



## Technical Requirements for Plat Approval

### A. Purpose and Scope

The purpose of this document is to set forth the technical requirements and explain the procedures applicable to submitting and obtaining approval for a subdivision plat. The standards contained in this document are for preparing a legible plat in accordance with the City of Cape Coral Land Development Code, South Florida Water Management District criteria, Florida Statutes Chapter 177, Part I and Florida Administrative Code 5J-17.

### B. Sheet Layout

1. Size. All plats must be drawn on 24" x 36" sheets for recording purposes. However, plats may be provided on 11" x 17" sheets for purposes of review.
2. Margins. All sheets must be drawn with at least a 3" left hand margin and ½" margin on the remaining three sides.
3. Font. Lettering must be at least 0.10" in height, unless otherwise stated. The type must be clear and legible. Letters, numbers and symbols must be properly spaced to avoid touching each other or "bleeding" together.
4. Line Size. Bearings, distances and lines depicting the plat boundary as legally described must be distinctively different than the balance of the line sizes used on the plat map (i.e. darker or heavier line size).
5. North Arrow. The north arrow must be depicted on each page and consistently point to either the top of the page or the left side of the page.
6. Key Map. Plats with more than one sheet of lot layouts must provide a key map depicting the boundary of the platted lands, major blocks of lots, tracts, roadways, street names, match-lines and sheet limits. The key map must fit on one sheet and be prepared at a scale appropriate to show adequate detail.
7. Scale. The scale used to draw the plat must be consistent, so that placing each page of the plat together using the match-lines will result in a complete map at the noted scale.
8. Page numbering. A space must be provided in the upper right hand corner of each page for the public records instrument number. Each sheet must also be consecutively numbered (i.e. sheet 1 of 2, sheet 2 of 2).

### C. Title Block [177.051, 177.091 (5), (10)]

1. Name. The subdivision name must be submitted for review and approval by the Department of Community Development prior to preliminary plat review.
2. Font size and type.
  - a. Subdivision Name: bold type, at least 0.5" high
  - b. Section, Township, Range: bold type, at least 0.3" high
  - c. County and State: at least 0.25" high
  - d. Re-plat recording references: at least 0.25" high
3. Subdivision references. Each time the subdivision name is referenced on the face of the plat, all of the information with respect to re-platting and location (i.e. S, T, R) must follow the subdivision name.

### D. Legal Description

1. The boundary dimensions called in the legal description must agree with the bearings and distances depicted on the plat.

2. If the property was previously platted, the legal description must identify the previous plat information, unless the previous plat was vacated in its entirety.
3. The legal description attached to the title opinion or certification must be wholly consistent with the legal description appearing on the face of the plat.

#### **E. Additional Mapping Requirements**

1. Location Map. A location or vicinity sketch must be included on the first sheet of the plat to show the subdivision location relative to one or more arterial or collector roads. Section and township lines must also be shown.
2. Dimension tables. Any dimensioning placed in tabular form must be placed on the same sheet as the layout information for the lots, streets or other boundary lines being dimensioned.
3. Bearings. Bearing references must be actual references, not assumed.
4. Distances. Distances on a record plat may be expressed by either a note defining that all distances are in feet or using foot marks (') at the end of each distance.
5. Plat Boundary Calls. Where a plat dimension call will fit on the course to be dimensioned, the call must be placed on the course and not in a table. To the extent possible, all outbound dimension calls must be placed on the outbound side of the course.
6. Bulkhead or Mean High Water Lines. Bulkhead or Mean High Water Lines must be shown on the plat.
7. Lots. Lots or tracts created via the plat must comply with all applicable City of Cape Coral Land Development Code.
8. Abutting Lands. Abutting subdivisions must be identified by name and Plat Book/Page or instrument number reference. Likewise, if the land is not platted, it must be identified by the reference "un-platted".

#### **F. Dedication**

1. The dedication must identify the specific purpose of each easement created by the plat and the person or entity with the right to use the easement.
2. All elements of the infrastructure created by the plat (i.e. surface water management, open space lakes, landscaping, conservation easements, recreational areas, streets, common areas, PUEs, etc.) must be dedicated to an appropriate entity with the power and authority to maintain the improvements. The property owner is not an appropriate entity for purposes of maintenance responsibility.
3. Reservation of rights to the property owner creating the plat is permitted, subject to compliance with section F-2 (above).
4. The dedication must be executed with deed formality. For example, two witnesses to the owners signature and notarization of the owners signature.
5. Easements or rights dedicated to The City of Cape Coral or the public are deemed accepted upon execution and recording of the plat. However, the City of Cape Coral is not responsible for maintenance of the dedicated easements without separate formal action by the City Council affirmatively accepting this obligation.

