

# CITY OF NORTH LAS VEGAS

2250 Las Vegas Boulevard North, Suite 200, North Las Vegas, Nevada 89030



## CASH IN LIEU OF BOND AGREEMENT SEPARATE ACCOUNT

THIS AGREEMENT, made and entered into this  day of \_\_\_\_\_, 20\_\_\_\_, and between \_\_\_\_\_ whose mailing address is \_\_\_\_\_ (hereinafter referred to as the "Developer"), the CITY OF NORTH LAS VEGAS, a political subdivision of the State of Nevada, (hereinafter referred to as the "City"), and \_\_\_\_\_ whose mailing address is \_\_\_\_\_ (hereinafter referred to as the "Financial Institution");

### WITNESSETH:

WHEREAS, the Developer has agreed to do and perform certain work, consisting of the construction of off-site improvements for a \_\_\_\_ residential subdivision, \_\_\_\_ commercial project, or \_\_\_\_ other development located on Assessor's Parcel Number(s) \_\_\_\_\_

\_\_\_\_\_, commonly called \_\_\_\_\_

\_\_\_\_\_ including ALL OFF-SITE IMPROVEMENTS SET FORTH ON EXHIBIT "A" ATTACHED HERETO AND MADE A PART BY REFERENCE in accordance with that certain Off-Site Improvements Agreement between the Developer and the City, effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of which is attached hereto, marked Exhibit "B", and made a part hereof by reference; and

WHEREAS, in said Off-site Improvements Agreement the Developer agreed to execute a surety and performance bond in favor of the City, securing to the City the faithful performance of all of the terms and conditions thereof on the Developer's part to be performed; and

WHEREAS, the Developer may make a cash deposit, equal in amount to the surety and performance bond which would otherwise be required, in a local Financial Institution, provided that a proper agreement is entered into by and between the Developer, the City, and the Financial Institution; and

WHEREAS, the Developer desires to make such cash deposit in lieu of the aforesaid surety and performance bond, and the City desires to accept such cash deposit in satisfaction of the Developer's obligation to provide such bond;

NOW, THEREFORE, for and in consideration of the promises and of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. The developer hereby represents that it has heretofore established with the Financial Institution a separate account designated \_\_\_\_\_

Off-Site Improvements Account, Account Number \_\_\_\_\_, and has deposited therein the sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_) as security for the faithful performance of all of the terms and conditions of the aforesaid Off-Site Improvements Agreement on the Developer's part to be performed, said sum 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 sum has been deposited therein and agrees that said sum will be held and disbursed by it in accordance with the terms hereof and for no other purpose than herein stated.

2. Funds deposited in said account may be withdrawn only upon drafts or requests for withdrawal signed jointly by the Director of Public Works of the City of North Las Vegas or his designee, and by some person designated by the Developer.

3. 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 work completed and the amount to be paid as determined by the City; provided, however, that there shall at all times be a ten percent (10%) retention of the funds in said account, until all of the off-site improvements called for in said Off-Site Improvements Agreement have been completed and accepted by the City.

4. In the event said off-site improvements are not completed to the satisfaction of the City within the time prescribed in said Off-Site Improvements Agreement and the City desires to exercise its option to complete said improvements, the City shall serve upon the Developer and upon the Financial Institution written notice of such default and exercise of such option, 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 the City of North Las Vegas or his designee.

5. It is acknowledged by the Developer that the sum provided for in paragraph 1 above is based upon the estimated cost of the improvements called for in said Off-Site Improvements Agreement. It is understood and agreed that, in the event the actual cost of said improvements shall exceed such sum, the Developer is in no way relieved by this Agreement from the obligation of paying the amount of such excess.

6. It is understood and agreed that neither the Financial Institution by executing this Agreement 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 above described off-site improvements except as expressly provided by this Agreement.

7. It is understood and agreed that the money deposited, as herein provided, is a security interest and that the City's claim to said funds shall be prior to that of any creditor, referee, receiver or trustee in the event of insolvency or bankruptcy; and that in such event, said funds shall not be administered by any receiver, referee or trustee, but shall be paid and distributed according to the terms of this Agreement. This Agreement with attachment(s) shall be placed on public record to perfect said security interest.

8. Upon final acceptance by Director of Public Works of the City of North Las Vegas all of the off-site improvements called for in said Off-Site Improvements Agreement, this Agreement shall become null and void and of no further force or effect, and all funds remaining in said account shall belong to the Developer.

9. 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, and assigns.

10. Developer agrees to indemnify and hold harmless the City from and against any and all lawsuits, claims, demands, payments, suits, actions recoveries and/or judgments of any and every nature and description brought or recovered by reason of any act or omission of the Developer in the performance of his work under this Agreement.

*[Remainder of this page intentionally left blank.]*

IN WITNESS WHEREOF, the parties hereto have executed, or have caused to be executed by their duly authorized representative, this Agreement in triplicate to be effective the day and year first above written.

DIRECTOR OF PUBLIC WORKS

MANAGER, DEVELOPMENT &  
FLOOD CONTROL

By: \_\_\_\_\_  
Jennifer E. Doody, P.E., CFM.

By: \_\_\_\_\_  
Robert McLaughlin, P.E., CFM

ATTEST:

\_\_\_\_\_  
Catherine A. Raynor, MMC, City Clerk

DEVELOPER:

FINANCIAL INSTITUTION:

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Phone Number: \_\_\_\_\_

*[Remainder of this page intentionally left blank.]*

CITY ACKNOWLEDGMENT:

State of Nevada )  
 ) ss.  
County of Clark )

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ as Manager of Development  
and Flood Control of the City of North Las Vegas and by \_\_\_\_\_  
\_\_\_\_\_ as Director of Public Works

Notary Stamp/Seal:

\_\_\_\_\_  
Notary Public in and for said county and state  
My commission expires: \_\_\_\_\_

DEVELOPER ACKNOWLEDGMENT:

State of Nevada )  
 ) ss.  
County of Clark )

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ as \_\_\_\_\_  
[name(s) of person(s)] [type of authority]

of \_\_\_\_\_.  
[name of Developer on behalf of whom instrument was executed]

Notary Stamp/Seal:

\_\_\_\_\_  
Notary Public in and for said county and state  
My commission expires: \_\_\_\_\_

FINANCIAL INSTITUTION ACKNOWLEDGMENT:

State of Nevada )  
 ) ss.  
County of Clark )

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
by \_\_\_\_\_ as \_\_\_\_\_  
[name(s) of person(s)] [type of authority]

of \_\_\_\_\_.  
[name of Developer on behalf of whom instrument was executed]

Notary Stamp/Seal:

\_\_\_\_\_  
Notary Public in and for said county and state  
My commission expires: \_\_\_\_\_

**EXHIBIT A**  
to the  
CASH IN LIEU OF BOND AGREEMENT  
SEPARATE ACCOUNT

Offsite Improvements

*[Please see attached pages.]*

**EXHIBIT B**  
to the  
CASH IN LIEU OF BOND AGREEMENT  
SEPARATE ACCOUNT

Off-Site Improvements Agreement

*[Please see attached pages.]*