

AGREEMENT TO INSTALL IMPROVEMENTS
AND PERFORMANCE GUARANTEE

THIS AGREEMENT, made and entered into this ____ day of _____, 20 ____, by and between the **CITY OF WEST WENDOVER**, a municipal corporation, organized and existing under the laws of the State of Nevada, hereinafter referred to as "**City**," and _____, a _____, hereinafter referred to as "**Subdivider**;"

W I T N E S S E T H:

WHEREAS, **Subdivider** is subdividing certain property within the **City** of WEST WENDOVER, County of ELKO, State of Nevada known as _____ and,

WHEREAS, the WEST WENDOVER City Code, Section 8-14-3 requires, among other things, that prior to certification of a final subdivision plat and approval of the Mayor of the **City** of WEST WENDOVER, **Subdivider** shall file with the City Clerk of the **City** of WEST WENDOVER a financial guarantee of performance to complete the required improvements in an amount deemed sufficient by the City Engineer to cover the full cost of required improvements, engineering inspections, incidental expenses and replacement or repair of any existing streets and utilities or other improvements required by the WEST WENDOVER City Code, Section 8-14-6 which are to be completed within a period of twelve (12) months from the date of this agreement; and,

WHEREAS, the City Engineer of the City of WEST WENDOVER has determined from the Engineering Cost Estimate, a copy of which is attached hereto as Exhibit A and made a part hereof, that performance and payment bonds guaranteeing installment of required improvements, will be a sufficient financial guarantee of performance of completion of the required improvements; and,

WHEREAS, the WEST WENDOVER City Code, Section 8-14-3, requires an Agreement to Install Improvements between the **City** and **Subdivider**;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions on the part of the respective parties to be performed, said parties hereby agree as follows:

1. **The Subdivider** agrees to be held firmly bound to the **City** for payment of the sum of _____ (\$ _____) and has secured a performance and, where required, a payment bond in favor of the **City** of WEST WENDOVER, which shall be maintained in full amount for at least two (2) years from the date of this Agreement, unless all work required by this Agreement is completed and accepted by the **City** prior to two (2) years on conditions as follows:

A. This Agreement shall be incorporated into any agreement between **Subdivider** and the bond company for the purpose of providing a performance guarantee for the **City** under Title 8, Chapter 14 of the City Code.

B. That **Subdivider** shall construct the improvements listed in the WEST WENDOVER City Code, Section 8-14-6, **City** of WEST WENDOVER, State of Nevada and will comply with and perform all obligations imposed upon the **Subdivider** by Title 8, Chapter 14 of the WEST WENDOVER City Code and shall have completed said improvements in accordance with paragraph C below. All work shall be performed and completed within twelve (12) months from the date of this agreement in accordance with the plans, specifications and conditions approved by the City Engineer of the **City** of WEST WENDOVER and in accordance with all applicable codes and standards. The **City** may, upon a showing by **Subdivider** of sufficient cause, grant an extension for an additional twelve (12) months thereafter upon the further condition that the escrow account described in paragraph 1 above remain open for an additional year from the date of signature of this Agreement. If **Subdivider** so wishes in conjunction with a request for extension, **Subdivider** may also request a reduction in the security for the amount of work certified as completed.

C. Before final inspection, **Subdivider's** engineer shall provide the WEST WENDOVER **City** Building Inspector with a certificate certifying to the adequacy of the subdivision public improvements, construction, inspection and compliance with **City** standard construction specifications, codes and standards.

D. The final completion and acceptance of all improvements shall be subject to the approval thereof by the **City** Building Inspector. The **City** Building Inspector shall be notified to inspect the improvements no later than thirty (30) days prior to the anniversary date of this Agreement. The **City** Building Inspector

shall have the authority to suspend the work, wholly or in part, for such period as he may deem necessary, due to unsuitable weather or other unfavorable conditions or the failure of **Subdivider** to comply with the standard construction specifications of the **City**.

E. **Subdivider** shall, during the entire period of construction, save harmless and defend the **City** from any damages occurring within the subdivision development or adjacent areas as a result of **Subdivider's** activities.

F. It is specifically understood and agreed that the **City** shall have the right to use the bond(s) as may be necessary to complete the improvements provided for herein and to pay all proper claims for labor and materials in the event the **Subdivider** fails to perform or satisfy all the requirements to be performed by the **Subdivider** in this Agreement as required by Title 8-14-3 of the WEST WENDOVER City Code.

G. **Subdivider** agrees that, in the event of any default in the terms of this Agreement, it will pay all costs, expenses and attorney fees incurred by the **City** of WEST WENDOVER in enforcing this Agreement and the **City** may exercise its option to complete the improvements by serving notice on the **Subdivider** and the bond company and thereafter may use the funds from the bond(s) to complete the public improvements set forth in Exhibit A.

H. It is acknowledged by the **Subdivider** that the sum provided for in bond(s) is based upon the estimated cost of the improvements called for in said Subdivision Development Plans. It is understood and agreed in that the event the actual cost of said improvements shall exceed such sum, the **Subdivider** is in no way relieved by this Agreement from the obligation of paying the amount of such excess.

2. It is expressly understood and agreed that the **City** shall have the right to use the bond(s) to complete the improvements provided for herein and to pay all proper claims for labor and materials provided in the event **Subdivider** fails to perform or satisfy all the requirements of this Agreement. It is further agreed that, regardless of the length of time for completion, the bond(s) shall remain in effect for a period of at least one (1) year after the date of final acceptance by the City.

THIS AGREEMENT shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate the day and year first above written.

"CITY"

"SUBDIVIDER"

THE CITY OF WEST WENDOVER

By: _____
JOSEPHINE E. THAUT, Mayor

By: _____

Title: _____

ATTEST:

City Clerk