

**CITY OF SARATOGA SPRINGS
INSTALLATION OF IMPROVEMENTS
AND BOND AGREEMENT**



ENT 96697:2015 PG 1 of 13
JEFFERY SMITH
UTAH COUNTY RECORDER
2015 Oct 23 3:44 pm FEE 114.00 BY SS
RECORDED FOR SARATOGA SPRINGS CITY

**(LETTER OF CREDIT FORM)
Legacy Farms LANDSCAPE Plat 1-D**

THIS AGREEMENT is made by and between D.R. Horton, Inc., a Delaware corporation (hereinafter "Developer"), whose address is 12351 South Gateway Park, Suite D-100, Draper, Utah 84020, and the City of Saratoga Springs, a municipal corporation of the State of Utah (hereinafter "City"), whose address is 1307 North Commerce Dr. Suite 200, Saratoga Springs, Utah, 84045.

WHEREAS, Developer desires to subdivide and/or to receive permit(s) to develop certain property located within the City, which project is known as Legacy Farms, located at approximately 400 South Redwood Road, in the City of Saratoga Springs, Utah; and

WHEREAS, pursuant to Utah Code § 10-9a-604.5 and City Code § 19.12.05, the City is authorized to require a cash deposit or cash bond ("Performance Bond") guaranteeing that certain subdivision improvements shown on Exhibit A ("Performance Bond Improvements") will be installed in a timely manner and that all of the Performance Bond Improvements once installed shall remain in good condition and free from all defects in materials and workmanship for a one year period following completion ("Warranty Bond"); and

WHEREAS, the amount listed in Exhibit A as the Performance Bond Amount is the estimated cost of all the Performance Bond Improvements, and the Warranty Bond Amount in Exhibit A is equal to 10% of the estimated cost of all Performance Bond Improvements; and

WHEREAS, the City will not approve the subdivision or issue a permit unless Developer promises to install and warrant the Performance Bond Improvements as herein provided and security is provided for that promise and the promises herein in the aggregate amount of ~~\$388,812.49~~ 427,127.84

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Installation of Improvements. The attached (as Exhibit A) Engineer's Estimate Bond Calculation contains a list of the required Performance Bond Improvements, which include those improvements currently installed and other improvements that have yet to be installed by the Developer. The Performance Bond Improvements are not exhaustive and only represent the improvements for which there is a public need for a Performance Bond and Warranty Bond. Developer shall install all the Performance Bond Improvements as well as (to the extent not already included in the definition of the Performance Bond Improvements): (a) all improvements shown on the plans, specifications, and drawings previously reviewed and approved by the City in connection with the above-described project; and (b) all improvements required by the Planning Commission and City Council approvals, applicable development agreement, City ordinance or

regulation, or City standard or specification (collectively the "Subdivision Improvements"). Developer shall install the Performance Bond Improvements and Subdivision Improvements within twelve (12) months from the date of this Agreement. Developer further agrees to pay the total cost of obtaining and installing the Performance Bond Improvements and Subdivision Improvements, including the cost of acquiring easements.

2. **Letter of Credit/Bond.** The Developer has delivered to the City an irrevocable, standby letter of credit (No. **ISO338161U**) dated Septemeber 18, 2015 (attached as Exhibit B) issued by Wells Fargo Bank, N.A. (the "Depository"), in the aggregate amount of **\$427,727.84** ("Bond" or "Letter of Credit"), which the Developer and City stipulate to be a reasonable preliminary estimate of the cost of the Performance Bond Improvements (i.e., the Performance Bond), or **\$388,843.49**, plus 10% of the cost of all of the Performance Bond Improvements (i.e., the Warranty Bond), or **\$38,884.35**, to cover the Warranty Period in Paragraph 3.

