

# Memorandum

## Department of Planning



**To:** Planning and Public Works Committee

**From:** Annisa Kumerow, Planner

**Date:** December 10, 2020

**RE: REPLACEMENT CONSTRUCTION & MAINTENANCE ESCROWS FOR FIENUP FARMS SUBDIVISION**

### Summary

On March 4, 2019, the City of Chesterfield City Council approved Ordinances 3041, 3042, 3043, 3044, 3045, and 3046 for Phase I (Plats 1-6) of the Fienup Farms subdivision with the associated escrow agreements. On May 20, 2019, the City of Chesterfield City Council approved Ordinance 3053 for Plat 7 of the Fienup Farms subdivision. On December 2, 2019, the City of Chesterfield City Council approved Ordinances 3072, 3073, 3074, & 3075 for the remaining Phase II plats (Plats 8-11) of the Fienup Farms Subdivision. Figure 1 on the following page is an image that outlines all plats included in both phases of the Fienup Farms development.

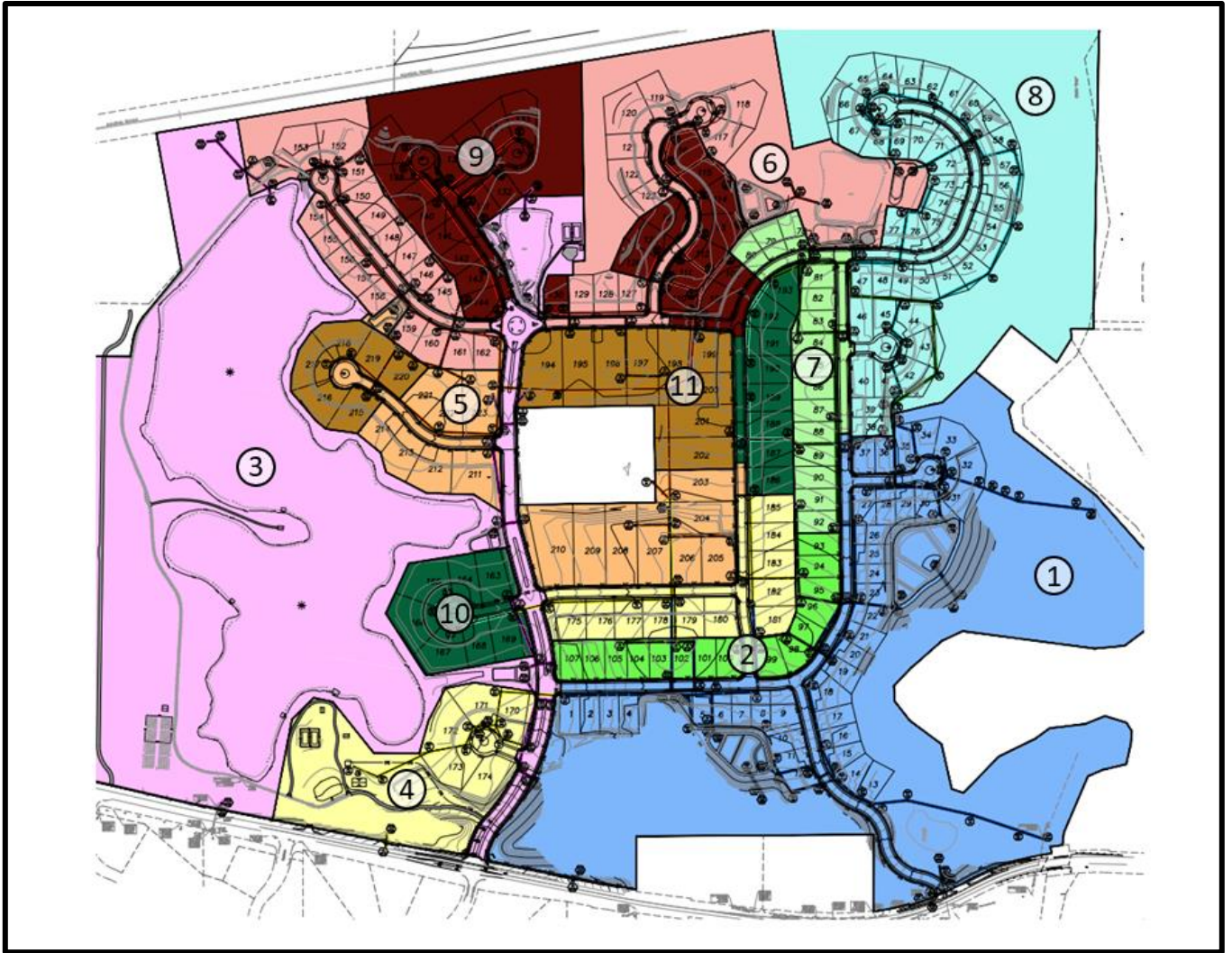
Construction has been ongoing and the development team is now requesting to replace the original construction and maintenance escrows and agreements. The original escrows and agreements were provided and approved for the project; however, the developer and the respective homebuilders are seeking to replace the current guarantees with new agreements and letters of credit. All agreements and letters of credit will be replaced, with the exception of Plat 3 which will remain with the developer (Wild Horse Residential, LLC). While this is a typical request for large residential subdivisions where construction occurs over several years, § 405.02.120(A)(2) of the City's Unified Development Code (UDC) states:

*“The land subdivision bond or escrow agreement or other required surety shall be prepared and executed on forms furnished by the Department and shall be submitted to the City Council for approval or disapproval.”*

In accordance with the UDC, the replacement construction and maintenance escrows and agreements are being presented to the Planning & Public Works Committee for review and recommendation prior to proceeding to the City Council. Staff has reviewed the request and the existing construction activities and has no concerns with the replacement.

Attached, please find a copy of the Escrow Agreements and Letters of Credit.

Attachments: Subdivision Improvement Construction Deposit Agreements  
Subdivision Improvement Construction Letters of Credit  
Subdivision Improvement Maintenance Deposit Agreements  
Subdivision Improvement Maintenance Letters of Credit



**Figure 1: Plats**

**SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT**

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by McBride Fienup Farms, LLC \_\_\_\_\_, herein called DEVELOPER, Commerce Bank \_\_\_\_\_, herein called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 1) \_\_\_\_\_ in accordance with Ordinance No. <sup>2971</sup> \_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of Two hundred eighty-nine thousand six hundred ninety-seven \_\_\_\_\_ DOLLARS (\$<sup>289,697.11</sup> \_\_\_\_\_), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance



3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

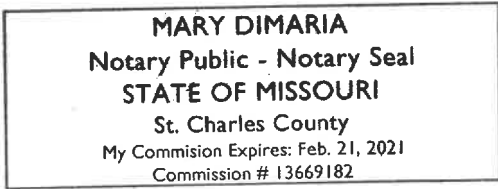
14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the 16<sup>th</sup> day of September, 2020.

