

USE BALLPOINT BLACK INK ONLY

APN: 123-44-555-006

HTE #: 13-0000

When recorded return to:
Bonding
Clark County Department of Public Works
Development Review Division
1st Floor
Clark County Government Center



CASH IN LIEU OF BOND AGREEMENT AND DEPOSIT ACCOUNT CONTROL AGREEMENT

THIS AGREEMENT ("Agreement") made and entered into this day of 1st September,
2013, by and between: _____
_____, hereinafter referred to
as DEVELOPER, and the COUNTY OF CLARK, a political subdivision of the State of Nevada,
hereinafter referred to as the COUNTY, and _____,
hereinafter referred to as FINANCIAL INSTITUTION.

The initial addresses of each party, which one party may change by giving notice to
respective other party, are as follows:

DEVELOPER

Developer Name
Address
City State Zip
Phone

COUNTY

Clark County Public Works Department
500 S. Grand Central Parkway
Box 551799
Las Vegas, NV 89155-1799

FINANCIAL INSTITUTION

Bank Name
Address
City State Zip
Phone

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WITNESSETH:

WHEREAS, DEVELOPER is developing a COMMERCIAL/RESIDENTIAL project, known as (PROJECT NAME) and generally located at CROSS-STREETS;

WHEREAS, as a condition of the (PROJECT NAME) Developer has agreed to perform certain work, consisting of the construction of off-site improvements (off-site improvements are hereinafter referred to as "Improvements") as defined in and in accordance with that certain Off-Site Improvements Agreement between the DEVELOPER and the COUNTY dated the [REDACTED] day of [REDACTED] 20[REDACTED], a copy of which is attached hereto, marked Exhibit "A" and by reference made a part hereof;

WHEREAS, in said Off-Site Improvements Agreement, the DEVELOPER agreed to provide security in favor of the COUNTY, securing to the COUNTY the full and complete construction of the Improvements and performance of all of the terms and conditions on the DEVELOPER's part to be performed in said Off-Site Improvements Agreement;

WHEREAS, as an alternative to the performance bond, the DEVELOPER may make a cash deposit, that is within the limits of the amount that is federally insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and is equal in amount to the performance bond which would otherwise be required, in a local financial institution that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, subject to the terms and conditions of this Agreement;

WHEREAS, the DEVELOPER desires to make such cash deposit in the amount of Two Hundred Fifty Thousand Dollars and No Cents (\$250,000.00) (the "Funds") in lieu of the aforesaid performance bond, and the COUNTY desires to accept such cash deposit of the Funds as security for DEVELOPER's obligations for the construction of the Improvements, pursuant to

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the terms and conditions in the Off-Site Improvements Agreement and subject to the terms and conditions of this Agreement; and

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants and agreements hereinafter contained, the parties do hereby agree as follows:

1. The DEVELOPER hereby represents that it has heretofore established with the FINANCIAL INSTITUTION a separate account, designated Account #0000001 (the "Account") and has deposited the Funds therein in the sum of Two Hundred Fifty Thousand Dollars and No Cents Dollars (\$250,000.00) as security for the full and complete construction of the Improvements in accordance with all of the terms and conditions of the aforesaid Off-Site Improvements Agreement on the DEVELOPER's part to be performed, said Funds to be received, held, and disbursed by the FINANCIAL INSTITUTION in accordance with the terms of this Agreement. By its execution hereof, the FINANCIAL INSTITUTION hereby verifies that said Account has been established and that the aforesaid Funds have been deposited therein, and agrees that said Funds will be held and disbursed by it in accordance with the terms hereof and for no other purpose than herein stated. FINANCIAL INSTITUTION is an institution that is insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and further verifies that this account is within the limits of the amount that is federally insured. Further, FINANCIAL INSTITUTION hereby waives any security interest in or setoff rights against the Account and Funds.

Documentation from FINANCIAL INSTITUTION evidencing proof of establishment of the Account and the deposit of Fund within the Account is attached hereto as Exhibit "B".

2. The Funds deposited in said Account may be withdrawn only upon approval for release by the Director of Public Works or its designated deputy in accordance with the terms and conditions of this Agreement.

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3. Pursuant to Clark County Code Chapter 30.32, it is contemplated that monthly payments may be made to the DEVELOPER from time to time out of said Account as the work on said Improvements progresses according to the percentage of the work completed and the amount to be paid, as solely determined by the COUNTY; provided, however, that there shall at all times be a ten percent (10%) retention of the funds in said account, until all of the Improvements called for in said Off-Site Improvements Agreement have been completed and accepted by the COUNTY.
4. In the event said Improvements are not completed to the satisfaction of the COUNTY within the time prescribed in said Off-Site Improvements Agreement, and any extensions thereto, or if DEVELOPER does not comply with the terms, conditions and obligations of the Off-Site Improvements Agreement and related plans and permits as solely determined by the COUNTY, the COUNTY may serve upon the DEVELOPER and upon the FINANCIAL INSTITUTION written notice of such default to their respective mailing address as set forth in this Agreement and thereafter drafts on said Account or requests for the withdrawal of Funds therefrom shall be valid and binding and shall be honored by the FINANCIAL INSTITUTION upon the sole signature of the Director of Public Works of COUNTY or its designated deputy. This term applies whether or not DEVELOPER commences construction of its project or the Improvements, fails to complete any or all of the Improvements in accordance with the terms and conditions of the Off-Site Improvements Agreement and related plans and permits, or otherwise is in default of the Off-Site Improvements Agreement. The COUNTY's rights against FINANCIAL INSTITUTION remain in full force and effect even if DEVELOPER's business fails or DEVELOPER is no longer the owner of the property that is the subject of the project.
5. In addition to the provisions in the Off-Site Improvements Agreement relating to threats or dangers to the health, safety or welfare of the public, in the event of a threat or danger to the health, safety or welfare of the public, as solely determined by the Director of Public Works, related to or arising from the Improvements, the COUNTY, at its option,