#### **G. Infrastructure Maintenance/Property Owner Association Documents**

1. Infrastructure to be maintained. The entity responsible for maintaining the infrastructure improvements must be designated in the plat dedication and legally existing prior to final plat approval. The improvements that must be maintained include, but are not limited to: drainage easements, roads, landscaping, utility easements, open space, lighting, common areas, recreational areas, golf courses, conservation easements, preservation easements and lakes.

## 2. Maintenance Entities.

- a. *Property Owners Association* (master or neighborhood). A property owners association shall be established in accordance with Florida Statutes to provide for the continued maintenance of the infrastructure supporting the subdivision.
- b. *Property Owner*. The property owner is not an acceptable maintenance entity for purposes of final plat approval. However, the owner may reserve rights necessary to continue development of the project, as long as a maintenance entity is also established and is provided the necessary dedicated interest.

## 3. Property Owner Association Documents.

- a. All subdivisions must establish a property owners association in accordance with Florida Statutes. The property owner documents must be reviewed and approved by the Development Services Division in conjunction with the plat review and approval. These documents must include, at a minimum, provisions addressing the items outlined in the City's document review checklist.
- b. A complete set of property owner association documents consists of: (a) the articles of incorporation; (b) the bylaws; (c) a Declaration; and (d) the completed checklist. The checklist must correspond to and accompany the documents submitted in order to be processed for review by the Development Services Division.
- c. Once approved, the documents must be recorded in the public records. Proof as to recording must be provided to the City prior to final execution of the plat by the City. Appropriate proof of recording includes a reference to the OR Book and Page or instrument number of the recorded documents; or, including the fully executed documents for recording in conjunction with recording of the plat.

## H. **Title Certification and Boundary Survey**

### 1. Title Certification.

- a. *Information to be included.* A document must be submitted to establish the following information concerning the title of the property subject to platting.
  - (1) The owner or owners of the fee title.
  - (2) All persons or entities holding a mortgage secured by the property.
  - (3) All easements affecting the property to be platted whether recorded or unrecorded. A general reference to easements, restrictions, etc., found within agreements is not sufficient. Easements located within recorded agreements must be specifically identified in the Title Certificate or Title Opinion.
  - (4) If an easement affecting the property to be platted affects an entire parcel, tract or portion of the plat and the easement cannot be platted, the easement must be identified as unable to be platted; otherwise, the specific location of the easement must be identified on the plat.
  - (5) Legal description of the property covered by the Title Opinion. This description must match, exactly, the legal description on the face of the plat.
- b. *Types of acceptable documents.* One of the following types of documents will meet this title certification requirement.
  - (1) *Opinion of Title.* An Opinion of Title is a document, meeting the Florida Title Standards that is prepared by a licensed Florida attorney. The opinion of title may not include broad exceptions such as, subject to rights, restrictions, reservations and easements of record. The opinion must be unequivocal. It shall be addressed to the City of Cape Coral.
  - (2) *Certification of Title or Title Certification.* This is a document prepared by an abstractor or title company that specifically certifies the information it contains. The Certificate of Title

may not include broad exceptions such as, subject to rights, restrictions, reservations and easements of record. The opinion must be unequivocal and shall be addressed to the City of Cape Coral.

- c. *Title Binder or Title Insurance Policy.* The City will **not** accept a Title Binder or Title Insurance Policy to meet the Title Certification requirement.
  - d. *Age of Title Certification.* The document certifying the title information must be less than 90 days old at the time it is initially submitted in support of the preliminary plat review. Preliminary plat review will be based upon this title certification document.
  - e. A request for plat approval or review must be accompanied by a Title Certification that is less than 90 days old. If the Title Certification initially submitted is greater than 90 days old, it must be updated prior to submittal of the final plat review package.
2. *Boundary Survey.* A boundary survey of the property proposed for platting must be submitted as part of the initial preliminary plat and final review submittal packages. The survey must be prepared based upon the Title Certification or Title Opinion document submitted in accordance with paragraph H.1 above. All easements encumbering the property must be specifically shown and identified. The survey may not include notes or broad exceptions such as, subject to rights, restrictions, reservations, and/or easements of record. If an easement is located across an entire tract, parcel or portion of the plat and cannot be plotted, the easement must be identified as unable to be plotted in the survey notes; otherwise, the specific location of the easement must be identified on the survey.
  3. If the property subject to platting was previously platted (i.e. a replat) and all of the boundaries of the subject property are dimensioned in the original plat, then a boundary survey is not required. The legal description will be the reference to the original plat. However, if the dimensions of the subject property differ from those in the original plat, then a boundary survey, including a metes and bounds legal description will be required.