The Developer furthers agree that if (1) the Performance Bond Improvements are not completed as required by this Agreement within the time period specified in Paragraph 1 above, or (2) the Performance Bond Improvements are not installed strictly in accordance with Paragraph 1 above and strictly in accordance with City regulations, written notice of the deficiency has been given to the Developer, and Developer has failed to commence correction of the deficiency within 10 working days after notice, weather permitting, and completed within a reasonable time, or (3) the Warranty Bond Improvements (which are the Performance Bond Improvements that have transitioned into the Warranty Period) fail or need to be repaired during the Warranty Period specified in Paragraph 3, then in any of these events the City may withdraw some or all of the Performance Bond or Warranty Bond, as applicable, to install or repair any or all of the Performance Bond Improvements and/or Warranty Bond Improvements, as applicable. The City may also use any of the Letter of Credit amount to cover its reasonable administrative costs, attorneys' fees, litigation costs, or any other direct cost incurred by the City arising from the installation or repair of the improvements. The Performance Bond and Warranty Bond shall sometimes be collectively referred to as the "Bond".

3. **Warranty.** The Developer hereby guarantees that the Performance Bond Improvements installed, and every part hereof, together with the surface of the land and any improvements thereon restored by the Developer, shall remain in good condition and free from all defects in materials and workmanship during the Warranty Period, as defined below, and the Developer shall promptly make all repairs, corrections, and replacements for all defects in workmanship, materials, or equipment during the Warranty Period, without charge or cost to the City. The City may at any time during the Warranty Period inspect, photograph, or televise the Performance Bond Improvements and notify the Developer of the condition of the Performance Bond Improvements. The Developer shall thereupon immediately make any repairs or corrections required by this Paragraph. For purposes of this Agreement, "Warranty Period" means the one-year period beginning on the date on which the Performance Bond Improvements are certified complete by the City.

Developer agrees that if work to replace or repair the Performance Bond Improvements is not commenced within 10 working days of written notice from City, weather permitting, and completed in a reasonable time, then the City may withdraw all or any part of the Warranty Bond, in a single or in multiple withdrawals. Further, upon prior written notice to Developer, City shall

have the right to withdraw all or any part of the Warranty Bond if work is not completed prior to 30 days before expiration of the 1-year Warranty Period.

4. **Progress Releases.** The City agrees to allow progress releases from the Performance Bond as the work progresses as provided herein. The City shall, when requested in writing, inspect the construction, review any necessary documents and information, determine if the work completed complies with City's adopted construction standards and requirements, and review the Engineer's Estimate/Bond Calculation in Exhibit A. After receiving and approving the request, the City shall in writing authorize disbursement to the Developer from and/or release of the Performance Bond in the amount of such estimate. At least 20% of the funds originally deposited to cover the Performance Bond shall be retained until all required Performance Bond Improvements are installed, inspected, and accepted. Except as provided in this Agreement, neither party may request the Depository to release or disburse any funds from the Bond. The City shall not authorize more than four progress payments in total and each progress release shall be at least 30 days apart. No progress payments or releases will be made until Developer has paid an administrative fee to the City as specified in the City's Fee Schedule. No progress releases will be made from the Warranty Bond once the Performance Bond Improvements enter the Warranty Period as specified in Paragraph 3.

5. **Refund or Withdrawal.** In the event the City determines it is necessary to withdraw funds from the Bond to complete, construct, repair, or replace the Performance Bond Improvements and/or Warranty Bond Improvements, the City may withdraw, after notice to Developer and lapse of any applicable cure period, all or any part of the Bond and may cause the Performance Bond Improvements and/or Warranty Bond Improvements (or any part of them) to be constructed, completed, replaced, or repaired using the funds received from the Bond. If any such work is required, the City may also keep and an additional 15% of the cost of such work as payment for the City's overhead and administrative costs in completing the improvements and administering and enforcing this Agreement. Any funds not expended, or not a part of the 15% overhead costs, in connection with the completion or repair of said improvements shall be refunded to Developer upon completion or repair of the improvements.