ATTEST: (SEAL)

Mary Di Maria  
Type Name:  
Title:



DEVELOPER: McBride Fienup Farms, LLC

BY: McBride & Son Acquisitions, LLC its Managing Member

BY: [Signature] Manager  
Type Name: JEFFREY M. TOBT  
Title: MANAGER

Firm Address:  
16091 Swingley Ridge Road, Ste 300  
Chesterfield, MO 63017

ATTEST: (SEAL)

S. Farn Hughes  
Type Name: S. Farn Hughes  
Title: SVP

ESCROW HOLDER: Commerce Bank

BY: [Signature]  
Type Name: J. Fischer-Turgeon  
Title: AUP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

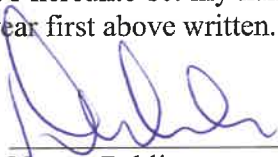


**BANK OFFICIAL'S ACKNOWLEDGMENT**

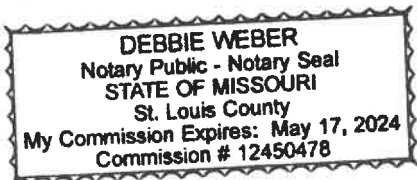
STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 24 day of September, 2020, before me appeared J. Fisher Trigon to me personally known, who, being by me duly sworn, did say that he/she is the Asst (title) of Commerce Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said Asst (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 05.17.24





# EXHIBIT A

Attach: Subdivision Deposit Spreadsheet

**CONSTRUCTION DEPOSIT**

SUBDIVISION: FIENUP FARMS  
 PLAT: 1  
 SUBDIVISION CODE: 330  
 NO. LOTS: 37  
 DATE OF PLAT APPROVAL: 3/4/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	10/14/19	50	\$421,537.82	\$210,768.91	95	\$21,076.89	5
	04/13/20	45		\$189,692.02			
SIDEWALKS	10/14/19	50	\$53,490.91	\$26,745.46 \$0.00	50	\$26,745.45	50
STREET SIGNS	04/13/20	95	\$990.00	\$940.50 \$0.00	95	\$49.50	5
STREET TREES			\$9,982.50	\$0.00 \$0.00	0	\$9,982.50	100
SANITARY SEWER AND PUMP STATIONS	05/29/19	95	\$101,558.16	\$96,480.25 \$0.00	95	\$5,077.91	5
STORM SEWER	05/29/19	50	\$189,413.73	\$94,706.87	95	\$9,470.68	5
	10/14/19	45		\$85,236.18			
GRADING	10/14/19	50	\$158,691.50	\$79,345.75 \$0.00	50	\$79,345.75	50
DETENTION AND WATER QUALITY			\$86,359.68	\$0.00 \$0.00	0	\$86,359.68	100
EROSION CONTROL	10/14/19	50	\$30,050.35	\$15,025.18 \$0.00	50	\$15,025.17	50
SILTATION CONTROL	10/14/19	50	\$30,050.35	\$15,025.18 \$0.00	50	\$15,025.17	50
COMMON GROUND SEED AND ISLAND SODDING	10/14/19	50	\$18,648.92	\$9,324.46 \$0.00	50	\$9,324.46	50
MONUMENTATION			\$8,497.50	\$0.00 \$0.00	0	\$8,497.50	100
RETAINING WALLS	10/14/19	50	\$58,945.70	\$29,472.85	95	\$2,947.28	5
	04/13/20	45		\$26,525.57			
STREET LIGHTS	04/13/20	95	\$10,164.00	\$9,655.80 \$0.00	95	\$508.20	5
WATER MAINS	05/29/19	100	\$408,089.00	\$408,089.00 \$0.00	100	\$0.00	0
FENCE	10/14/19	95	\$5,219.50	\$4,958.53 \$0.00	95	\$260.97	5
<b>TOTALS</b>			<b>\$1,591,689.62</b>	<b>\$1,301,992.51</b>	<b>82</b>	<b>\$289,697.11</b>	<b>18</b>

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SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT

City of Chesterfield Department of Planning

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by  
McBride Fienup Farms, LLC  
\_\_\_\_\_, herein called DEVELOPER,  
Commerce Bank  
\_\_\_\_\_, herein called CREDIT  
HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 1)  
\_\_\_\_\_ in accordance with  
Ordinance No. <sup>2971</sup>\_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of maintenance of the required improvements, based on  
the cost of construction of said improvements, all in accordance with the provisions of said  
subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum  
of One hundred eighteen thousand three hundred sixty DOLLARS  
(\$ 118,360.06), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and



the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount



retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages

caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

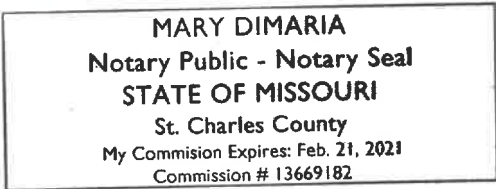
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the 16<sup>th</sup> day of September, 2020 A.D.

ATTEST: (SEAL)

DEVELOPER: McBride Fienup Farms, LLC

Mary Di Maria  
Type Name:  
Title:

BY: Jeffrey M. Todd *BY: McBride & Son Acquisitions, LLC its Managing Member*  
Type Name: JEFFREY M. TODD  
Title: MANAGER



Firm Address:  
16091 Swingley Ridge Road, Ste 300  
Chesterfield, MO 63017

ATTEST: (SEAL)

CREDIT HOLDER: Commerce Bank

S. Ferris Hughes  
Name: S. Ferris Hughes  
Title: SVP

BY: J. Fischer-Turgen  
Name: J. Fischer-Turgen  
Title: AVP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

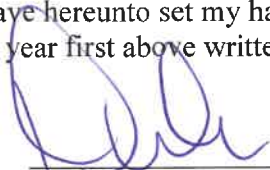
NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

**BANK OFFICIAL'S ACKNOWLEDGMENT**

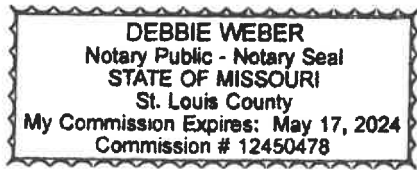
STATE OF MISSOURI    )  
                                  ) SS  
COUNTY OF ST. LOUIS    )