## I. Easements

### 1. Existing Easements.

- a. Existing recorded easements must be depicted on the plat with a reference to the OR Book and Page or instrument number, as well as a brief description of the easement (i.e. access, ingress/egress, LCEC, PUE, etc.). If an easement is located across an entire tract or parcel and cannot be plotted, the easement must be identified as unable to be plotted in the survey notes on the Title Certificate or Title Opinion; otherwise, the specific location of the easement must be identified on the plat.
- b. Lots or tracts created over or co-located with existing recorded easements are subordinate to the recorded easement. The use of the lot or tract may not overburden or diminish the rights under the existing recorded easement.

### 2. Utility Easements.

- a. *Utility approval letters.* The applicant is solely responsible for submitting the proposed plat to the appropriate utility entities and obtaining written review and recommendation from each entity relative to the proposed location of utility easements located on the plat. A copy of the utility entity response, including plat corrections and letters of review and recommendation must be provided to the City of Cape Coral Development Services Division.
- b. Ten foot wide utility easements must be provided adjacent to the right-of-way on both sides of new roads.
- c. Utility easements must be located in accordance with the utility company requirements as stated in the utility entity review letter.
- d. The reservation of any interest, or co-location of other easements within the area dedicated as a public utility easement, must be specifically subordinated to the public utility easement use. This can be accomplished by including appropriate language in the dedication.

3. Easement/Tract Table.

All previously existing easements (recorded or unrecorded) and tracts depicted on the plat must be identified in a separate Easement/Tract Table (8½ by 11 inch sheet). The Table must identify the easement or tract with a reference to the OR Book and Page or instrument number, if previously recorded, as well as a brief description of the easement or tract (i.e. access, ingress/egress, LCEC, PUE, Future Development, Lake, R.O.W., etc.). The Table must also identify the location of the easement or tract on the plat (for example: Page 3, lower left corner or Tract A, Page 2 adjacent to Smith Lane, or Page 12, upper right hand corner of plat, etc.).

J. **Notices and Signature Blocks**

1. Notices. The following notices must appear on the first page of the plat, as follows:

a. In bold, 20-point type or larger (.278 inches):

NOTICE

**Lands described in this plat may be subdivided by the developer without the roads, drainage, water and sewer facilities being accepted for maintenance by the City of Cape Coral. Any purchaser of a lot in this subdivision is advised to determine whether the lot may be subject to assessment or called upon to bear a portion or all of the expense of construction, maintenance, or improvement of roads, drainage, water and sewer facilities.**

b. In bold type:

**NOTICE: This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat that may be found in the public records of this County.**

2. Signature blocks related to Certification and Approval. The following certifications and signature blocks must appear on the face of the plat, preferably the first page, as follows:

a. *Review by City of Cape Coral Professional Surveyor and Mapper.*

Review by the designated City of Cape Coral PSM determined that this plat conforms to the requirement of F.S. Ch. 177, Part I.

\_\_\_\_\_

Raymond F. Phillips, PSM  
Senior Land Surveyor  
Florida Certification No. 7015

b. *Preparing Surveyor's certification.*

I hereby certify that the attached plat of \_\_\_\_\_ (a replat of...as recorded at Plat Book...) was prepared under my direction and supervision and complies with all of the survey requirements of Chapter 177, Florida Statutes. I further certify that the permanent reference monuments (PRMs) have been placed at the locations shown on the plat.

SEAL

\_\_\_\_\_

Name of Preparing Surveyor, PSM or LS or PLS (Registration Number)

c. *Clerk of Court Certification.*

I hereby certify that the attached plat (a replat of...as recorded at Plat Book...), a subdivision located in Section \_\_\_\_, Township \_\_\_\_ South, Range \_\_\_\_ East, City of Cape Coral, Lee County, Florida, was filed for record on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ and duly recorded as Instrument # \_\_\_\_\_ in the Public Records of Lee County, Florida.

Linda Doggett  
Clerk of the Circuit Court in  
And for Lee County, Florida

d. *CITY OF CAPE CORAL APPROVALS.*

BY: \_\_\_\_\_  
DOLORES MENENDEZ, CITY ATTORNEY

BY: \_\_\_\_\_  
VINCENT A. CAUTERO, AICP,  
COMMUNITY DEVELOPMENT DIRECTOR

THIS PLAT IS ACCEPTED AND APPROVED FOR RECORD AT A MEETING OF THE CITY COUNCIL OF THE CITY OF CAPE CORAL, LEE COUNTY, FLORIDA ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

ATTEST:

BY: \_\_\_\_\_  
JOHN GUNTER, MAYOR

BY: \_\_\_\_\_  
KIMBERLY BRUNS, CMC,  
CITY CLERK

- e. *Mortgagee Consent and Joinder.* The mortgage consent and joinder may either appear on the face of the plat or be executed as a separate document that is recorded in conjunction with the plat. A statement similar to the following may be used if the Mortgagee will be signing the face of the plat. The consent and joinder must be executed with the same formality as a deed.