6. **Preliminary Release.** At the time herein provided, the City may authorize release of all funds in the Performance Bond. The Warranty Bond shall be retained by the Depository as security for the obligations in Paragraph 3 and may be withdrawn by the City as provided in Paragraphs 3 and 5 above for any breach of such an obligation. The release provided for in this Paragraph shall occur when the City certifies in writing that the Performance Bond Improvements are complete, which shall be when all of the Performance Bond Improvements have been installed as required, fully inspected, and approved in writing by the City, and after "as-built" drawings have been supplied as required.

7. **Final Release.** Upon full performance of all of Developer's obligations relating to the Performance Bond Improvements pursuant to this Agreement, including the warranty obligations of Paragraph 3, the City shall notify the Depository and the Developer in writing of the final release of the Bond. After giving such notice, the City shall relinquish all claims and rights in the Bond, minus any amounts retained pursuant to this Agreement.

8. **Non-Release of Developer's Obligations.** It is understood and agreed between the parties that the establishment and availability to the City of the Bond as herein provided, and any

withdrawals from the Bond by the City, shall not constitute a waiver or estoppel against the City and shall not release or relieve the Developer from its obligation to install and fully pay for the Performance Bond Improvements and Subdivision Improvements as required in Paragraph 1 above, and the right of the City to withdraw from the Bond shall not affect any rights and remedies of the City against the Developer for breach of any covenant herein, any breach of any applicable development agreement, failure to comply with conditions of approval, or failure to comply with City ordinances and regulations. Further, the Developer agrees that if the City withdraws from the Bond and performs or causes to be performed the installation or any other work required of the Developer hereunder, then any and all costs actually incurred by the City in so doing which are not collected by the City by withdrawing from the Bond shall be paid by the Developer, including reasonable administrative, engineering, legal, and procurement fees and costs.

9. Dedication. Where dedication is required by the City standards, the Developer shall dedicate to the City the areas shown on the subdivision or development plat as public streets and as public easements, provided however, that Developer shall indemnify the City and its representatives from all liability, claims, costs, and expenses of every nature, including reasonable attorneys' fees which may be incurred by the City in connection with such public streets and public easements until the same are accepted by the City following installation and final inspection of all of the Performance Bond Improvements and Subdivision Improvements and approval thereof by the City. The indemnification language in this Paragraph shall not apply to the extent of any claims, costs, liabilities, or expenses resulting from or arising out of any mistakes, errors, improper actions, or misconduct of the City or its agents or employees during the course of site inspections or in the performance of other duties under this Agreement, with each party responsible for its respective amount of fault.

10. Connection and Maintenance. Upon performance by Developer of all obligations set forth in this Agreement and compliance with all applicable ordinances, resolutions, rules, and regulations of the City, whether now or hereafter in force, including payment of all connection, review, and inspection fees, the City shall permit the Developer to connect any public improvement to the City's water, sewer, secondary water, and storm drainage systems and shall thereafter utilize and maintain public improvements to the extent and in the manner now or hereafter provided in the City's regulations.

11. Inspection. The Performance Bond Improvements and Subdivision Improvements, their installation, and all other work performed by the Developer or its agents pursuant to this Agreement shall be inspected at such times as the City may reasonably require and prior to closing any trench containing such Performance Bond Improvements and Subdivision Improvements. Developer shall provide City with not less than 48 hours' notice, not counting Fridays, Saturdays, and Sundays, notifying City that Developer will be closing a trench to allow City sufficient time to send its representatives to inspect the Performance Bond Improvements and Subdivision Improvements. The City will not send its representatives until Developer has paid all outstanding fees, and Developer agrees to not close any trenches until such fees have been paid and City representatives have inspected said trenches.

12. Ownership. Public improvements covered herein shall become the property of the City upon Preliminary Release, as defined herein, and the Developer shall thereafter advance no claim or right of ownership, possession, or control of the public improvements. This Paragraph

shall in no way relieve Developer of its obligations under Paragraph 3, or any other provision of this Agreement, to warranty and guarantee that the Warranty Bond Improvements remain in good condition and free from all defects in materials and/or workmanship for the 1-year Warranty Period.