On this 24 day of September, 2020, before me appeared J. Fischer-Twigg, to me personally known, who, being by me duly sworn, did say that he/she is the Asst (title) of Commerce Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said Asst (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 05.17.24





**MAINTENANCE DEPOSIT**

**SUBDIVISION: FIENUP FARMS**

**PLAT: 1**

**SUB CODE: 330**

**DEVELOPER: Wild Horse Residential LLC**

**NOTE: Deposit is adjusted to account for 10% of entire sewer costs, and 0% of LOMR/Elev. Cert's, if any)**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$42,153.78</b>			<b>\$42,153.78</b>
<b>SIDEWALKS</b>	<b>\$5,349.09</b>			<b>\$5,349.09</b>
<b>STREET SIGNS</b>	<b>\$99.00</b>			<b>\$99.00</b>
<b>STREET TREES</b>	<b>\$998.25</b>			<b>\$998.25</b>
<b>SAN. SEWER</b>	<b>\$10,155.82</b>			<b>\$10,155.82</b>
<b>STORM SEWER</b>	<b>\$18,941.37</b>			<b>\$18,941.37</b>
<b>GRADING</b>	<b>\$15,869.15</b>			<b>\$15,869.15</b>
<b>DETENTION AND WQ</b>	<b>\$8,635.97</b>			<b>\$8,635.97</b>
<b>EROSION CONTROL</b>	<b>\$3,005.04</b>			<b>\$3,005.04</b>
<b>SILTATION CONTROL</b>	<b>\$3,005.04</b>			<b>\$3,005.04</b>
<b>COMMON GR. SEED</b>	<b>\$1,864.89</b>			<b>\$1,864.89</b>
<b>MONUMENTATION</b>	<b>\$849.75</b>			<b>\$849.75</b>
<b>RETAINING WALL</b>	<b>\$5,894.57</b>			<b>\$5,894.57</b>
<b>STREET LIGHTS</b>	<b>\$1,016.40</b>			<b>\$1,016.40</b>
<b>WATER MAINS</b>	<b>\$40,808.90</b>	<b>5/29/2019</b>	<b>\$40,808.90</b>	<b>\$0.00</b>
<b>FENCE</b>	<b>\$521.95</b>			<b>\$521.95</b>
<b>TOTALS</b>	<b>\$159,168.96</b>		<b>\$40,808.90</b>	<b>\$118,360.06</b>

RECEIVED

NOV 6 - 2020

City of Chesterfield-Department of Planning

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THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by Consort Homes, LLC \_\_\_\_\_, herein called DEVELOPER, Commerce Bank \_\_\_\_\_, herein called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 2) \_\_\_\_\_ in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of Forty-eight thousand three hundred fifty-six \_\_\_\_\_ DOLLARS (\$48,356.67), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alia that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance





3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this


subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.


IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 24<sup>th</sup> day of September, 2020.

ATTEST: (SEAL)

DEVELOPER: Consort Homes, LLC


  
Type Name: Robin Ruckman  
Title: Vice President


BY:   
Type Name: Kenneth P Smicker  
Title: President

Firm Address:  
16141 Swingley Ridge Road, Suite 109  
Chesterfield, MO 63017

ATTEST: (SEAL)

ESCROW HOLDER: Commerce Bank

  
Type Name: S. Farris Hughes  
Title: SVP

BY:   
Type Name: J. Fischer-Turgeon  
Title: AVP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.





**CONSTRUCTION DEPOSIT**

SUBDIVISION: Fienup Farms  
 PLAT: 2  
 SUBDIVISION CODE: 330  
 NO. LOTS: 15  
 DATE OF PLAT APPROVAL: 3/4/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	10/14/19	95	\$17,192.56	\$16,332.93 \$0.00	95	\$859.63	5
STORM SEWER	05/29/19	95	\$56,464.65	\$53,641.42 \$0.00	95	\$2,823.23	5
GRADING	10/14/19	50	\$66,368.50	\$33,184.25 \$0.00	50	\$33,184.25	50
EROSION CONTROL	10/14/19	50	\$7,502.00	\$3,751.00 \$0.00	50	\$3,751.00	50
SILTATION CONTROL	10/14/19	50	\$5,335.00	\$2,667.50 \$0.00	50	\$2,667.50	50
COMMON GROUND SEED AND ISLAND SODDING	10/14/19	50	\$242.11	\$121.06 \$0.00	50	\$121.06	50
MONUMENTATION			\$4,950.00	\$0.00 \$0.00	0	\$4,950.00	100
WATER MAINS	05/29/19	100	\$27,005.00	\$27,005.00 \$0.00	100	\$0.00	0
<b>TOTALS</b>			<b>\$185,059.82</b>	<b>\$136,703.15</b>	<b>74</b>	<b>\$48,356.67</b>	<b>26</b>

RECEIVED

NOV 6 - 2020

City of Chesterfield-Department of Planning

**SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT**

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by  
Consort Homes, LLC  
\_\_\_\_\_, herein called DEVELOPER,  
Commerce Bank  
\_\_\_\_\_, herein called CREDIT  
HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 2)  
\_\_\_\_\_ in accordance with  
Ordinance No. <sup>2971</sup>\_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of maintenance of the required improvements, based on  
the cost of construction of said improvements, all in accordance with the provisions of said  
subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum  
of Fifteen thousand eight hundred five DOLLARS  
(\$ 15,805.48), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and



WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a MAINTENANCE DEPOSIT in the amount of Fifteen thousand eight hundred five

DOLLARS (\$ 15,805.48), lawful money of the United States of America by:

(check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the CREDIT HOLDER.
- Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City.

Said deposit guarantees the DEVELOPER will perform his maintenance obligations regarding subdivision improvements, including, but not limited to; lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm drainage facilities, in Fienup Farms (Plat 2) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of

the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount

retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages

caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 24<sup>th</sup> day of September, 2020 A.D.

