

# Escrow Deposit Agreement

U.S. Department of Housing  
and Urban Development  
Office of Housing  
Federal Housing Commissioner

This agreement made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between (Mortgagor) \_\_\_\_\_ (hereinafter called "Mortgagor") party of the first part, and (Depository) \_\_\_\_\_, (hereinafter called "Depository"),

## Witnesseth:

Whereas, The above-named Mortgagor is now constructing a housing project in \_\_\_\_\_, County of \_\_\_\_\_, State of \_\_\_\_\_, identified as (Name of Project) \_\_\_\_\_, (HUD Project No. \_\_\_\_\_) under a certain Building Loan Agreement between the Mortgagor and (Mortgagee) \_\_\_\_\_, (hereinafter called "Mortgagee"), dated the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, which Building Loan Agreement is by reference incorporated herein and made part hereof; and

Whereas, the said Mortgagor has not at the present time completed certain improvements required by said Building Loan Agreement as listed in the exhibit attached hereto, identified as "Exhibit A", but intends to complete said improvements; and

Whereas, in order to induce the Mortgagee to advance the entire amount of the loan provided for in said Building Loan Agreement and in order to induce the Department of Housing and Urban Development to insure said loan in its entirety prior to completion of all said improvements, the Mortgagor desires to provide security for the completion of said improvements;

Now, therefore, for and in consideration of the premises hereinabove set forth, the parties hereto agree as follows:

### 1. The Mortgagor covenants and agrees:

(a) To complete the improvements enumerated in Exhibit A on or before the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the said work to be done and completed free and clear of all liens and in accordance with the Drawings and Specifications referred to in said Building Loan Agreement. The Mortgagor further agrees to pay for all work and material necessary for completion of said work.

(b) That all work performed pursuant to the provisions of this agreement shall be subject to the Labor Standards Procedures and Prevailing Wage Requirements accepted by the original general contractor in executing the Contractor's Prevailing Wage Certificate on the back of form HUD-92448, Contractor's Requisition Project Mortgages. The terms and provisions of said Certificate are hereby specifically accepted by the Mortgagor. Prior to release of any funds provided for herein, Mortgagor shall submit a Contractor's Prevailing Wage Certificate duly executed by each and every contractor performing any of the work and dated subsequent to completion of such work.

2. The Mortgagor herewith deposits with the Depository, and the Depository acknowledges receipt thereof, the sum of \$ \_\_\_\_\_, which said sum shall be held by the Depository and disbursed as follows:

(a) In the event the Mortgagor completes the construction of said improvements in accordance with the Drawings and Specifications above referred to on or before the date agreed to in Paragraph 1 above, and there is no default under the mortgage, the Depository shall upon receipt of written approval of said work from HUD return to the Mortgagor, without interest, the sum herewith deposited.

(b) In the event the Mortgagor fails to complete the improvements on or before the date agreed to in Paragraph 1, or defaults under the mortgage, the Depository, upon receiving written instructions from HUD so to do, shall pay to the Mortgagee the unexpended balance of the sum herewith deposited to be applied in the amount and manner specified by said Administration to the obligations of the Mortgagor.

(c) In the event the Mortgagor fails to complete the said improvements on or before the date agreed in Paragraph 1 above in accordance with said Drawings and Specifications and fails to produce to the Depository the written approval of said work by HUD, or in the event the Depository receives from HUD on or after said date notice that the said improvements have not been completed in accordance with Drawings and Specifications, the Mortgagee, subject to the approval of HUD, shall have the right and/or option to proceed to complete said work in accordance with the Drawings and Specifications and pay the cost thereof, including all costs and charges of the Depository and Mortgagee from the sum herewith deposited, and for this purpose the Mortgagor hereby irrevocably authorizes and empowers the Mort-

gagee to do and perform for it, the said Mortgagor and in its name, place and site with full powers of substitution, all matters and things which the said Mortgagee shall in its judgment deem necessary and proper to be done to effectuate the completion of the same improvements in accordance with the Drawings and Specifications and to apply the moneys herewith deposited to the payment of debts contracted or incurred for work done or for materials furnished therefor, or either, in and about said work and for all expenses, costs and charges in connection therewith, and this warrant of attorney shall be the Mortgagee's full and sufficient authority and the orders given and signed by the Mortgagee as attorney-in-fact for the Mortgagor shall be good and sufficient vouchers for all payments made by virtue thereof. Further, in such event the Mortgagor hereby irrevocably authorizes and empowers the Mortgagee to enter into and upon the said Project and take charge thereof together with all materials and appliances thereunto belonging, and in the name of the Mortgagor, as its attorney-in-fact, to call upon and require the several contractors for work to be done and for materials to be furnished in and about the completion of said improvements to proceed to complete the said improvements in accordance with the Drawings and Specifications or any changes, alterations, additions or modifications of the same as may be deemed expedient or necessary by HUD and to do whatsoever in the Mortgagee's judgment shall be necessary to be done to secure the completion of the said improvements according to the Drawings and Specifications and in accordance with the instructions of HUD. In the event the work is completed by the Mortgagee in accordance with provisions hereof and written approval of said work is given by HUD, any unexpected balance of the sum deposited with the Depository shall thereupon be returned to the mortgagor without interest unless the mortgage is in default. The Mortgagee shall in no event be responsible for the completion of the said work beyond the expenditure of the sum herewith deposited and if said sum is insufficient for such purpose the Mortgagee shall be under no obligation to proceed further with the work or to demand or obtain additional sums from the Mortgagor. This warrant of attorney is granted with full power of substitution and the Mortgagor hereby specifically agrees that all powers granted to the Mortgagee hereunder may be assigned by it to HUD.

3. It is the intention of the parties to this Agreement that the Depository shall act solely at all times on instructions from HUD with respect to the said sum deposited with it by the Mortgagor and for so acting the Mortgagor hereby expressly releases and relieves the said Depository of any and all liability or claims of any nature. The said Depository shall have a prior lien on said fund, however, for any and all cost or expenses incurred by it (including court costs and reasonable attorney's fees) by reason of acting as Depository of the said fund.

4. In the event the Mortgagee acts as Depository, the name Depository wherever used herein shall be construed as referring to said Mortgagee acting in the capacity of Depository.

5. This Agreement is entered into by the parties hereto for the benefit of the holder of any mortgage on said project insured by the Federal Housing Commissioner and for the benefit of the Federal Housing Commissioner either of which shall have the right to act as Depository and/or enforce the provisions hereof.

**In witness whereof**, the parties hereto have hereunto caused these presents to be executed on their behalf and their seals affixed the day and year first above written.

**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Attest	(Mortgagor)
	By (President)
Attest	(Depository)
	(President)