13. **As-Built Drawings.** The Developer shall furnish to the City, upon completion of the Performance Bond Improvements and Subdivision Improvements, drawings showing the Performance Bond Improvements and Subdivision Improvements, actual location of water, secondary water, and sewer laterals including survey references, and any related structures or materials as such have actually been constructed by the Developer. The City shall not be obligated to release the Bond until as-built drawings have been provided to the City.

14. **Amendment.** Any amendment, modification, termination, or rescission (other than by operation of law) that affects this Agreement shall be made in writing, signed by the parties, and attached hereto.

15. **Successors.** No party shall assign or transfer any rights under this Agreement without the prior written consent of the other first obtained, which consent shall not be unreasonably withheld. When validly assigned or transferred, this Agreement shall be binding upon and inure to the benefit of the legal representatives, successors, and assigns of the parties hereto.

16. **Other Improvement Obligations.** The obligations of Developer under this Agreement are exclusive of, and shall not be interpreted to relieve Developer of, any obligations contained in any applicable development agreement, City ordinance or regulation, or City standard or specification. Developer expressly acknowledges that additional improvements may be required pursuant to any applicable development agreement, City ordinance or regulation, or City standard or specification and that this Agreement does not supersede, replace, or take precedence over such additional requirements or obligations. Developer further agrees that its obligation to complete and warrant the Performance Bond Improvements shall not be conditioned upon the commencement of actual construction work in the subdivision or development, upon the sale of any lots or part of the subdivision or development, or the issuance of any permits include building or occupancy permits.

17. **Other Events Constituting Failure to Perform.** In addition to those events previously or subsequently described herein, the following shall be considered failure to perform or breach of this Agreement, the occurrence of which shall entitle City to invoke any and all remedies outlined in this Agreement or any and all remedies it may have in equity or at law: Developer's abandonment of the project as reasonably determined by City, which is defined as expiration of building permits due to inactivity, expiration of approvals per City Code, or inactivity for a period of 6 months or longer excluding the months of November through February; Developer's insolvency, appointment of a receiver, or filing of a voluntary or involuntary petition in bankruptcy; the completion of a foreclosure proceeding against the project property; and/or the project property being conveyed in lieu of foreclosure. In the event the Developer files a bankruptcy petition, Developer hereby agrees to waive the automatic stay provisions of the Bankruptcy Code and agrees that City may proceed with exercising any and all remedies herein or any remedies in equity or law.

18. **Access to Property.** Should City elect to use the Bond to complete, repair, or replace the Performance Bond Improvements, Developer expressly grants to City, and any contractor or other agent hired by City, the right of access to the project property.

19. **Notices.** Any notice given under this Agreement shall be in writing and shall be delivered personally, mailed by first class or express mail, or sent by e-mail at or to the following addresses:

D.R. Horton, Inc.
12351 South Gateway Park, Suite D-100
Draper, Utah 84020
Attention: Boyd A. Martin
bamartin@drhorton.com

City of Saratoga Springs
c/o Mark Christensen (or current City Manager)
1307 N. Commerce Drive, Suite 200
Saratoga Springs, UT 84045
markc@saratogaspringscity.com

Notice shall be deemed given when actually received if personally delivered, the earlier of the day actually received or the third business day after the notice is deposited in the United States mail properly addressed and postage prepaid if sent by mail, or the date a delivery receipt is received if sent by e-mail.

20. **Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

21. **Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

22. **Counterparts.** The fact that the parties hereto execute multiple but identical counterparts of this Agreement shall not affect the validity or efficacy of their execution, and such counterparts, taken together, shall constitute one and the same instrument, and each such counterpart shall be deemed an original.

23. **Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision, regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving party.

24. **Captions.** The captions preceding the paragraphs of this Agreement are for convenience only and shall not affect the interpretation of any provision herein.

25. **Integration.** This Agreement, together with its exhibits and the approved plans and specifications referred to, contains the entire and integrated agreement of the parties as of its date, and no prior or contemporaneous promises, representations, warranties, inducements, or understandings between the parties pertaining to the subject matter hereof, which are not contained herein, shall be of any force or effect. However, this Agreement shall not affect any fully-executed agreements that are lawfully approved if said agreements do not conflict with the provisions herein.