ATTEST: (SEAL)

DEVELOPER: Consort Homes, LLC

[Signature]  
Type Name: Robin Ruckman  
Title: Vice President

BY: [Signature]  
Type Name: Kenneth P. Stricker  
Title: President

Firm Address:  
16141 Swingley Ridge Road, Suite 109  
Chesterfield, MO 63017

ATTEST: (SEAL)

CREDIT HOLDER: Commerce Bank

[Signature]  
Name: S. Farris Hughes  
Title: SVP

BY: [Signature]  
Name: J. Fucher - Turgauer  
Title: AVP

Firm Address:  
8000 Forsyth Blvd 1<sup>st</sup> FL  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning :

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

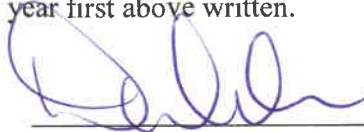
NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

**BANK OFFICIAL'S ACKNOWLEDGMENT**

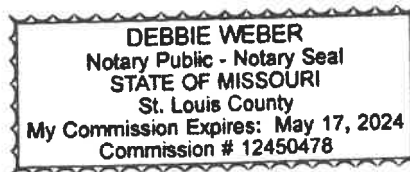
STATE OF MISSOURI    )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 24 day of September, 2020, before me appeared J. Fischer-Turgona, to me personally known, who, being by me duly sworn, did say that he/she is the AUP (title) of Commerce Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said AUP (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 05.17.24





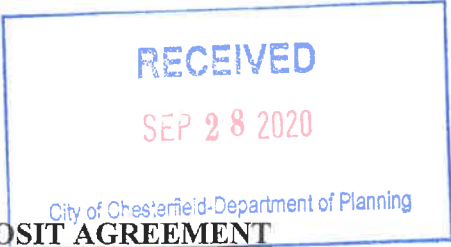


**MAINTENANCE DEPOSIT**

**SUBDIVISION: Fienup Farms**  
**PLAT: 2**  
**SUB CODE: 330**  
**DEVELOPER: Wild Horse Residential LLC**

**NOTE: Deposit is adjusted to account for 10% of entire sewer costs, and 0% of LOMR/Elev. Cert's, if any)**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$1,719.26</b>			<b>\$1,719.26</b>
<b>STORM SEWER</b>	<b>\$5,646.47</b>			<b>\$5,646.47</b>
<b>GRADING</b>	<b>\$6,636.85</b>			<b>\$6,636.85</b>
<b>EROSION CONTROL</b>	<b>\$750.20</b>			<b>\$750.20</b>
<b>SILTATION CONTROL</b>	<b>\$533.50</b>			<b>\$533.50</b>
<b>COMMON GR. SEED</b>	<b>\$24.21</b>			<b>\$24.21</b>
<b>MONUMENTATION</b>	<b>\$495.00</b>			<b>\$495.00</b>
<b>WATER MAINS</b>	<b>\$2,700.50</b>	<b>5/29/2019</b>	<b>\$2,700.50</b>	<b>\$0.00</b>
<b>TOTALS</b>	<b>\$18,505.98</b>		<b>\$2,700.50</b>	<b>\$15,805.48</b>



**SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT**

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by Prestige Custom Homes, Inc. \_\_\_\_\_, herein called DEVELOPER, Central Bank \_\_\_\_\_, herein called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 4) \_\_\_\_\_ in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of Eighty-four thousand eight hundred fifty-seven \_\_\_\_\_ DOLLARS (\$84,857.47), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance



3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Planning and Development Services Division addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY; and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST: (SEAL)

DEVELOPER: Prestige Custom Homes, Inc.

Melissa Hayes  
Type Name: Melissa Hayes  
Title: OFFICE MANAGER

BY: [Signature]  
Type Name: J Randall Mayer, Jr.  
Title: President

Firm Address:  
755 S. New Ballas Road, Suite 210  
St. Louis, MO 63141

ATTEST: (SEAL)

ESCROW HOLDER: Central Bank

Karen A Michel  
Type Name: Karen A Michel  
Title: Branch Manager

BY: [Signature]  
Type Name:  
Title: EVP

Firm Address:  
2996 Highway K  
O'Fallon, MO 63368

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning and Development Services

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.





**CORPORATE EXECUTING OFFICIAL'S ACKNOWLEDGEMENT**

STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 14<sup>th</sup> day of September, 2020, before me appeared J.R. MAYER, JR, to me personally known, who, being by me duly sworn, did say that he/she is the President (title) of Prestige Custom Homes, Inc (name of corporation), a Missouri Corporation, and that he/she executed the foregoing agreement pursuant to the authority given him/her by the Board of Directors of the aforesaid corporation, and that said agreement was signed and sealed by him/her on behalf of the aforesaid corporation by authority of its Board of Directors, and he/she as President (title of Corporate Executing Official) of the said corporation, acknowledged said agreement to be the lawful, free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, this 14<sup>th</sup> day of September, 2020.

Melissa Hayes  
Notary Public

My Commission Expires: 11-3-2021



CONSTRUCTION DEPOSIT

SUBDIVISION: Fienup Farms  
 PLAT: 4  
 SUBDIVISION CODE: 330  
 NO. LOTS: 16  
 DATE OF PLAT APPROVAL: 3/4/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	10/14/19	95	\$190,359.18	\$180,841.22 \$0.00	95	\$9,517.96	5
SIDEWALKS	10/14/19	50	\$5,505.28	\$2,752.64 \$0.00	50	\$2,752.64	50
EMERGENCY ACCESS	10/14/19	95	\$3,410.00	\$3,239.50 \$0.00	95	\$170.50	5
STREET SIGNS	04/13/20	95	\$247.50	\$235.13 \$0.00	95	\$12.37	5
SANITARY SEWER AND PUMP STATIONS	05/29/19	95	\$44,229.24	\$42,017.78 \$0.00	95	\$2,211.46	5
STORM SEWER	05/29/19 10/14/19	50 45	\$52,573.95	\$26,286.98 \$23,658.28	95	\$2,628.69	5
GRADING	10/14/19	50	\$70,600.20	\$35,300.10 \$0.00	50	\$35,300.10	50
EROSION CONTROL	10/14/19	50	\$7,911.20	\$3,955.60 \$0.00	50	\$3,955.60	50
SILTATION CONTROL	10/14/19	50	\$5,508.80	\$2,754.40 \$0.00	50	\$2,754.40	50
COMMON GROUND SEED AND ISLAND SODDING	10/14/19	50	\$14,460.07	\$7,230.04 \$0.00	50	\$7,230.04	50
MONUMENTATION			\$7,315.00	\$0.00 \$0.00	0	\$7,315.00	100
STREET LIGHTS	04/13/20	95	\$4,235.00	\$4,023.25 \$0.00	95	\$211.75	5
WATER MAINS	05/29/19	100	\$136,702.50	\$136,702.50 \$0.00	100	\$0.00	0
MISC. REQ. IMPROVMENTS	10/14/19 05/08/20	50 45	\$215,939.08	\$107,969.54 \$97,172.58	95	\$10,796.96	5
TOTALS			\$758,997.00	\$674,139.53	89	\$84,857.47	11

RECEIVED

SEP 28 2020

City of Chesterfield-Department of Planning

SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by  
Prestige Custom Homes, Inc.  
\_\_\_\_\_, herein called DEVELOPER,  
Central Bank  
\_\_\_\_\_, herein called CREDIT  
HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 4)  
\_\_\_\_\_ in accordance with  
Ordinance No. <sup>2971</sup>\_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of maintenance of the required improvements, based on  
the cost of construction of said improvements, all in accordance with the provisions of said  
subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum  
of Sixty-two thousand two hundred twenty-nine DOLLARS  
(\$ <sup>62,229.45</sup>\_\_\_\_\_ ), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a MAINTENANCE DEPOSIT in the amount of Sixty-two thousand two hundred twenty-nine

DOLLARS (\$ 62,229.45), lawful money of the United States of America by:

(check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the CREDIT HOLDER.
- Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City.