————— Bank hereby joins in and consents to the dedication appearing on the face of the Plat.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Bank Secretary

\_\_\_\_\_  
Name: \_\_\_\_\_  
President/Vice President

(Bank SEAL)

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing consent and joinder was acknowledged before me this \_day of ,  
20 by , as of Bank. He/she is personally known to me or has  
produced the following identification:

Notary Public

- f. *CDD Acceptance and Acknowledgment.* If portions of the infrastructure are dedicated to a Community Development District (CDD), then the CDD must accept the dedication and affirmatively acknowledge the obligation to maintain the infrastructure that is the subject of the dedication. This may be accomplished either by signing the face of the plat or by separate resolution of the CDD (approved by The City Attorney's Office and recorded in conjunction with plat.)

————— CDD hereby accepts the dedication and acknowledges  
responsibility for maintenance of the infrastructure associated with the dedication.

Community Development District  
By: \_\_\_\_\_  
Name: \_\_\_\_\_, Chairman

State of \_\_\_\_\_  
County of \_\_\_\_\_

The foregoing consent and joinder was acknowledged before me this \_day of ,  
20 by , as of Bank. He/she is personally known to me or has  
produced the following identification:

Notary Public

## **K. Monumentation**

1. *Permanent Reference Monuments (PRM).*
  - a. *Definition.* These monuments must meet the definition set forth in FS §177.031(15).
  - b. *Placement.* PRMs must be set in accordance with FS §177.091(7).
  - c. *Timing.* All PRMs must be set prior to recording of the plat.
  - d. *Proof.* The surveyors' certification substantiates compliance with this requirement.
2. *Permanent Control Points (PCP).*
  - a. *Definition.* These monuments must meet the definition set forth in FS §177.031(13).
  - b. *Placement.* PCPs must be set in accordance with the provisions in FS §177.091(8). PCPs must be easily detectable at the time the final Certificate of Completion is requested using conventional instruments for locating survey monuments.
  - c. *Timing.* PCPs must be set prior to the expiration of the on-site infrastructure surety or approval of the final release of this surety document. No partial releases will be approved for setting PCPs.
  - d. *Proof.* The surveyor responsible for setting the PCPs must submit an affidavit indicating that the PCPs are set as identified on the recorded plat. This affidavit is required in order to obtain a final Certificate of Completion for the SCP supporting the subject plat approval. Multiple affidavits may be submitted if more than one surveyor is involved. However, the City will not process partial releases of the infrastructure bond based solely upon completion of portions of the monumentation.
3. *Lot Corners.*
  - a. *Definition.* These monuments must meet the definition set forth in FS §177.031(22).
  - b. *Placement.* Lot corners must be set in accordance with the provisions of FS §177.091(9).
  - c. *Timing.* Lot corners must be set prior to the expiration of the on-site infrastructure surety or approval of the final release of this surety document. No partial releases will be approved for setting monuments.
  - d. *Proof.* The surveyor responsible for setting the lot corners must submit an affidavit indicating that the lot corners are set as identified on the recorded plat. This affidavit is required in order to obtain a final Certificate of Completion from for the SCP supporting the plat approval. Multiple affidavits may be submitted if more than one surveyor is involved. However, the City will not process partial releases of the infrastructure bond based solely upon completion of portions of the monumentation.

## **L. Infrastructure Surety**

1. *Infrastructure to be assured.* The infrastructure necessary to support approval of the plat must be in place or covered by an approved surety instrument prior to final plat approval. Infrastructure includes, but it is not limited to the following: roads, surface water management system, landscaping, utilities, conservation areas and plat monumentation.