26. **Attorneys' Fees.** In the event either party hereto defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorney fees, incurred by the other party in enforcing its rights hereunder whether incurred through litigation or otherwise. In the case either party chooses to use in-house counsel, attorney fees shall be determined by the average hourly rate of a local attorney with the same level of experience and expertise.

27. **Other Bonds.** This Agreement and the Bond do not alter the obligation of Developer to provide other bonds under applicable ordinances or rules of any other governmental entity (including the City) having jurisdiction over Developer. The furnishing of security in compliance with the requirements of the ordinances or rules of the City or other jurisdictions shall not adversely affect the ability of the City to draw on the Bond as provided herein.

28. **Time of Essence.** The parties agree that time is of the essence in the performance of all duties herein.

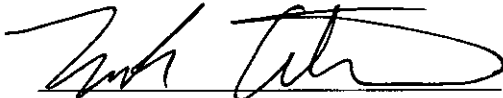
29. **Exhibits.** Any exhibit(s) to this Agreement are incorporated herein by this reference, and failure to attach any such exhibit shall not affect the validity of this Agreement or such exhibit. An unattached exhibit is available from the records of the parties.

30. **Indemnification.** Developer agrees to indemnify, defend, and save harmless City, its officers, employees, and agents from and against any and all claims, lawsuits, damages, proceedings, and liability which may arise as a result of the installation of the Performance Bond Improvements and Subdivision Improvements and any action of Developer pursuant to this Agreement. This includes any claims of any third-party in Paragraph 31 below. City shall have the option to either provide its own defense, with all costs for such being borne by Developer in accordance with Paragraph 26, or require that Developer undertake the defense of City. The indemnification language in this Paragraph shall not apply to the extent any claims, costs, liabilities or expenses resulting from or arising out of any mistakes, errors, improper actions or misconduct of the City or its agents or employees during the course of site inspections or in the performance of other duties under this Agreement, with each party responsible for its respective amount of fault.

31. **No Third-Party Beneficiaries.** The benefits and protection provided by this Agreement shall inure solely to City and not to third parties, including, but not limited to, lot purchasers, contractors, subcontractors, laborers, suppliers, subsequent purchasers, builders, or developers, or others. City shall not be liable to claimants or others for obligations of Developer under this Agreement. City shall have no liability for payment of any costs or expenses of any party who attempts to make a claim under this Agreement, and shall have no obligation to make payments to, give notices on behalf of, or otherwise have obligations to any alleged claimants under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives this 21 day of September, 2015.
CITY:

CITY OF SARATOGA SPRINGS

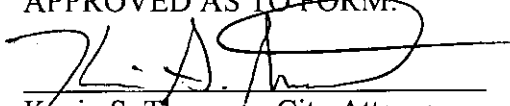

Mark Christensen, City Manager



ATTEST:



Lori Yates, City Recorder

APPROVED AS TO FORM:


Kevin S. Thurman, City Attorney


DEVELOPER:

D.R. Horton, Inc., a Delaware corporation

By 
Print Name: BA MARTIN
Its: V.P.

STATE OF UTAH)
 : ss.
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 21 day of September, 2015, by Boyd A. Martin in his capacity as the Vice President of D.R. Horton, Inc., a Delaware corporation.