Said deposit guarantees the DEVELOPER will perform his maintenance obligations regarding subdivision improvements, including, but not limited to; lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm drainage facilities, in Fienup Farms (Plat 4) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of

the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Planning and Development Services Division.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning and Development Services. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been

inspected and accepted by the appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning and Development Services to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning and Development Services shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning and Development Services shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning and Development Services may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that

the total maintenance amount retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Planning and Development Services Division addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning and Development Services shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning and Development Services. This release shall in no way be construed to indemnify or release any person from any

civil liability that may exist for defects or damages caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance



for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ A.D.

ATTEST: (SEAL)

DEVELOPER: Prestige Custom Homes, Inc.

Melissa Hays  
Type Name: Melissa Hays  
Title: OFFICE MANAGER

BY: [Signature]  
Type Name: J Randall Mayer, Jr.  
Title: President

Firm Address:  
755 S. New Ballas Road, Suite 210  
St. Louis, MO 63141

ATTEST: (SEAL)

CREDIT HOLDER: Central Bank

Karen A Michel  
Name: Branch Manager  
Title: Karen A Michel

BY: [Signature]  
Name: NORM MUELLER  
Title: EVP

Firm Address:  
2996 Highway K  
O'Fallon, MO 63368

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning and Development Services

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

**BANK OFFICIAL'S ACKNOWLEDGMENT**

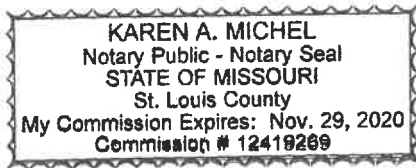
STATE OF MISSOURI    )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 16th day of SEPTEMBER, 2020, before me appeared NORM MUELLER, to me personally known, who, being by me duly sworn, did say that he/she is the EVP (title) of Central Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said EVP (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

Karen A Michel  
Notary Public

My Commission Expires:



**CORPORATE EXECUTING OFFICIAL'S ACKNOWLEDGEMENT**

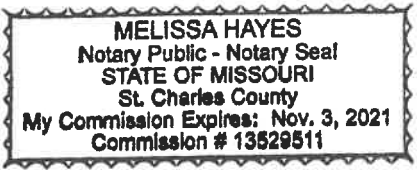
STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 14<sup>th</sup> day of September, 2020, before me appeared J.R. MAYER, JR, to me personally known, who, being by me duly sworn, did say that he/she is the President (title) of Prestige Custom Homes, Inc (name of corporation), a Missouri Corporation, and that he/she executed the foregoing agreement pursuant to the authority given him/her by the Board of Directors of the aforesaid corporation, and that said agreement was signed and sealed by him/her on behalf of the aforesaid corporation by authority of its Board of Directors, and he/she as President (title of Corporate Executing Official) of the said corporation, acknowledged said agreement to be the lawful, free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, this 14<sup>th</sup> day of September, 2020.

Melissa Hayes  
Notary Public

My Commission Expires: 11-3-2021



**MAINTENANCE DEPOSIT**

**SUBDIVISION: Fienup Farms**

**PLAT: 4**

**SUB CODE: 330**

**DEVELOPER: Wild Horse Residential LLC**

**NOTE: Deposit is adjusted to account for 10% of entire sewer costs, and 0% of LOMR/Elev. Cert's, if any)**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$19,035.92</b>			<b>\$19,035.92</b>
<b>SIDEWALKS</b>	<b>\$550.53</b>			<b>\$550.53</b>
<b>EMERGENCY ACCESS</b>	<b>\$341.00</b>			<b>\$341.00</b>
<b>STREET SIGNS</b>	<b>\$24.75</b>			<b>\$24.75</b>
<b>SAN. SEWER</b>	<b>\$4,422.92</b>			<b>\$4,422.92</b>
<b>STORM SEWER</b>	<b>\$5,257.40</b>			<b>\$5,257.40</b>
<b>GRADING</b>	<b>\$7,060.02</b>			<b>\$7,060.02</b>
<b>EROSION CONTROL</b>	<b>\$791.12</b>			<b>\$791.12</b>
<b>SILTATION CONTROL</b>	<b>\$550.88</b>			<b>\$550.88</b>
<b>COMMON GR. SEED</b>	<b>\$1,446.01</b>			<b>\$1,446.01</b>
<b>MONUMENTATION</b>	<b>\$731.50</b>			<b>\$731.50</b>
<b>STREET LIGHTS</b>	<b>\$423.50</b>			<b>\$423.50</b>
<b>WATER MAINS</b>	<b>\$13,670.25</b>	<b>5/29/2019</b>	<b>\$13,670.25</b>	<b>\$0.00</b>
<b>MISC. REQUIRED IMP.</b>	<b>\$21,593.91</b>			<b>\$21,593.91</b>
<b>TOTALS</b>	<b>\$75,899.70</b>		<b>\$13,670.25</b>	<b>\$62,229.45</b>

RECEIVED

OCT 26 2020

**SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT** Department of Planning

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by Claymont Development, LLC \_\_\_\_\_, herein called DEVELOPER, Midwest Bank Centre \_\_\_\_\_, herein called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 5) \_\_\_\_\_ in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of One hundred sixteen thousand six hundred fifty-three \_\_\_\_\_ DOLLARS (\$ 116,653.66), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance

of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a CONSTRUCTION DEPOSIT in the amount of One hundred sixteen thousand six hundred fifty-three, DOLLARS (\$ 116,653.66) lawful money of the United States of America by: (check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the ESCROW HOLDER.
- Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City and issued by the ESCROW HOLDER.