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may take such action as is necessary to remediate such threat or danger related to or arising from the Improvements. If the COUNTY desires to exercise its power to remediate such threat or danger related to or arising from the Improvements, the County shall provide DEVELOPER and FINANCIAL INSTITUTION written notice of to their respective mailing address of the exercise of such option, and thereafter COUNTY shall have the right to withdraw from the Account whatever sum COUNTY requires in order to pay for such remediation (or to reimburse itself for the cost of such remediation). The balance of the Funds shall remain subject to the terms of this Agreement, and DEVELOPER agrees to replenish the Funds with the amount withdrawn from the COUNTY for the purpose set forth in this Section 5 within thirty (30) days of receipt of notice from the COUNTY.

6. It is acknowledged by the DEVELOPER that the amount of the Funds provided for in Section 1 above is based upon the estimated cost of the Improvements called for in the Off-Site Improvements Agreement and Title 30 of the Clark County Code. It is understood and agreed that, in the event the actual cost of said Improvements exceeds such sum, the DEVELOPER is in no way relieved by this Agreement and the Off-Site Improvements Agreement from the obligation of paying the amount of such excess. If the actual cost of said Improvements exceeds the sum of the Funds, the DEVELOPER shall pay such excess amounts to the COUNTY within thirty (30) days of receipt of invoice from the COUNTY.
7. Except as set forth in Section 1 of this Agreement, neither FINANCIAL INSTITUTION nor any of its affiliates, make any representation or commitment whatsoever to be guarantor, surety, principal or to be otherwise directly or indirectly responsible for the construction or the financing of the construction of the Improvements.
8. DEVELOPER hereby grants to the COUNTY a perfected security interest in the Account and the Funds to secure DEVELOPER's obligations to complete the construction of the Improvements in accordance with the Off-Site Improvements Agreement. This

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Agreement grants to COUNTY "control" of the Account as contemplated by Section 104.9104 of the Nevada Revised Statutes. The COUNTY's claim to said funds shall be prior to that of any creditor of DEVELOPER, or any receiver or trustee in the event of insolvency of bankruptcy of DEVELOPER; and that in such event, said Funds shall not be administered by any receiver or trustee, but shall be paid and distributed according to the terms of this Agreement.

9. Upon final acceptance by the Director of Public Works, or its designee, of all of the Improvements called for in said Off-Site Improvements Agreement, this Agreement shall become null and void and of no further force or effect, and any Funds remaining in said Account shall belong to the DEVELOPER.
10. This Agreement and all of the provisions hereof shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors assigns and third party purchasers of land.
11. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed sufficiently given when personally delivered or three (3) business days after deposit in the U.S. Mail, registered or certified mail, return receipt requested, postage pre-paid and addressed as follows:

DEVELOPER

[Redacted Developer Information]

COUNTY

Clark County Public Works Department
500 S. Grand Central Parkway, 1st Floor
Las Vegas, NV 89155-1799

12. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between COUNTY,

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DEVELOPER and FINANCIAL INSTITUTION except as specifically provided herein. No term or provision of this Agreement is intended to benefit any person, partnership, corporation or other entity not a party to this Agreement, including without limitation, any broker, and no such other person, partnership, corporation or entity shall have any right or cause of action hereunder.

13. The laws of the State of Nevada shall be applied in interpreting and construing this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and official seals.

State of Nevada)
)ss.
County of Clark)

DEVELOPER:

This instrument was acknowledged before me this
_____ day _____ of 20 _____ by

(developer)

NOTARY PUBLIC in and for said County and State

State of Nevada)
)ss.
County of Clark)

Notary Stamp:

Signed or attested to be this _____ day of
_____ 20 _____ by

(President's Name)

NOTARY PUBLIC in and for said County and State

By: _____
President

Notary Stamp:

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~FOR OFFICIAL USE ONLY~

State of Nevada)
)ss.
County of Clark)

COUNTY OF CLARK, a political
subdivision of the State of Nevada

Signed or attested to be this _____ day of
_____ 20 __, by

BY:

Robert B. Thompson

ROBERT B. THOMPSON
Department of Public Works

NOTARY PUBLIC in and for said County and
State

SAMPLE ONLY NOT FOR SUBMITTAL

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CASH IN LIEU OF BOND AGREEMENTS

1. Name AND complete address with phone number of Developer.
2. Name AND complete address with phone number of LOCAL Financial Institution.
3. Account number for the Off-Site Improvements.
4. An Off-Site Improvements Agreement AND legal description MUST accompany a Cash In Lieu of Bond Agreement.
5. The Principal/Developer is the same on both the "CIL" and the Off-Site Improvements Agreement.
6. Name AND title typed or printed under signature of Developer AND LOCAL Financial Institution.

SIGNATURES MUST BE NOTARIZED in proper place. DO NOT Stamp over Names or Signatures or obstruct the stamp in any way.

Partial releases may be requested once every thirty (30) days.

Requests take 10 to 15 working days to process.

If you have any questions, please call Bonding at 455-4630.