NOTARY PUBLIC
Residing in Utah County, Utah

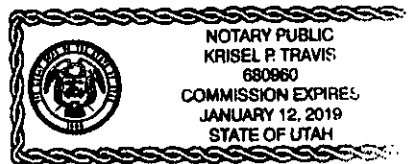


EXHIBIT "A"
Engineer's Estimate/Bond Calculation



Exhibit A

Saratoga Springs Bond Calculation

Project: Legacy Farms Village Plan 1 Plat 1D Landscaping

By: Janelle Wright

Date: 9/9/2015

Open Space 10

Open Space 10 Description	Unit	Quantity	Cost per Unit	Total Cost
Landscaping and Irrigation	SF	8,315	\$1.73	\$14,343.38
Trees	EA	6	\$345.00	\$2,070.00
Shrubs	EA	6	\$230.00	\$1,380.00
Fencing	LF	280	\$23.00	\$6,440.00
Subtotal				\$24,233.38

Open Space 11

Open Space 11 Description	Unit	Quantity	Cost per Unit	Total Cost
Landscaping and Irrigation	SF	52,152.00	\$1.73	\$90,222.96
Trees	EA	30	\$345.00	\$10,350.00
Shrubs	EA	15	\$230.00	\$3,450.00
Serpentine Bike/Skate Area Complete	EA	1	\$15,000.00	\$15,000.00
Old Tractor Play Feature Area Complete	LS	1	\$10,000.00	\$10,000.00
Rolling Dome Bike/Skate Area Complete	LS	1	\$10,000.00	\$10,000.00
Quarter Pipe Bike/Skate Area Complete	LS	1	\$10,000.00	\$10,000.00
Subtotal				\$149,022.96

Open Space 12

Open Space 12 Description	Unit	Quantity	Cost per Unit	Total Cost
Landscaping and Irrigation	SF	7,603	\$1.73	\$13,153.19
Trees	EA	5	\$345.00	\$1,725.00
Fencing	LF	253	\$23.00	\$5,828.97
Subtotal				\$20,707.16

Miscellaneous

Miscellaneous Description	Unit	Quantity	Cost per Unit	Total Cost
Landscaping and Irrigation (Parkstips and Private Common Areas)	SF	94,500.00	\$1.73	\$163,485.00
Trees	EA	91	\$345.00	\$31,395.00
Shrubs	EA	50	\$0.00	\$0.00
Subtotal				\$194,880.00

Total Improvement Cost	\$388,843.49
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Performance Bond Amount (Estimated Cost of Remaining Improvements)	\$388,843.49
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Warranty Bond Amount (10% of Total Improvement Cost)	\$38,884.35
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Bond To Be Posted (Performance Bond + Warranty Bond) (GL # 10 - 2800000 for Cash Bonds)	\$427,727.84
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EXHIBIT "B"
Letter of Credit

ENT 96697:2015 PG 11 of 13

4820-0914-4103, v. 2

Irrevocable Standby Letter Of Credit**Number:** IS0338061U
Issue Date: September 18, 2015ENT **96697:2015** PG 12 of 13**BENEFICIARY**CITY OF SARATOGA SPRINGS
1307 N COMMERCE DRIVE, SUITE 200
SARATOGA SPRINGS, UTAH 84045**APPLICANT**D.R. HORTON, INC.
301 COMMERCE STREET, SUITE 500
FORT WORTH, TEXAS 76102**LETTER OF CREDIT ISSUE AMOUNT** USD 427,727.84 **EXPIRY DATE** SEPTEMBER 18, 2017**LADIES AND GENTLEMEN:**

RE: LEGACY FARMS PLAT 1-D-LANDSCAPE

WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN FAVOR OF THE CITY OF SARATOGA SPRINGS ("CITY") FOR THE ACCOUNT OF D.R. HORTON, INC. ("ACCOUNT HOLDER") IN THE AGGREGATE AMOUNT NOT EXCEEDING FOUR HUNDRED TWENTY SEVEN THOUSAND SEVEN HUNDRED TWENTY SEVEN AND 84/100 UNITED STATES DOLLARS (USD 427,727.84) TO EXPIRE ON SEPTEMBER 18, 2017, OR A PRIOR DATE AUTHORIZED BY THE CITY ALONG WITH THE ORIGINAL LETTER OF CREDIT AND ANY AMENDMENTS, IF APPLICABLE, AND A SIGNED LETTER STATING THE ACCOUNT HOLDER HAS COMPLETED ALL REQUIRED WORK AND THE CITY IS AUTHORIZING THE CANCELLATION OF THE LETTER OF CREDIT. WE HAVE BEEN INFORMED THAT THE PURPOSE OF THE LETTER OF CREDIT IS TO SECURE IMPROVEMENTS TO BE MADE AND TO WARRANT SUCH IMPROVEMENTS FOR THE PROPOSED LEGACY FARMS PLAT 1-D-LANDSCAPE SUBDIVISION IN SARATOGA SPRINGS, UTAH.