Said deposit guarantees the construction, installation and completion of the required subdivision improvements in Fienup Farms (Plat 5) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of the City of Chesterfield, which are by reference made a part hereof, and in accordance with all ordinances of the CITY regulating same. A cost estimate thereof is attached hereto as "Exhibit A".

2. That the CONSTRUCTION DEPOSIT will be held in escrow by the CITY or the ESCROW HOLDER, as applicable, until such time as releases are authorized by the Planning <sup>Department of</sup> and ~~Development Services Division~~. The CONSTRUCTION DEPOSIT may be subject to special audit of the CITY from time to time.

3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.



9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY:

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 22nd day of OCTOBER, 2020 :

ATTEST: (SEAL)

DEVELOPER: Claymont Development, LLC

Cheryl Brown  
Type Name: Cheryl Brown  
Title:

BY:

Wesley Byrne  
Type Name: Wesley Byrne  
Title:

Firm Address:  
26 Pacland Estates Drive  
Chesterfield, MO 63005

ATTEST: (SEAL)

ESCROW HOLDER: Midwest Bank Centre

Cheryl Brown  
Type Name: Cheryl Brown  
Title:

BY:

Wm. Kral  
Type Name: Wm. Kral  
Title: Pres - St Charles

Firm Address:  
2191 LEMAY FERRY ROAD  
ST. LOUIS, MO 63125

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_

Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.





# EXHIBIT A

Attach: Subdivision Deposit Spreadsheet

**CONSTRUCTION DEPOSIT**

SUBDIVISION: Fienup Farms  
 PLAT: 5  
 SUBDIVISION CODE: 330  
 NO. LOTS: 15  
 DATE OF PLAT APPROVAL: 3/4/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	10/14/19	95	\$130,985.80	\$124,436.51 \$0.00	95	\$6,549.29	5
SIDEWALKS	10/14/19	50	\$2,840.53	\$1,420.27 \$0.00	50	\$1,420.27	50
SANITARY SEWER AND PUMP STATIONS	05/29/19	95	\$38,138.76	\$36,231.82 \$0.00	95	\$1,906.94	5
STORM SEWER	05/29/19	95	\$66,128.04	\$62,821.64 \$0.00	95	\$3,306.40	5
GRADING	10/14/19	50	\$84,168.70	\$42,084.35 \$0.00	50	\$42,084.35	50
DETENTION & WQ			\$46,149.84	\$0.00 \$0.00	0	\$46,149.84	100
EROSION CONTROL	10/14/19	50	\$7,502.00	\$3,751.00 \$0.00	50	\$3,751.00	50
SILTATION CONTROL	10/14/19	50	\$5,335.00	\$2,667.50 \$0.00	50	\$2,667.50	50
COMMON GROUND SEED AND ISLAND SODDING	10/14/19	50	\$4,644.05	\$2,322.02 \$0.00	50	\$2,322.02	50
MONUMENTATION			\$6,369.00	\$0.00 \$0.00	0	\$6,369.00	100
STREET LIGHTS	04/13/20	95	\$2,541.00	\$2,413.95 \$0.00	95	\$127.05	5
WATER MAINS	05/29/19	100	\$82,362.50	\$82,362.50 \$0.00	100	\$0.00	0
<b>TOTALS</b>			<b>\$477,165.22</b>	<b>\$360,511.56</b>	<b>76</b>	<b>\$116,653.66</b>	<b>24</b>

RECEIVED

OCT 26 2020

City of Chesterfield-Department of Planning

**SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT**

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by Claymont Development \_\_\_\_\_, herein called DEVELOPER, Midwest Bank Centre \_\_\_\_\_, herein called CREDIT HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 5) \_\_\_\_\_ in accordance with Ordinance No. <sup>2971</sup> \_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of maintenance of the required improvements, based on the cost of construction of said improvements, all in accordance with the provisions of said subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum of Thirty-nine thousand four hundred eighty DOLLARS (\$ <sup>39,480.27</sup> \_\_\_\_\_), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a MAINTENANCE DEPOSIT in the amount of Thirty-nine thousand four hundred eighty  
DOLLARS (\$ 39,480.27 ), lawful money of the United States of America by:

(check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the CREDIT HOLDER.
- Submitting a \_\_\_\_\_ (type of readily negotiable instrument acceptable to the CITY) endorsed to the City.

Said deposit guarantees the DEVELOPER will perform his maintenance obligations regarding subdivision improvements, including, but not limited to; lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm drainage facilities, in Fienup Farms (Plat 5) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of



the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount

retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages

caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the 22<sup>nd</sup> day of OCTOBER, 20 20 A.D.

ATTEST: (SEAL)

DEVELOPER: Claymont Development

Cheryl Brown  
Type Name: Cheryl Brown  
Title:

BY: [Signature]  
Type Name: Wesley Byrne  
Title:

Firm Address:  
26 Pacland Estates Drive  
Chesterfield, MO 63005

ATTEST: (SEAL)

CREDIT HOLDER: Midwest Bank Centre

Cheryl Brown  
Name: Cheryl Brown  
Title:

BY: [Signature]  
Name: Wm. Keal  
Title: Pres. St. Charles

Firm Address:  
2191 Lemay Ferry Road  
St. Louis, MO 63125

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.





**MAINTENANCE DEPOSIT**

**SUBDIVISION: Fienup Farms**  
**PLAT: 5**  
**SUB CODE: 330**  
**DEVELOPER: Wild Horse Residential LLC**

**NOTE: Deposit is adjusted to account for 10% of entire sewer costs, and 0% of LOMR/Elev. Cert's, if any)**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$13,098.58</b>			<b>\$13,098.58</b>
<b>SIDEWALKS</b>	<b>\$284.05</b>			<b>\$284.05</b>
<b>SAN. SEWER</b>	<b>\$3,813.88</b>			<b>\$3,813.88</b>
<b>STORM SEWER</b>	<b>\$6,612.80</b>			<b>\$6,612.80</b>
<b>GRADING</b>	<b>\$8,416.87</b>			<b>\$8,416.87</b>
<b>DETENTION</b>	<b>\$4,614.98</b>			<b>\$4,614.98</b>
<b>EROSION CONTROL</b>	<b>\$750.20</b>			<b>\$750.20</b>
<b>SILTATION CONTROL</b>	<b>\$533.50</b>			<b>\$533.50</b>
<b>COMMON GR. SEED</b>	<b>\$464.40</b>			<b>\$464.40</b>
<b>MONUMENTATION</b>	<b>\$636.90</b>			<b>\$636.90</b>
<b>STREET LIGHTS</b>	<b>\$254.10</b>			<b>\$254.10</b>
<b>WATER MAINS</b>	<b>\$8,236.25</b>	<b>5/29/2019</b>	<b>\$8,236.25</b>	<b>\$0.00</b>
<b>TOTALS</b>	<b>\$47,716.52</b>		<b>\$8,236.25</b>	<b>\$39,480.27</b>



RECEIVED

NOV 9 - 2020

SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by Fischer & Frichtel Custom Homes, LLC, here in called DEVELOPER, Commerce Bank, here in called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, here in called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 6) in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of Two hundred seventeen thousand one hundred ninety-four DOLLARS (\$ 217,194.43), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance

3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 15<sup>TH</sup> day of October, 2020.



