument accepted pursuant to this paragraph.
  13. If any article, section, clause or provision of this Agreement may be deemed or held invalid by any court of competent jurisdiction for any reason or cause, the same shall not affect or invalidate the remaining portions of this Agreement, which shall remain in full force and effect.
  14. This document contains the entire agreement of these parties. It shall not be modified or altered except in writing signed by the parties.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement, effective as of the date set forth above.

ATTEST:

Subdivider:

\_\_\_\_\_  
Witness Signature

By \_\_\_\_\_  
Authorized Corporate Officer or Individual  
(Sign before Notary Public and 2 Witnesses)

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Name (typed, printed or stamped)

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name of Witness

\_\_\_\_\_  
Address of Signer

\_\_\_\_\_  
Phone Number of Signer

NOTARY PUBLIC

CORPORATE SEAL  
(When Appropriate)

ATTEST:

CINDY STUART  
Clerk of the Circuit Court

BOARD OF COUNTY COMMISSIONERS  
HILLSBOROUGH COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Chair

**Representative Acknowledgement**

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ as  
(day) (month) (year) (name of person acknowledging)  
\_\_\_\_\_ for \_\_\_\_\_.  
(type of authority,...e.g. officer, trustee, attorney in fact) (name of party on behalf of whom instrument was executed)

Personally Known OR  Produced Identification

\_\_\_\_\_  
Type of Identification Produced

(Notary Seal)

\_\_\_\_\_  
(Signature of Notary Public - State of Florida)

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

\_\_\_\_\_  
(Commission Number) (Expiration Date)

**Individual Acknowledgement**

STATE OF FLORIDA  
COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_.  
(day) (month) (year) (name of person acknowledging)

Personally Known OR  Produced Identification

\_\_\_\_\_  
Type of Identification Produced

(Notary Seal)

\_\_\_\_\_  
(Signature of Notary Public - State of Florida)

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

\_\_\_\_\_  
(Commission Number) (Expiration Date)