2. *Minimum elements/criteria of all infrastructure surety documents.*

- a. The City of Cape Coral, a municipality of the State of Florida, must be a named beneficiary.
- b. The surety document must provide 110% of the full cost of installing the infrastructure improvements approved by the City.
- c. If the proposed improvements will not be constructed within one year of the issuance of the Subdivision Construction Plan (SCP) approval, the amount of the surety must be automatically increased by 10% compounded for each year of the life of the surety. In the alternative, the surety may be renewed annually at 110% of the cost of completing the remaining required improvements. (The latter alternative will require submittal and approval of a new instrument annually.)
- d. The instrument must be printed on the official bond letterhead of the insuring entity or the parent company (i.e. insurance holding company). Acceptable letterhead will include the name, address and phone number of the insuring entity. Additionally, if the insuring entity is a subsidiary of a parent corporation or holding entity, then the holding entity must also be identified in the letterhead. In the alternative, the official holding company letterhead may be used with identification of the insuring entity (name, address and phone number) in the body of the bond.
- e. The instrument must provide that Florida Law will control action under the instrument.
- f. The instrument must state the name and physical address of the place where demand can be made and provide a valid contact phone number to the institution/department where information can be exchanged regarding action under the instrument.
- g. An approved certified engineer's cost estimate must be an attachment to the instrument.
- h. The instrument must state the name of the project, Plat number, SCP number, name of the applicant for the SCP, name of the project's developer, if different from the SCP applicant, and the estimated date of project completion.
- i. The venue for any action under the surety instrument will be Lee County, Florida.

3. *Types of Surety Documents.* The City utilizes the forms created by Lee County as modified for the City. The following is a sample form of surety instruments that will be found acceptable to the City if properly executed. The forms are attached to this guideline.

- a. *Letters of Credit.* A sample Letter of Credit is attached as Exhibit A. Use of an alternative form may prevent or delay approval. The letter must meet the following additional criteria.
  1. The terms of the letter must establish a single location within Florida where presentation of demand can be made and payment will be rendered. If the location is outside of Lee County, the letter must provide that presentation of demand can be made by mail.
  2. The letter must state the name and physical address of the place where demand can be made and provide a valid contact phone number to the institution/department where information can be exchanged regarding action under the letter.
  3. The letter must be established as a sight demand letter, or be payable "at sight."
  4. The letter must specifically provide that payment will be made to the City of Cape Coral within three business days after the letter is presented to the identified entity. Payment must be made at the local office of the institution where the demand is made; or through overnight mail if the bank or institution is located outside Lee County.
  5. The letter must state that it is subject to the "Uniform Customs and Practice for Documentary Credit," International Chamber of Commerce Publication No. 600 (2007 revision).
  6. The bank issuing the letter must have a rating of A or higher from Moody's Investors Service, Fitch Ratings, or Standard & Poor's. If the issuing bank does not maintain such a rating, the letter will not be accepted or renewed. The Applicant must provide evidence that the issuing bank meets these criteria.

- b. *Escrow Agreement.* An escrow agreement may be established to cover the infrastructure costs. The entity acting as escrow agent must be an institution recognized by the State of Florida, in good standing and specifically approved by the City in advance of establishing the account. The form escrow agreement must be used to establish the escrow account. If a bank account is to be used to hold the funds, then the physical address of the institution, along with a phone number and contact person must be included; the bank account number must be specifically stated in the escrow agreement and the funds must be dedicated to the escrow account in a manner that will prevent removal or reduction of the escrow amount without prior City approval. A sample escrow agreement is attached as Exhibit B. Use of an alternative form may prevent or delay approval.
  - c. *Cash escrow with the City.* The applicant may choose to establish a cash *escrow* account with the City to cover the cost of the outstanding infrastructure improvements required to support final plat approval. In this instance the City will act as the escrow agent.
- 4. *Certificate of Completion.* The infrastructure surety requirement may be satisfied upon the issuance of a Certificate of Completion for the infrastructure necessary to support final plat approval. This Certificate of Completion must cover all of the improvements identified as required by the approved SCP supporting the plat approval. A final Certificate of Completion is required in order to obtain a full release of the surety instrument approved to cover the infrastructure improvements.
  - 5. *Releases.* Surety releases will be allowed for improvements as they are constructed based upon approval of a revised engineer's certified cost estimate. However, partial releases will not be reviewed or approved if based solely on completed monumentation.

# EXHIBIT A

THIS IS A SAMPLE FORM.  
IT MUST BE RETYPED AND PRINTED ON ISSUING BANK'S OFFICIAL  
BOND STATIONERY IN ORDER TO BE ACCEPTED BY THE CITY.

IRREVOCABLE  
STANDBY LETTER OF CREDIT  
**NO:** \_\_\_\_\_

Beneficiary: City of Cape Coral, a Municipality of the State of Florida

D.O. #[SCPXX-XXXXXX]      Expiration Date: [MM DD YY]  
Project Name:  
Developer/Applicant:      U.S. Funds \$[XX,XXX/XX]

1. We hereby open Irrevocable Standby Letter of Credit # \_\_\_\_\_ in favor of the City of Cape Coral in the aggregate amount not to exceed \$ \_\_\_\_\_ USD. This amount represents 110% of the estimated costs necessary to complete/construct improvements approved under the City Subdivision Construction Plan # SCPXX-XXXXXX for [project name] as reflected in the attached "Project Engineer's Certified Cost Estimate of Improvements".