ATTEST: (SEAL) DEVELOPER: Fischer & Frichtel Custom Homes, LLC

Carl F. Hausmann  
Type Name: CARL F. HAUSMANN  
Title: AGENT

BY: Chris DeGuentz  
Type Name: CHRIS DEGUENTZ  
Title: AGENT

Firm Address:  
695 Trade Center Blvd.  
Chesterfield, MO 63005

ATTEST: (SEAL)

ESCROW HOLDER: Commerce Bank

Mark Kamil  
Type Name: Mark Kamil  
Title: AVP

BY: Jennifer Fischer-Turgeon  
Type Name: Jennifer Fischer-Turgeon  
Title: AVP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.



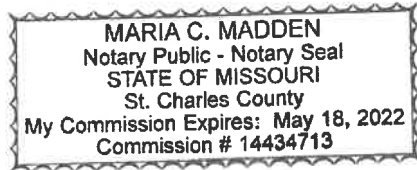
**LLC EXECUTING OFFICIAL'S ACKNOWLEDGEMENT**

STATE OF MISSOURI )  
 ) SS  
COUNTY OF ST. LOUIS )

On this 2nd day of October, 2020, before me appeared CHRIS DEGUENTZ (name) to me personally known, who, being by me duly sworn, did say that he/she is the AGENT (title or Executing Official) of Fischer & Frichtel Custom Homes, LLC, a Missouri Limited Liability Corporation, and that he/she in fact has the authority to execute the foregoing agreement pursuant to the authority given him/her by the Limited Liability Corporation, and that said agreement was signed and sealed by him/her on behalf of the aforesaid L.L.C. by authority of its authorized person, (President or title of chief officer), JOHN W. FISCHER, CEO (name) as authorized person (title of Executing Official) of said L.L.C. acknowledges said agreement to be the lawful, free act and deed of said L.L.C.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, this 2nd day of October, 2020.

Maria C. Madden  
Notary Public



My Commission Expires:

# EXHIBIT A

Attach:        Subdivision Deposit Spreadsheet



**CONSTRUCTION DEPOSIT**

SUBDIVISION: Fienup Farms  
 PLAT: 6  
 SUBDIVISION CODE: 330  
 NO. LOTS: 28  
 DATE OF PLAT APPROVAL: 3/4/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	10/14/19	95	\$335,904.80	\$319,109.56 \$0.00	95	\$16,795.24	5
SIDEWALKS	10/14/19	50	\$10,284.56	\$5,142.28 \$0.00	50	\$5,142.28	50
STREET SIGNS	04/13/20	95	\$247.50	\$235.13 \$0.00	95	\$12.37	5
STREET TREES			\$990.00	\$0.00 \$0.00	0	\$990.00	100
SANITARY SEWER AND PUMP STATIONS	05/29/19	95	\$61,663.14	\$58,579.98 \$0.00	95	\$3,083.16	5
STORM SEWER	05/29/19	95	\$190,723.50	\$181,187.33 \$0.00	95	\$9,536.17	5
GRADING	10/14/19	50	\$139,392.00	\$69,696.00 \$0.00	50	\$69,696.00	50
DETENTION & WQ			\$84,132.18	\$0.00 \$0.00	0	\$84,132.18	100
EROSION CONTROL	10/14/19	50	\$12,821.60	\$6,410.80 \$0.00	50	\$6,410.80	50
SILTATION CONTROL	10/14/19	50	\$7,594.40	\$3,797.20 \$0.00	50	\$3,797.20	50
COMMON GROUND SEED AND ISLAND SODDING	10/14/19	50	\$11,395.47	\$5,697.74 \$0.00	50	\$5,697.74	50
MONUMENTATION			\$7,551.50	\$0.00 \$0.00	0	\$7,551.50	100
RETAINING WALLS	10/14/19 04/13/20	50 45	\$37,387.90	\$18,693.95 \$16,824.56	95	\$1,869.39	5
STREET LIGHTS	04/13/20	95	\$7,623.00	\$7,241.85 \$0.00	95	\$381.15	5
WATER MAINS	05/29/19	100	\$235,372.50	\$235,372.50 \$0.00	100	\$0.00	0
FENCE	10/14/19	95	\$3,485.02	\$3,310.77 \$0.00	95	\$174.25	5
MISC. REQ. IMPROVEMENTS	04/13/20	95	\$38,500.00	\$36,575.00 \$0.00	95	\$1,925.00	5
<b>TOTALS</b>			<b>\$1,185,069.07</b>	<b>\$967,874.64</b>	<b>82</b>	<b>\$217,194.43</b>	<b>18</b>

RECEIVED

NOV 9 - 2020

City of Chesterfield-Department of Planning

**SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT**

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by Fischer & Frichtel Custom Homes, LLC, herein called DEVELOPER, Commerce Bank, herein called CREDIT HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 6) in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of maintenance of the required improvements, based on the cost of construction of said improvements, all in accordance with the provisions of said subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum of Ninety-four thousand nine hundred sixty-nine DOLLARS (\$ 94,969.66), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and



the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount

retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages

caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 15<sup>TH</sup> day of October, 20 20 A.D.

ATTEST: (SEAL) DEVELOPER: Fischer & Frichtel Custom Homes, LLC

Carl Hausman  
Type Name: CARL HAUSMAN  
Title: AGENT



BY: Chris DeGuentz  
Type Name: CHRIS DEGUENTZ  
Title: AGENT

Firm Address:  
695 Trade Center Blvd.  
Chesterfield, MO 63005

ATTEST: (SEAL)

CREDIT HOLDER: Commerce Bank

Mark Kamin  
Name: Mark Kamin  
Title: AVP

BY: Jennifer Fischer-Turgeon  
Name: Jennifer Fischer-Turgeon  
Title: AVP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.



