



**AMENDMENT TO AGREEMENT TO
CONSTRUCT INFRASTRUCTURE IMPROVEMENTS**

Project Name: Aspire Subdivision Unit 2

City Project # 757584

This Agreement is made upon the date of the latest signature below, by and between the City of Albuquerque, New Mexico ("City"), whose address is P. O. Box 1293 (One Civic Plaza), Albuquerque, New Mexico 87103, and D.R. Horton, Inc. ("Developer"), a Delaware corporation, [state the type of business entity e.g. "New Mexico corporation," "general partnership," "individual," etc.], whose email address is PBLesley@drhorton.com, whose address is 8400 Wyoming Blvd. NE, Suite A (City) Albuquerque, (State) NM (Zip Code) 87113 and whose telephone number is (505) 798-7655, in Albuquerque, New Mexico, and is entered into as of the date of final execution of this Agreement.

WHEREAS, the City and the Developer entered into an Agreement to Construct Public and/or Private Infrastructure Improvements ("Original Agreement") on March 9, 2022, which was recorded on 03/11/2022, as Document No. 2022024547, in the records of the Bernalillo County Clerk, State of New Mexico, wherein the Developer agreed to satisfactorily construct certain infrastructure improvements.

WHEREAS, the parties agree that the word "Subdivider" used in any previous Agreements is replaced with the word "Developer" for this Agreement. This change has no substantive effect on any other provision of the agreement.

WHEREAS, the Developer has requested to financially guarantee the construction of the public and/or private infrastructure; and

WHEREAS, the Developer is able to provide the required financial guaranty.

THEREFORE, the Developer and the City agree to amend the Original Agreement as follows:

1. Amending paragraph 4 Work Order Requirements: Paragraph 4 in the original Agreement is deleted and replaced by the following amended paragraph 4:

The Developer must procure a New Mexico licensed Contractor to construct the improvements per the specifications contained in the City-approved construction drawings. The Contractor shall provide proof of proper licensure to complete the improvements. If the Contractor that has been identified by the Developer does not possess all of the proper licenses for the improvements then proof of proper licensure of the subcontractors must be provided. The Developer's Contractor shall obtain a Performance & Warranty bond and a Labor & Materials bond utilizing the bond templates provided and approved by the City. The mandatory bonds obtained by the Contractor are independent of, and in addition to, the Financial Guaranty provided by the Developer. If the Developer or the City determines that the Contractor failed to faithfully construct or maintain the specified and warranted work, the Developer and the City shall

each have standing to make claim on the applicable bonds.

2. Amending Section 6. Financial Guaranty, second paragraph, to read as follows:

To meet the Integrated Development Ordinance requirements, the Developer has acquired or is able to acquire the following "Financial Guaranty":

Type of Financial Guaranty: Subdivision Bond

Amount: \$548,934.59

Name of Financial Institution or Surety providing Guaranty:

Great Midwest Ins. Co.

Date City first able to call Guaranty (Construction Completion Deadline):

December 29, 2023

If Guaranty is a Letter of Credit or Loan Reserve, then last day City able to call Guaranty is: February 29, 2024

Additional information: _____

3. Other Terms Unchanged: Except as amended herein, the terms and conditions of the Original Agreement will remain unchanged and will continue in full force and effect unless there is a conflict between the terms and conditions of this Amendment, and the terms and conditions of the Original Agreement, in which case the terms and conditions of the Amendment to the Original Agreement will control.



FINANCIAL GUARANTY AMOUNT

January 26, 2023

Type of Estimate: I.I.A. Procedure B with FG

Project Description:

Project ID #: 757584

Aspire Unit 2

Requested By: Åsa Nilsson-Weber

Approved Estimate Amount: \$ 375,286.98

Contingency Amount: 0.00% \$ -

Subtotal: \$ 375,286.98

PO Box 1293

NMGRT: 7.750% \$ 29,084.74

Subtotal: \$ 404,371.72

Albuquerque

Engineering Fee: 6.60% \$ 26,688.53

New Mexico 87103

Testing Fee: 2.00% \$ 8,087.43

Subtotal: \$ 439,147.69

www.cabq.gov

FINANCIAL GUARANTY RATE: 1.25

TOTAL FINANCIAL GUARANTY REQUIRED: \$ 548,934.59

APPROVAL:

A blue ink signature, likely of J. Mendez, written over a horizontal line.

DATE:

A blue ink signature of the date "Jan. 26 2023" written over a horizontal line.

Notes: Agreement to be amended to include financial guaranty.