2. The funds are payable to the City of Cape Coral at sight when accompanied by the following:

- a. The original letter of credit and any amendments approved by the City of Cape Coral.
- b. A document, executed by an authorized representative of the Department of Community Development, Cape Coral, Florida, stating:

The Developer/Applicant has failed to construct the improvements identified in the attached Cost Estimate in accordance with the terms and conditions of City of Cape Coral Subdivision Construction Plan # SCPXX-XXXXXX. As a result of this default, The City of Cape Coral requests a draw under Letter of Credit # \_\_\_\_\_ in the amount of \$ USD.

3. All sight drafts drawn under this Letter must bear upon their face the words: "DRAWN UNDER [Name of Bank] IRREVOCABLE STANDBY LETTER OF CREDIT # \_\_\_\_\_ ISSUED TO THE CITY OF CAPE CORAL, A MUNICIPALITY OF THE STATE OF FLORIDA." Any partial amounts drawn under this Letter will be endorsed on its reverse side by the negotiating, issuing, confirming or honoring bank.

4. Presentation and payment under this Letter of Credit is restricted to the following location in Florida: [name entity, physical address and valid contact telephone number]. [If the location is outside of Lee County, the letter must also provide that presentation of demand may be made by mail.]
5. Action, whether payment or dishonor, in response to the City's request for a sight draft must be completed within three business days after the Letter is presented at the location identified above.
6. It is a condition of this Letter that the reasons for dishonor will be clearly explained in writing by the dishonoring party within three business days after the Letter is presented at the location identified above.
7. This Letter will expire on [MM DD YY], which is at least 30 days after the Estimated Completion Date stated in the Project Engineer's Certified Cost Estimate unless extended as provided herein.
8. The term of this Letter will be automatically extended without amendment for successive one year periods; and, the aggregate amount of the face value of this Letter is to be automatically increased, without amendment, in the amount of 10% compounded for each annual renewal unless, not less than 60 days prior to the then-relevant expiration date, we notify you by Registered Mail at the address and in the manner set forth below, that we elect not to extend this Letter for any additional period or in any additional amount:

City of Cape Coral,  
c/o Department of Community Development  
P.O. Box 150027  
Cape Coral, Florida 33915-0027  
Notice: Expiration of Letter of Credit

9. Partial releases of the aggregate face value of the Letter will only be permitted when accompanied by written approval from the Department of Community Development verifying completion of a portion of the improvements. The effect of partial releases will be to reduce the face value of this Letter. No other terms will be affected or altered.
10. This Letter of Credit is subject to the "Uniform Customs and Practice for Documentary Credits," International Chamber of Commerce Publication No. 600 (2007) revision, and to the provisions of Florida law. If a conflict between the Uniform Customs and Practice for Documentary Credits and Florida law should arise, then Florida law will prevail. If a conflict between the law of another State or country and Florida law should arise, then Florida law will prevail.
11. Florida law will control any action taken under this Letter.
12. The venue for any action under this Letter of Credit is Lee County, Florida.
13. This Letter sets forth in full the terms of our undertaking and may not be modified.

## **EXECUTION REQUIREMENTS**

I . **Execution.** The Letter of Credit must be executed as follows:

a. The Letter of Credit must be signed by either the Bank President, any Vice President or the Bank's Chief Executive Officer and sealed with the Bank's corporate seal (See bank execution example),

**OR**

b. The Letter of Credit must be signed by either the Bank President, any Vice President or the Bank's Chief Executive Officer and two subscribing witnesses (See bank execution example);

**AND**

c. Evidence of Authority to execute the Letter of Credit must be provided. Acceptable proof of authority is an original notarized affidavit indicating the signing party has appropriate authority to execute the Letter on behalf of the bank. (See evidence of authority example.)

2. **Cost Estimate.** A copy of the approved Engineer's Certified Cost Estimate, including the estimated date of completion, must be attached to the Letter.

3. **Directions.** Directions with respect to creation and execution of this sample are provided to aid in proper execution. They should not be reproduced in the official letter of credit submitted to the City of Cape Coral for review and approval.

