

Attachment H
Utility Surety Agreement

Recording Requested By:

CITY OF VICTORVILLE

When Recorded Please Return To:

CITY OF VICTORVILLE

14343 Civic Drive
Victorville, CA 92392
Sec. 27, T5N, R5, SBM

SPACE ABOVE FOR RECORDER'S USE

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Revenue Taxation Code Section 11922

UTILITY SURETY AGREEMENT
Tract Map Nos. 15310-1 through 15310-4

THIS AGREEMENT is made and entered **into by and between** the City of Victorville, hereinafter referred to as "City" and FH II, LLC, a California limited liability company, dba Frontier Communities hereinafter referred to as "Subdivider", both of whom understand as follows:

WITNESSETH

WHEREAS, Subdivider is currently the record fee owner of that certain real property situated in the City of Victorville, County of San Bernardino, State of California, as more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by this reference (the "Subdivision"), and the successor in interest to those certain final Subdivision Tract Map Nos. 15310-1, 15310-2, 15310-3, and 15310-4 (the "Maps") originally recorded in the office of the San Bernardino County Recorder ("County Recorder's Office") by Standard Pacific Corp. ("Standard") as Document Nos. 2006-0132938, 2006-0273392, 2006-0273706 and 2006-0273756, respectively; and

WHEREAS, in order to receive approval from the City for said Maps, Standard had previously entered into a secured subdivision agreement with the City (recorded as Document No. 2006-0138884 and 2006-0276019 in the County Recorder's Office) promising to construct and install the public improvements required by the Maps and complete the related work for the Subdivision in accordance with the conditions of approval, all as required by the City's Planning Commission (the "Obligations"); and

WHEREAS, prior to performing the Obligations under its agreement, Standard sold the Subdivision and was released from the Obligations when the buyer, Pendergraft Victorville, LP ("Pendergraft"), entered into Lien Agreements with the City on July 20, 2010 (one for Tract Map No. 15310-1 and another for Tract Map No. 15310-3) recorded in the County Recorder's Office as Document Nos. 2010-0334652 and 2010-0334653, respectively, to secure Pendergraft's performance of the Obligations, and

WHEREAS, prior to performing the Obligations under such agreements, Pendergraft also subsequently sold the Subdivision, and was released from the Obligations when the buyer CV Communities, LLC ("CV") entered into Lien Agreements with the City on January 18, 2011 (one for Tract Map No. 15310-1 and another for Tract Map No. 15310-3) recorded in the County Recorder's Office as Document Nos. 2011-0041949 and 2011-0041950, respectively, to secure CV's performance of the Obligations; and

WHEREAS, pursuant to that certain Grant Deed recorded on November 12, 2011 as Document No. 2015-0486683 in the County Recorder's Office, CV subsequently transferred ownership of the Subdivision to VICTORVILLE 1 INV, LCC, a Delaware limited liability company, hereinafter called "VICTORVILLE 1"; and

WHEREAS, pursuant to that certain Grant Deed recorded on June 26, 2017 as Document No. 2017-0260286 in the County Recorder's Office, VICTORVILLE 1 subsequently transferred ownership to DIAMOND RIDGE INV, LLC, a Delaware limited liability company, hereinafter called ("DIAMOND RIDGE"); and

WHEREAS, as evidenced by that certain Grant Deed recorded on February 9, 2018 as Document No. 2018-0049531 in the County Recorder's Office, DIAMOND RIDGE subsequently sold the Subdivision to Subdivider; and

WHEREAS, this agreement is executed pursuant to the provisions of the Subdivision Map Act of the State of California and Chapter 17 of the Victorville Municipal Code: and

WHEREAS, Subdivider is also entering into a Subdivision Agreement for the installation of public improvements required by the City Planning Commission:

NOW, THEREFORE, for and in consideration of the approval of the map, and in order to insure satisfactory performance of the Subdivider's obligations under said Subdivision Map Act and said Chapter 17, the Subdivider agrees as follows:

1. PERFORMANCE OF WORK

Subdivider will do and perform, or cause to be done and performed, in a good and workmanlike manner, to the satisfaction of the City Engineer and the appropriate utility companies, all of the installation of utility facilities required by the City Planning Commission including but not limited to gas, electric, communications, cable television, and water.

