

**BOND AGREEMENT
FOR
COMPLETION OF PROPOSED IMPROVEMENTS
[CASHIER’S CHECK FORM]**

THIS BOND AGREEMENT (this “Agreement”) is made and entered into this _____ day of _____, 20____, (the “Effective Date”) by and between the City of Taylorsville, a municipal corporation of the State of Utah whose address is 2600 West Taylorsville Blvd. Taylorsville, Utah 84129 (the “City”) and the undersigned owner (or soon-to-be owner) of real property located within the City (the “Developer”). The City and the Developer are sometimes referred to herein collectively as the “Parties.”

RECITALS

WHEREAS, Developer owns, or will soon own, legal title to certain real property within the City boundaries as described in Exhibit “A,” attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, Developer has filed, or will soon file, an application (the “Application”) with the City for approval of a new commercial, substantially modified existing commercial, or residential project to be known as _____ (the “Project”) located at _____; and

WHEREAS, Developer has requested that the City approve the Project and authorize the recording of the final plat prior to construction and installation of required public improvements to be placed on or adjacent to the Property as described in Exhibit “B,” attached hereto and incorporated herein by this reference (the “Improvements”); and

WHEREAS, the City is willing to authorize the recording of the final plat for the Project conditioned on Developer’s promise to install the Improvements as specified in this Agreement and upon Developer depositing with the City a certified cashier’s check an amount of one hundred ten percent (110%) of the total reasonable construction costs of the Improvements, as determined by the City Engineer, pursuant to this Agreement, UTAH CODE ANN. § 10-9a-604.5(3), and TAYLORSVILLE MUNICIPAL CODE § 13.02.160(H); and

WHEREAS, The Parties intend to set forth herein their entire agreement regarding the Improvements, and to supersede hereby and to consolidate herein all of their prior negotiations, understandings, and agreements, whether oral or written, regarding the same.

AGREEMENT

1. **Developer’s Completion and Warranty Obligations.** Developer irrevocably acknowledges its obligation to install the Improvements without any cost to the City. Developer further hereby agrees to satisfactorily complete the installation of the Improvements in a good, workmanlike, lien-free manner within one (1) year after the Effective Date of this Agreement. Furthermore, Developer hereby warrants that the Improvements will be free of any and all defects (normal wear and tear excepted) (the “Warranty”) for a period of one (1) year after all of the Improvements have been completed and finally accepted by the City (the “Warranty Period”).

2. **Repairs.** Developer and the City hereby agree that all responsibility and liability for repairs and maintenance of the Improvements shall remain with Developer.

3. **Guarantee for Improvements.** To assure and guarantee (a) the satisfactory and timely Installation/Acceptance of the Improvements, and (b) the Warranty, Developer shall contemporaneously herewith deposit with the City a cashier’s check made payable to the order of the City of Taylorsville in the amount of \$ _____, issued by _____, as cashier’s check No. _____ (collectively referred to hereafter as the “Deposit”), a copy of which is attached hereto as Exhibit “D” and incorporated herein by this reference. The City shall deposit the referenced cashier’s check into its general fund. The amount of the Deposit shall be one hundred ten percent (110%) of the total reasonable cost of construction as determined by the City Engineer and as included in the City Engineer’s estimate, attached hereto as Exhibit “C” and incorporated herein by this reference.

4. **Assignment of Deposit.** Developer hereby assigns, transfers and sets over to the City all of Developer's right, title and interest in and to the full proceeds of the Deposit, and also hereby assigns, transfers and sets over to the City the right to use the full proceeds thereof in the event of any default or non-compliance in the performance for which this bond is posted and filed.

5. **Release of Deposit.** If final Installation/Acceptance of the Improvements occurs within one (1) year after the Effective Date of this Agreement, then the City shall release ninety percent (90%) of the Deposit amount back to Developer. The City shall retain the remaining ten percent (10%) of the Deposit amount for the duration of the one (1) year Warranty Period. If the Improvements are free of any and all defects (normal wear and tear excepted) at the end of the one (1) year Warranty Period, then the City shall release the remaining ten percent (10%) of the Deposit amount back to Developer.