BANK EXECUTION EXAMPLE

Name of Bank

[Affix Bank Seal Here]  
*[Bank Seal Required]*

By: \_\_\_\_\_  
[Authorized Signature]

[Title of Officer]  
*[Must be the Bank President, any Vice President, or Chief Executive Officer]*

[Type of Print Name]  
[Bank Name & Mailing Address]

Name of Bank

\_\_\_\_\_  
1st Witness Signature

By: \_\_\_\_\_  
[Authorized Signature]

\_\_\_\_\_  
1st Witness Printed  
Name

[Title of Officer]  
*[Must be the Bank President, any Vice President, or Chief Executive Officer]*

\_\_\_\_\_  
2nd Witness Signature

[Type or Print Name]  
[Bank Name & Mailing Address]

\_\_\_\_\_  
2nd Witness Printed  
Name

**EVIDENCE OF AUTHORITY EXAMPLE**

**IRREVOCABLE BANK LETTER OF CREDIT  
EVIDENCE OF AUTHORITY**

DATED: \_\_\_\_\_

This document certifies that (Name of Bank Officer or Agent signing Letter of Credit)  
(Title of Bank Officer or Agent) for (Name of Bank) , has the necessary authority to execute Irrevocable  
Standby Letter of Credit Number \_\_\_\_\_, in the amount of \$ \_\_\_\_\_USD  
issued on (Date LOC issued) for the benefit of the City of Cape Coral, Florida, and under the account  
of (Developer/Applicant)

BANK SEAL

BANK NAME: \_\_\_\_\_

BY: \_\_\_\_\_  
[Signature of bank officer]

\_\_\_\_\_  
[Typed Name]

\_\_\_\_\_  
[Title]

**ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The forgoing instrument was acknowledged before me by means of physical presence or online  
notarization, this [date], by [name of bank officer], [title of officer] on behalf of [name of bank] .  
He/She is personally known to me or has produced [type of identification] as identification.

\_\_\_\_\_  
Notary Public

## EXHIBIT B

THIS IS A SAMPLE FORM.  
IT MUST BE RETYPED AND PRINTED ON ESCROW AGENT'S  
OFFICIAL BOND STATIONERY IN ORDER TO BE ACCEPTED BY  
THE CITY OF CAPE CORAL.

### ESCROW AGREEMENT

D.O. [SCPXX-XXXXXX]

Date Created: [MM DD YY]

Project Name:

Developer/Company

Name:

Developer Mailing Address:

Escrow Agent Name:

Escrow Agent Mailing Address:

Amount of Initial Escrow Fund Deposit (U.S. Funds): \$[XX,XXX.XX]

Account Number and Name:

Estimated Completion Date of Improvements: [MM DD YY]

WHEREAS, [Developer/Company Name], ("Developer,") has made application to the City of Cape Coral, a municipality of the State of Florida, ("City,") for approval of a proposed development located in Cape Coral, Florida, under the above-referenced Development Order; and

WHEREAS, the Developer, as a condition precedent to initiating construction of the development must provide Assurance for Completion of certain required development improvements described in the Project Engineer's Certified Cost Estimate of Improvements (Improvements) attached as Exhibit "A"; and

WHEREAS, the Land Development Code require that 110% of the Project Engineer's Certified Cost Estimate of Improvements be placed into and held in escrow, and that on or before each anniversary of this agreement, the total amount of funds deposited into escrow will be increased by ten percent (10%) compounded annually; and that in the event that the required improvements have not been certified complete by the City prior to the Estimated Date of Completion or any extension therefrom, the escrowed funds may be paid to the City for use in completing the required improvements.

NOW, THEREFORE, in consideration of these recitals the undersigned parties agree that the Escrow Agent holds the Developer's escrow funds, for the benefit of the City, as assurance for the completion of the required improvements.

The parties agree that if the Developer: (1) complies with the terms and conditions of the Development Order; (2) completes the improvements in the Project Engineer's Certified Cost Estimate; and, (3) indemnifies, saves and holds the City harmless against or from all claims, costs, expenses, damages, injury or loss, including engineering, legal and contingent costs that the City may sustain



on account of the Developer's failure to carry out all of the provisions of the Land Development Code and Development Order, then the City will authorize the release of the escrow funds to the Developer. Once a Certificate of Completion covering the required improvements is issued by the City, this Escrow Agreement will be null and void. Otherwise, this Escrow Agreement remains in effect. If the Developer fails to complete the improvements as required by the development order and in accordance with this agreement, the Escrow Agent will, upon written demand, release the escrowed funds to the City for the construction of the required improvements. The City may make its demand upon the escrow agent at the following Florida address:

The parties agree that the Escrow Agent will hold the escrowed amount for the benefit of the City. The Escrow Agent may release and disburse all or a portion of the escrowed funds to the Developer after issuance of a Certificate of Completion and upon written approval from the Director of the Department of Community Development.