THE AMOUNT SPECIFIED IN THIS LETTER OF CREDIT IS AVAILABLE FOR PAYMENT UPON PRESENTATION OF DRAFT(S) DRAWN ON WELLS FARGO BANK, N.A., BEARING THE CLAUSE, "DRAWN UNDER LETTER OF CREDIT NO. IS0338061U OF WELLS FARGO BANK, N.A., DATED SEPTEMBER 18, 2015, AND PRESENTED ON OR BEFORE SEPTEMBER 18, 2017, AFTER WHICH THIS IRREVOCABLE LETTER OF CREDIT SHALL BE NULL AND VOID. THE DRAFT SHALL BE ACCOMPANIED BY THE FOLLOWING INFORMATION AND DOCUMENTS:

A STATEMENT PURPORTEDLY SIGNED BY AN OFFICER OF THE CITY OF SARATOGA SPRINGS INDICATING THAT THE IMPROVEMENTS REQUIRED IN THAT CERTAIN BOND AGREEMENT HAVE NOT BEEN COMPLETED OR REPAIRED IN ACCORDANCE WITH THE BOND AGREEMENT AND CITY ORDINANCES AND THAT THE REQUESTED DRAW AMOUNT REPRESENTS THE AMOUNT NECESSARY TO COMPLETE OR REPAIR THE IMPROVEMENTS. WE FURTHER STATE THAT NOTICE OF THE REQUESTED DRAW HAS BEEN FURNISHED TO THE ACCOUNT HOLDER. WE THEREFORE DEMAND PAYMENT IN THE AMOUNT OF (INSERT AMOUNT) AS SAME IS DUE AND OWING.

Together we'll go far



THE ORIGINAL OF THIS IRREVOCABLE LETTER OF CREDIT AND ANY AMENDMENTS IF APPLICABLE.

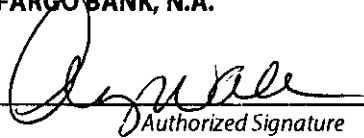
WE HEREBY ENGAGE WITH THE BENEFICIARY THAT OF DRAFT(S) UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT THAT THE SAME SHALL BE DULY HONORED ON DUE PRESENTATION OF DELIVERY OF DOCUMENTS AS SPECIFIED TO WELLS FARGO BANK, N.A. AT OUR ADDRESS ABOVE.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED HEREIN AND THE BOND AGREEMENT, THIS LETTER OF CREDIT IS SUBJECT TO UNIFORM CUSTOMS AND PRACTICE FOR THE DOCUMENTARY CREDITS (2007 REVISION, THE INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 600).

Very Truly Yours,

WELLS FARGO BANK, N.A.

By:


Authorized Signature

The original of the Letter of Credit contains an embossed seal over the Authorized Signature.

Please direct any written correspondence or inquiries regarding this Letter of Credit, always quoting our reference number, to **Wells Fargo Bank, National Association**, Attn: U.S. Standby Trade Services

at either 794 Davis Street, 2nd Floor
MAC A0283-023,
San Leandro, CA 94577-6922

or 401 N. Research Pkwy, 1st Floor
MAC D4004-017,
WINSTON-SALEM, NC 27101-4157

Phone inquiries regarding this credit should be directed to our Standby Customer Connection Professionals

1-800-798-2815 Option 1
(Hours of Operation: 8:00 a.m. PT to 5:00 p.m. PT)

1-800-776-3862 Option 2
(Hours of Operation: 8:00 a.m. EST to 5:30 p.m. EST)