6. **Failure to Install or Complete Improvements/Failure of Warranty.** If (a) Installation/Acceptance of the Improvements has not occurred within one (1) year after the Effective Date of this Agreement, or (b) the installed Improvements are not free of any and all defects (normal wear and tear excepted) for the one (1) year Warranty Period after final acceptance by the City, City inspectors shall provide Developer with a notice of any deficiencies pursuant to TAYLORSVILLE MUNICIPAL CODE § 13.02.160(Q). Developer shall correct all such deficiencies within thirty (30) days from the time Developer received notification of the deficiencies. If all deficiencies are not corrected within thirty (30) days, then the City may unilaterally (without consent or approval of any kind from Developer) at any time thereafter use a portion of or the full amount of the Deposit. The City shall be deemed fully authorized (without any further action or notice whatsoever) to use as much of the Deposit as is required, in the City's sole discretion, to satisfactorily complete installation of the Improvements and/or to repair any defects therein, including (without limitation) the cost of any and all incidental construction, legal, administrative or engineering fees or expenses incurred by the City to affect such work pursuant to TAYLORSVILLE MUNICIPAL CODE § 13.02.160(S)(2). Any balance of Deposit remaining after payment of all such costs, fees and expenses, and a reasonable reserve in an amount determined by the City at the City's sole discretion, shall be refunded to Developer.

7. **No Waiver or Estoppel.** This Agreement is irrevocable unless revoked by the mutual written consent of both the City and Developer. Neither this Agreement nor deposit of the cashier's check by Developer and the acceptance of the Deposit or this Agreement by the City shall constitute a waiver or estoppel by or against the City concerning the Improvements, nor shall any such matters in any way relieve Developer from any of the obligations to (a) timely achieve satisfactory Installation/Acceptance of the Improvements, or (b) fully perform under the Warranty, regardless of whether or not the Deposit is adequate enough to pay for the satisfactory Installation/Acceptance of the Improvements or the satisfactory fulfillment of the Warranty. If the Deposit is inadequate to pay for the cost of Improvements for whatever reason, Developer hereby agrees to pay such deficiency independent of this Agreement, which amount may include, but is not limited to, any and all incidental construction, legal, administrative or engineering fees or expenses incurred by the City to affect such work. Additionally, no further permits or approvals shall be issued with respect to the Subdivision or to Developer until such deficiency is cured.

8. **Inspections.** The City shall have the right to inspect any Improvements at any time during the Construction. The City may conduct as many inspections as it deems necessary, as determined in the City's sole discretion. Developer shall notify the City in writing when underground Improvements are ready to be backfilled and hereby agrees not to backfill such trenches or excavations until such underground Improvements have been inspected and approved by the City.

9. **General Provisions.** The following provisions are also an integral part of this Agreement:

a. **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective Parties hereto.

b. **Captions.** The headings and sub-headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

c. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any one counterpart were upon the same instrument. All signed counterparts together shall constitute and be deemed to be one original.

d. **Severability.** The provisions of this Agreement are severable. In the event that any provision hereof is determined to be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement and the remaining provisions shall remain in full force and effect.

DEVELOPER:

By: _____

Printed Name: _____

Its: _____

STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by
_____, as the _____ of
_____.

My commission expires:

Notary Public:
Residing at: _____

CITY OF TAYLORSVILLE:

ATTEST:

By: _____
Mayor Kristie S. Overson

Cheryl P. Cottle, City Recorder

EXHIBIT "A"
LEGAL DESCRIPTION

EXHIBIT "B"

PLAT WITH PROPOSED IMPROVEMENTS

EXHIBIT "C"

CITY ENGINEER'S ESTIMATE

EXHIBIT "D"

COPY OF BOND DOCUMENTS