The parties agree that the: (1) initial escrowed amount is one hundred and ten percent (110%) of the Project Engineer's Certified Cost Estimate of Improvements; (2) developer will deposit funds sufficient to increase the escrowed amount by 10% annually, for each year the improvements remain incomplete beginning from the date of this agreement; (3) Escrow Agent will notify the Developer and the City, in writing, at least sixty (60) days prior to each anniversary of this Agreement, that the additional escrowed amounts are due to be deposited and, upon Developer's deposit of the required funds, provide written confirmation of deposit to the City.

The parties agree that the Escrow Agent will not be liable to the Developer for disbursement of escrow funds to the City upon an improper demand by the City, so long as the Escrow Agent acts in good faith. The sole obligation of the Escrow Agent is to honor the terms and conditions of this Escrow Agreement.

The Escrow Agent waives notice of any changes or extensions of time, requested by Developer or granted by the City, except as set forth above. The responsibility of the Escrow Agent will be discharged when it disburses all of the escrowed funds following demand by the City or upon receipt of the City's written approval and release.

## EXECUTION REQUIREMENTS

1. **Developer Execution.** This Escrow Agreement must be executed by the Developer as follows:
  - a. If a Sole owner, Partner or Trustee, in accordance with Execution Example A.
  - b. If a Corporation, in accordance with Execution Example B.
2. **Agent Execution.** The Agent must execute and endorse the Agreement as indicated on Execution Example C.
3. **Cost Estimate.** A copy of the approved Project Engineer's Certified Cost Estimate, including the estimated date of completion, must be attached to the Escrow Agreement.
4. **Direction.** Directions with respect to creation and execution of this sample are provided to aid in proper execution. They should not be reproduced in the official Escrow Agreement submitted to the City for review and approval.

**EXECUTION EXAMPLE A**

Name of Owner/Developer  
Address  
City, State and Zip Code

\_\_\_\_\_  
1st Witness Signature

By: \_\_\_\_\_  
[Authorized Signature]

\_\_\_\_\_  
1st Witness Printed Name

\_\_\_\_\_  
[Printed Name]  
Owner, Partner, Trustee

\_\_\_\_\_  
2nd Witness Signature

\_\_\_\_\_  
2nd Witness Printed Name

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The forgoing instrument was acknowledged before me by means of physical presence or online notarization, this [date], by [name of owner], [title if appropriate] . He/She is personally known to me or has produced [type of identification] as identification.

\_\_\_\_\_  
Notary Public

EXECUTION EXAMPLE B

Name of Developer  
Street Address  
City, State and Zip Code

[Affix Bank Seal  
Here]  
*[Bank Seal  
Required]*

By: \_\_\_\_\_  
[Authorized Signature]

[Title of Officer]  
*[Must be the Bank President, any Vice  
President, or Chief Executive Officer]*

OR

Name of Developer  
Address  
City, State and Zip Code

\_\_\_\_\_  
1st Witness Signature

By: \_\_\_\_\_  
[Authorized Signature]

\_\_\_\_\_  
1st Witness Printed Name

\_\_\_\_\_  
[Printed Name]  
Owner, Partner, Trustee

\_\_\_\_\_  
2nd Witness Signature

\_\_\_\_\_  
2nd Witness Printed Name

ACKNOWLEDGMENT

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The forgoing instrument was acknowledged before me by means of physical presence or online notarization, this [date], by [name of Corporate Officer], [title of Officer] on behalf of [name of Corporation]. He/She is personally known to me or has produced [type of identification] as identification.

\_\_\_\_\_  
Notary Public

**EXECUTION EXAMPLE C**  
**ESCROW AGENT**  
**ENDORSEMENT EVIDENCE OF**  
**AUTHORITY**

DATED \_\_\_\_\_

This document certifies that \_\_\_\_\_ (Name of Escrow Agent signing Agreement), has the necessary authority to enter into Escrow Agreements on behalf of [Developer Name] and currently holds \$\_\_\_\_\_USD, representing the initial escrow amount, in escrow for the benefit of Lee County, Florida.

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

Escrow Agent  
Address  
City, State and Zip Code

\_\_\_\_\_  
Printed Name

BY:

\_\_\_\_\_  
[Signature of Surety officer]  
[Typed Name and Title]

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The forgoing instrument was acknowledged before me by means of physical presence or online notarization, this [date], by [name of Escrow Agent], [title if applicable]. He/She is personally known to me or has produced [type of identification] as identification.

\_\_\_\_\_  
Notary Public