

PERFORMANCE SECURITY
(Assignment of Savings)

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between _____, mailing address of _____

hereinafter referred to as "Developer", _____ Bank, _____ Branch mailing address of _____, hereinafter referred to as "Bank", and the Whatcom County Public Works Department on behalf of Whatcom County, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, the Developer has deposited in a restricted interest bearing account the total sum of _____ dollars (\$_____), representing _____% of the Engineer's/Contractor's (circle one) estimate approved by Whatcom County Engineering Division for the remaining improvements in that project known as _____; and

WHEREAS, the Bank, Developer, and County have agreed that the funds in account number _____ in the name of _____ may only be released in accordance with applicable laws and banking regulations, and in accordance with this agreement;

NOW THEREFORE, the Parties agree to the following:

1. The funds which the Developer has deposited are for the express purpose for guaranteeing _____. Said improvements, and terms and conditions under which they must be accomplished are contained in _____.
2. If said improvements are not completed pursuant to the terms and conditions within number 1 above by _____, or any extension thereof up to one additional year granted in writing by the County, the total sum deposited and interest accrued may be withdrawn thereafter by Whatcom County upon its presentation of written demand to the Bank, and utilized to complete said improvements. Requests for any further or longer extension(s) shall be presented to the Technical Advisory Committee. If such further extension is granted, the County may recalculate the amount of the security as a condition thereof, and shall provide written notice of the same to the other parties.
3. Developer agrees to hold Bank harmless from any loss, cost, or damage caused by its release of funds to County upon receipt of written demand therefor by the County.
4. The funds are restricted in that Developer may not withdraw any part thereof until Whatcom County has provided the Bank with a written release of funds, which the County will provide upon Developer's satisfactory completion of the improvements described above, as confirmed by County inspection of the improvements.