**INFRASTRUCTURE BOND
(Procedure B)**

Bond No. GM225132

INFRASTRUCTURE IMPROVEMENT BOND

KNOW ALL PERSONS BY THESE PRESENTS: That we D.R. Horton, Inc. ("Developer") a DE corporation, as "Principal", and Great Midwest Insurance Company, a corporation organized and existing under and by virtue of the laws of the State of TX and authorized to do business in the State of New Mexico, as "Surety," are held and firmly bound unto the CITY OF ALBUQUERQUE in the penal sum of Five Hundred Forty Eight Thousand Nine Hundred Thirty Four and 59/100 Dollars, (\$548,934.59), as amended by change orders approved by the Surety or changes to the infrastructure list approved by the City Development Review Board, the payment of which is well and truly to be made, and each of us bind ourselves, our and each of our heirs, executors, administrators, successors and assigns, jointly and severally, and firmly by these presents.

NOW, THEREFORE, the condition of the above obligation is such that:

WHEREAS, the Principal is the owner of and/or is interested in or is developing land and premises known as Aspire Subdivision Unit 2 ("Developer's Property"), City Project No. 757584; and

WHEREAS, said Developer's Property is subject to the provisions and conditions of the ordinance of the CITY OF ALBUQUERQUE known as the Integrated Development Ordinance, the requirements of which include the installation of various other improvements by the Principal; and

WHEREAS, the Integrated Development Ordinance also requires the Principal to install and construct the following improvements at the Developer's Property: Public Improvements ("Improvements")

All construction shall be performed in accordance with the Agreement to Construct Public and/or Private Infrastructure Improvements Agreement entered into between D.R. Horton, Inc. and the CITY OF ALBUQUERQUE, as recorded in the office of the Clerk of Bernalillo County, New Mexico, on March 11, 2022 as Document Number 2022024547, as amended by change order or amendments to the agreement.

NOW, THEREFORE, if the Principal completes construction of the Improvements and facilities and performs the work hereinabove specified to be performed, all on or before _____, 20 ____ ("the "Construction Completion Deadline"), then this obligation shall be null and void; if the Principal does not complete construction by or before the Construction Completion Deadline, the City may call on this obligation until released by the City.

IN WITNESS WHEREOF, this bond has been executed 2nd day of February, 2023.

D.R. Horton, Inc.

By: [Signature]
Name: TONYA BUXTON
Title: DIVISION PRESIDENT
Dated: 2-3-2023

Great Midwest Insurance Company

By: [Signature]
Name: Noah William Pierce
Title: Attorney-In-Fact
Dated: 2/2/23



*NOTE: Power of Attorney for Surety must be attached.

POWER OF ATTORNEY

Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that GREAT MIDWEST INSURANCE COMPANY, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint:

Noah William Pierce, Bryan M Caneschi, Amy R. Waugh, Jynell Marie Whitehead, Rebecca E. Cano, Catherine Thompson

as true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of GREAT MIDWEST INSURANCE COMPANY, on the 1st day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Ten Million dollars (\$10,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, GREAT MIDWEST INSURANCE COMPANY, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 11th day of February, 2021.

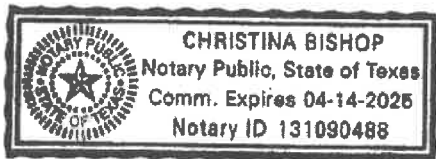


GREAT MIDWEST INSURANCE COMPANY

BY [Signature]
Mark W. Haushill
President

ACKNOWLEDGEMENT

On this 11th day of February, 2021, before me, personally came Mark W. Haushill to me known, who being duly sworn, did depose and say that he is the President of GREAT MIDWEST INSURANCE COMPANY, the corporation described in and which executed the above instrument and that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY [Signature]
Christina Bishop
Notary Public

CERTIFICATE

I, the undersigned, Secretary of GREAT MIDWEST INSURANCE COMPANY, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions set forth are now in force.

signed and Sealed at Houston, TX this 2nd Day of February, 2023.



BY [Signature]
Leslie K. Shaunty
Secretary

WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.

Bernalillo County, NM
415 Silver Ave. SW, 2nd Floor
P.O. Box 542
Albuquerque, NM 87102

Receipt: 1419031

Product	Name	Extended
AGRE	Agreement	\$25.00
	# Pages	10
	Document #	2023012675
	# Of Entries	0
AMND	Amendment	\$25.00
	# Pages	8
	Document #	2023012676
	# Of Entries	0

Total \$50.00

Tender (Check) \$50.00
Check# 0037

Paid By heritage trails
development I, llc

Phone # 5052433949

Thank You!

3/3/23 9:03 AM msouchet