2. TIME OF COMPLETION

The time for completion will run concurrently with the time specified in the aforementioned Subdivision Agreement.

3. BINDING EFFECT OF AGREEMENT

This agreement shall be binding upon and enforceable against Subdivider and all assignees, heirs, mortgagees, and successors in interest and shall be recorded in the Office of the County Recorder.

4. BREACH OF AGREEMENT

If Subdivider or any successor in interest fails to comply with any terms of this agreement or acts contrary to any ordinance of the City of Victorville, the City may bring action to enforce this agreement. In the event that the City incurs attorney's fees to enforce the provisions of this agreement, attorney's fees shall be imposed on the applicant. As used herein, "attorney's fees shall be deemed to mean the full and actual cost of any legal services actually performed in connection with the enforcement of this agreement, calculated on the basis of the usual fees charged by the attorneys performing such services, and shall not be limited to "reasonable attorney's fees" as defined in any statute or rule of court.

5. PROPERTY DESCRIPTION

The Subdivider's real property to which this agreement applies is described as follows:

See Exhibit "A"

6. WAIVER OF RIGHTS

In consideration of the covenants contained herein applicant, including all successors as described in paragraph (3) hereinabove, further agrees that applicant is familiar with the requirement of the Municipal Improvement Act of 1911 and 1913, California State Highways Code Sections 10000 et seq. Applicant further agrees to waive and give up each and every substantive and procedural requirements of said Municipal Improvement Act of 1911 and 1913 and any successor statutes for the purposes of causing the installation of said improvements. Applicant further specifically waives his rights to notice, protest, and hearing as set forth in California Street and Highways Code Sections 10300 et seq. or any successor statutes.

7. SECURITY

This agreement created and constitutes a lien for the purposes of securing performance of this agreement.

SIGNATURES:

SUBDIVIDER

FH II, LLC, a California limited liability company, dba
Frontier Communities

By: _____

Name: Richard Munkroid

Title: CFO

Date: February 21, 2018

(Proper Notarization of Subdivider's Signature is required
and shall be attached)

Notarization Attached

CITY

City of Victorville

By: _____

Name: _____

Title: Mayor

ATTEST:

By: _____
Victorville City Clerk

APPROVED AS TO FORM:

Andre de Bortnowsky, City Attorney

City of Victorville Risk Manager

Chuck Buquet

CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Bernardino

On 2.21.18

before me,

B.M. Bishop, a Notary Public

(here insert name and title of the officer)

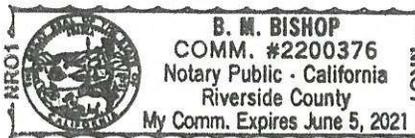
personally appeared Richard Munkvold

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)

Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s)

Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____

Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

Additional Signer(s) Signer(s) Thumbprint(s)

EXHIBIT "A"

LEGAL DESCRIPTION

Tract 15310-1: Lots 3 through 23, inclusive, of Tract Map No. 15310-1, recorded in Map Book No. 317, pages 4 through 6, inclusive, in the Office of the San Bernardino County Recorder; and

Tract 15310-2: Lots 68, 69 and 73, inclusive, of Tract Map No. 15310-2, recorded in Map Book No. 318, pages 42 through 44, inclusive, in the Office of the San Bernardino County Recorder; and

Tract Map No. 15310-3: Lots 74 through 110, inclusive, of Tract Map No. 15310-3, recorded in Map Book No. 318, pages 45 through 48, inclusive, in the Office of the San Bernardino County Recorder; and

Tract 15310-4: Lots 111 through 113, inclusive, of Tract Map No. 15310-4, recorded in Map Book No. 318, pages 49 through 51, inclusive, in the Office of the San Bernardino County Recorder