



**City of Beaverton**  
**12725 SW Millikan Way, 4<sup>th</sup> Floor, PO Box 4755, Beaverton OR 97076**  
**Bank Assignment of Account for Performance Security**

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To: DEVELOPMENT SERVICES STAFF  
SITE DEVELOPMENT PERMIT DIVISION

From: BILL SCHEIDERICH, ASSISTANT CITY ATTORNEY

Re: ASSIGNMENT OF ACCOUNT AS SECURITY  
FOR COST OF PUBLIC IMPROVEMENTS

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This is in response for requests from development applicants for a “standard form” of assignment of a bank account to serve as security for public improvements. We have declined to draft a standard form in the past because of various banks’ and lenders’ insistence on use of their own forms. What follows will, instead, constitute the minimum requirements as to the format of an assignment of account offered to the City as performance or maintenance security.

1. The document shall be on the depository’s letterhead, signed with bank or depository’s officer’s name and title printed below signature, with signed acknowledgment of contents of document by the development applicant. By “depository” I mean the institution where the money is held, not the office or place where the account holder does business. In other words, the document is to be furnished by the bank where a real estate company (for example) has the funds in question on deposit – it is not to be furnished by the real estate company as holder or “owner” of that account.
2. The original document with live ink signatures must be submitted to the City and kept in the City’s custody for the duration. Facsimiles and photocopies are acceptable only as a one or two day interim measure while the original is in transit. The facsimile must be the complete (signed, on letterhead) document, not a “draft” copy. Failure to submit originals within two business days of sending a facsimile of the signed, complete original will be cause to stop work.

3. The document shall identify the account holder by name, the amount of funds on deposit (the amount shall be sufficient to meet the City's required security amount), the account number, and the City's reference number(s) for the development in question, for example, "DR- or CU-" as to site development permits.
4. The document shall verify that the account owner (who will be the development applicant or another acting on the applicant's behalf) has assigned the funds in question for the use and benefit of the City of Beaverton as security for the cost to complete (or the cost to maintain against defects) the public improvements required to be constructed at the Property as per [City reference document number, as per No. 3 above]. The document shall describe the means by which the City can draw on the account (a letter to the depository from the City Engineer stating that the development applicant has failed to complete or maintain, should be sufficient).
5. The document shall provide that interest, if any, earned on the amount on deposit shall accrue to the benefit of the depositor. It shall also provide that the funds will remain on deposit until release to the depositor is authorized by the same person entitled to draw on the account as per No. 4 above, or until the one-year maintenance period has elapsed (in the case of maintenance security only).
6. As this format still allows for variations, as per usual practice, all such submittals shall be subject to the approval of the City Attorney.



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#### Explanation of Agreement:

- 1) Fill in brief description (name of project)
- 2) Fill in Land Use and Site Development project / permit numbers
- 3) Fill in date
- 4) Fill in depositor's name
- 5) Fill in bank's name
- 6) Fill in amount of money in the account
- 7) Fill in the bank account number
- 8) Fill in the name of the bank holding the account
- 9) Fill in the amount of money to cover City's bond
- 10) Fill in name of City where this assignment is taking place
- 11) Fill in date being executed
- 12) Leave blank-City will fill in
- 13) Live-Ink Signature of Depositor who is assigning money to City and their address

#### Bottom portion of the Agreement is completed by the Bank Officer:

- 14) Fill in account number
- 15) Fill in amount
- 16) Fill in date
- 17) Live-Ink signature on Agreement
- 18) Attach business card or otherwise indicate address of bank

The bank will attach information sheet on their letterhead showing basic details regarding the security being assigned to the City. It generally shows the depositor's name and address, the account number, when the account was established, when it will mature, etc.

(BANK LETTERHEAD)

AGREEMENT WITH DEPOSITOR AND TRUSTEE OF DEPOSITS

This agreement is for the purpose of fulfilling the requirements of (1) \_\_\_\_\_ project nos. (2) \_\_\_\_\_ dated (3) \_\_\_\_\_, between the City of Beaverton and (4) \_\_\_\_\_ and is entered into by the Depositor and Trustee (bank) (5) \_\_\_\_\_.

The undersigned Depositor and Trustee do hereby assign the right to the City of Beaverton to determine as its discretion, the payment of all funds or securities held by (bank) (5) \_\_\_\_\_ in the amount of (6) \$ \_\_\_\_\_ in Certificate of Deposit (7) # \_\_\_\_\_ in the improvements to fulfill the requirements of above listed project.

It is understood and agreed that the (bank) (8) \_\_\_\_\_ will hold such funds or securities in the amount of (9) \$ \_\_\_\_\_ until authorized or direction for payment is received from the City of Beaverton. In the event of non-performance, the City of Beaverton has the right to withdraw Principal Funds with City of Beaverton's signature only. The City's right to withdraw shall occur on certification by Beaverton's City Engineer that the required improvements have not been completed according to the Conditions of Approval and City Standards.

The Certificate of Deposit shall be renewed by Depositor (4) \_\_\_\_\_ upon maturity until the authorization or direction for payment is received from the City of Beaverton. All interest shall be paid or accrued as directed by the Depositor notwithstanding anything contained herein to the contrary.

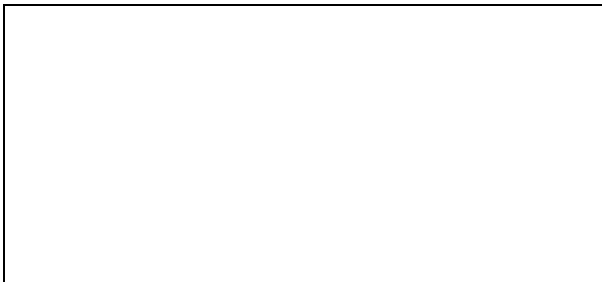
The Certificate of Deposit, original or renewed, is to remain invested as stated until such time as all Public Improvements are completed and accepted by the City of Beaverton.

Signed and dated at (10) \_\_\_\_\_ (bank) \_\_\_\_\_  
This (11) \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

(12) \_\_\_\_\_ (13) \_\_\_\_\_  
Signature, City of Beaverton Signature of Depositor  
PO Box 4755 \_\_\_\_\_ (address)  
Beaverton, OR 97076 \_\_\_\_\_

ACCEPTANCE

The undersigned hereby acknowledges the issuance of Certificate of Deposit (14) # \_\_\_\_\_, in the amount of (15) \$ \_\_\_\_\_ this (16) \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_. It is agreed that such funds will be held for uses and purposes stated above until authorization for disposition is granted by the City of Beaverton.

(18)  


(17) \_\_\_\_\_  
Authorized Signature (Bank)  
\_\_\_\_\_  
\_\_\_\_\_  
Address