

RESOLUTION NO. 7677-R26

A RESOLUTION APPROVING SUBDIVISION BOND

WHEREAS, the Final Plat of Birchcrest 2nd Subdivision was heretofore approved by the Urbana City Council on the 19th day of July, 1976, being Ordinance No. 7677-7, and

WHEREAS, the City Engineer has determined that the appropriate amount for the subdivision bond necessary, and

WHEREAS, the Subdivision Bond tendered by the developer is satisfactory in form and the surety thereon is deemed adequate by the Urbana City Council.

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

That the City Council of the City of Urbana herewith approves the Subdivision Bond in the amount of \$54,000.00 in the form attached hereto.

PASSED by the City Council of the City of Urbana, Illinois, this 18th day of October, 1976.

  
Duane Eckerty, City Clerk

APPROVED by the Mayor of the City of Urbana, Illinois, this 25 day of October, 1976.

  
Hiram Paley, Mayor



SUBDIVISION PERFORMANCE BOND FOR  
BIRCHCREST SECOND SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS, that THE FIRST NATIONAL BANK IN CHAMPAIGN, Trustee under Land Trust No. 448, hereinafter called "Principal", and HENRY MERKELO, 205 West Vermont, Urbana, Illinois, hereinafter called "Surety", are held and firmly bound unto the People of the City of Urbana, Illinois, hereinafter called "City", in the sum of Fifty-four Thousand and No/100 Dollars (\$54,000.00), lawful money of the United States of America, for the payment whereof to the City, the Principal binds itself, its heirs, executors, administrators, successors and assigns, and the Surety binds himself, his heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Now, therefore, the condition of the foregoing obligation is such that the Principal and Surety, jointly and/or severally, shall pay to the City on two years from the date hereof, the sum above written or the sum necessary to correct any deficiency, defective construction or omission, whichever is less, unless prior to the expiration of two years from the date hereof, or any written extension thereof, all of the required improvements for the above-named subdivision have actually been constructed, and the completion of such construction is evidenced by a certification from the Urbana City Engineer that the said required improvements have been completed. The required improvements, as referred to herein, shall be deemed to be each item of all those improvements and other acts required by Chapter 30 of the Urbana City Code, and each item of all improvements as shown on the approved plans and specifications on file with the City Clerk of Urbana, except any such improvements as shall have been expressly waived by resolution of the City Council.

To insure the Principal's obligations under this bond, he has deposited the sum of \$54,000.00 in The First National Bank in Champaign, Champaign, Illinois, Account No. 05-967-5. under a restriction that funds can be released from said account only upon the joint authorization of the Principal and the City Engineer of the City of Urbana, Illinois. It is understood and agreed that funds can be released as work progresses, if the City Engineer is satisfied that the work in place meets all applicable requirements. If the work is not completed in accordance with all applicable requirements within the time permitted by law, any funds in the account shall be paid to the City to be used for completion or correction of said improvements.

This obligation may also be released in the following manner: If the Professional Engineer certifies that each item of all construction has been completed in accordance with the approved plans and specifications and the City Engineer of the City of Urbana refuses to so certify, if the Principal requests, then the City Engineer and the Professional Engineer shall select another engineer (hereinafter called "Third Engineer"), acceptable to both, to make an independent investigation, and if such Third Engineer certifies that each item of all of the said construction has been completed in conformity with the approved plans and specifications on file, such certification shall be binding as to the question of whether the required improvements have been constructed sufficiently to void the obligation of this bond. The Principal shall pay one-half (1/2) of all fees and expenses in relation to the Third Engineer, and City shall pay remainder.

The City Council may release this bond upon the request of the Principal and Surety that he be permitted and allowed to substitute, therefore, a bond in a lesser amount as provided in Chapter 30 of the Urbana City Code.

This obligation may also be released upon the valid vacation of the plat of subdivision for which this bond is applicable.

The Principal and Surety herein expressly agree that representatives of the City Engineering Department and representatives of the Professional Engineering Firm may visit the real estate covered by this bond at any reasonable time for purposes of inspection of the improvements covered by this bond.

Principal and Surety both acknowledge that the City may be obligated to a third party purchaser of lots within the subdivision covered by this bond. The Principal and Surety acknowledge that acts by the City, including, but not limited to, the following, will not be construed or considered as acts of acceptance of any of the improvements covered by this bond:

1. Erection and maintaining street name signs or traffic control signs, or signals.
2. Painting curbs for traffic control.
3. Clearing pavements of ice and snow to facilitate traffic, provided, however, that no chemicals shall be applied to any of the new construction.
4. Rodding or flushing of a sewer to eliminate a blockage.
5. Use of the rights-of-way by Municipal vehicles for purposes of inspection, fire protection, and police patrol.
6. Issuance of permits for driveways or driveway turn-outs on the publicly dedicated rights-of-way. (It is evident, however, that no permit is authorized for the modification or removal or any required improvement without the Principal's concurrence.)
7. Issuance of excavation permits to excavate within the dedicated street rights-of-way. (However, no permit shall be issued for connection to a sewer improvement under the control of the Principal.)
8. Planting and care of trees along street rights-of-way. (However, no such planting shall be done without concurrence of tree location by the Principal.)
9. Mowing.
10. The annexation of all or any part of the real estate covered by this bond.
11. In addition to the foregoing, the City of Urbana may do any act to protect the public safety and in doing such, may recover the reasonable cost of such work.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding,

that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally, but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against The First National Bank in Champaign or any of the beneficiaries under said Trust Agreement, on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

IN WITNESS WHEREOF, we have hereunto fixed our signatures and seals, this 19 day of October, 1976.

THE FIRST NATIONAL BANK IN CHAMPAIGN,  
Trustee under Land Trust No. 448

By: Charles L. Cannon V.P.

- Principal -

Henry Merkelo  
HENRY MERKELO

- Surety -

I certify that this Bond was accepted by the Urbana City Council on the 18<sup>th</sup> day of October, 1976.

Damon E. Eddy  
City Clerk