**BANK OFFICIAL'S ACKNOWLEDGMENT**

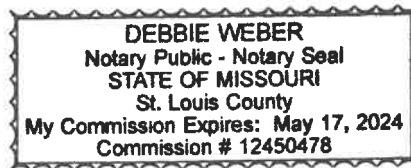
STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 15 day of October, 2023, before me appeared J. Fisher-Turgeon, to me personally known, who, being by me duly sworn, did say that he/she is the AVP (title) of Commerce Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said AVP (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires: 05.17.24



**LLC EXECUTING OFFICIAL'S ACKNOWLEDGEMENT**

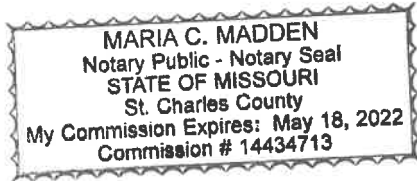
STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 2nd day of October, 2020, before me appeared CHRIS DeGUENTZ (name) to me personally known, who, being by me duly sworn, did say that he/she is the AGENT (title or Executing Official) of Fischer & Frichtel Custom Homes, LLC, a Missouri Limited Liability Corporation, and that he/she in fact has the authority to execute the foregoing agreement pursuant to the authority given him/her by the Limited Liability Corporation, and that said agreement was signed and sealed by him/her on behalf of the aforesaid L.L.C. by authority of its authorized person, (President or title of chief officer), John W. FISCHER, CEO (name) as authorized person (title of Executing Official) of said L.L.C. acknowledges said agreement to be the lawful, free act and deed of said L.L.C.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, this 2nd day of October, 2020.

Maria C. Madden  
Notary Public

My Commission Expires:



**MAINTENANCE DEPOSIT**

**SUBDIVISION: Fienup Farms  
PLAT: 6  
SUB CODE: 330  
DEVELOPER: Wild Horse Residential LLC**

**NOTE: Deposit is adjusted to account for 10% of entire sewer costs, and 0% of LOMR/Elev. Cert's, if any)**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$33,590.48</b>			<b>\$33,590.48</b>
<b>SIDEWALKS</b>	<b>\$1,028.46</b>			<b>\$1,028.46</b>
<b>STREET SIGNS</b>	<b>\$24.75</b>			<b>\$24.75</b>
<b>STREET TREES</b>	<b>\$99.00</b>			<b>\$99.00</b>
<b>SAN. SEWER</b>	<b>\$6,166.31</b>			<b>\$6,166.31</b>
<b>STORM SEWER</b>	<b>\$19,072.35</b>			<b>\$19,072.35</b>
<b>GRADING</b>	<b>\$13,939.20</b>			<b>\$13,939.20</b>
<b>DETENTION &amp; WQ</b>	<b>\$8,413.22</b>			<b>\$8,413.22</b>
<b>EROSION CONTROL</b>	<b>\$1,282.16</b>			<b>\$1,282.16</b>
<b>SILTATION CONTROL</b>	<b>\$759.44</b>			<b>\$759.44</b>
<b>COMMON GR. SEED</b>	<b>\$1,139.55</b>			<b>\$1,139.55</b>
<b>MONUMENTATION</b>	<b>\$755.15</b>			<b>\$755.15</b>
<b>RETAINING WALL</b>	<b>\$3,738.79</b>			<b>\$3,738.79</b>
<b>STREET LIGHTS</b>	<b>\$762.30</b>			<b>\$762.30</b>
<b>WATER MAINS</b>	<b>\$23,537.25</b>	<b>5/29/2019</b>	<b>\$23,537.25</b>	<b>\$0.00</b>
<b>FENCE</b>	<b>\$348.50</b>			<b>\$348.50</b>
<b>MISC. REQUIRED IMP.</b>	<b>\$3,850.00</b>			<b>\$3,850.00</b>
<b>TOTALS</b>	<b>\$118,506.91</b>		<b>\$23,537.25</b>	<b>\$94,969.66</b>

**SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT**

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by  
Consort Homes, LLC  
\_\_\_\_\_, herein called DEVELOPER,  
Commerce Bank  
\_\_\_\_\_, herein called ESCROW  
HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 7)  
\_\_\_\_\_ in accordance with  
Ordinance No. <sup>2971</sup>\_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of construction, installation and completion of said  
improvements, all in accordance with the provisions of said governing ordinance and  
Subdivision Regulations, as amended, will be in the sum of  
Fifty thousand nine hundred ninety-two \_\_\_\_\_ DOLLARS  
(\$ <sup>50,992.93</sup>\_\_\_\_\_), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of  
said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory  
construction and maintenance deposit agreements guaranteeing the construction and maintenance

of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a CONSTRUCTION DEPOSIT in the amount of Fifty thousand nine hundred ninety-two, DOLLARS

(\$ <sup>50,992.93</sup> 50,992.93) lawful money of the United States of America by: (check one)

Depositing cash with the City.

Submitting a Letter of Credit in the form required by the CITY and issued by the ESCROW HOLDER.

Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City and issued by the ESCROW HOLDER.

Said deposit guarantees the construction, installation and completion of the required subdivision improvements in Fienup Farms (Plat 7) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of the City of Chesterfield, which are by reference made a part hereof, and in accordance with all ordinances of the CITY regulating same. A cost estimate thereof is attached hereto as "Exhibit A".

2. That the CONSTRUCTION DEPOSIT will be held in escrow by the CITY or the ESCROW HOLDER, as applicable, until such time as releases are authorized by the <sup>DEPARTMENT OF</sup> Planning ~~and Development Services Division~~. The CONSTRUCTION DEPOSIT may be subject to special audit of the CITY from time to time.

3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this



subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 24<sup>th</sup> day of SEPTEMBER, 2020.

ATTEST: (SEAL)

DEVELOPER: Consort Homes, LLC

[Signature]  
Type Name: Robin Buckman  
Title: Vice President

BY: [Signature]  
Type Name: Kenneth P. Stricker  
Title: President

Firm Address:  
16141 Swingley Ridge Road, Suite 109  
Chesterfield, MO 63017

ATTEST: (SEAL)

ESCROW HOLDER: Commerce Bank

[Signature]  
Type Name: S. Farris Hughes  
Title: SVP

BY: [Signature]  
Type Name: J. Fischer-Turgeon  
Title: AUP

Firm Address:  
8000 Forsyth Blvd 1st Fl  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

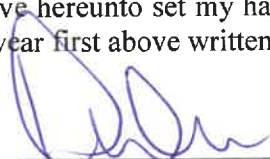
NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

**BANK OFFICIAL'S ACKNOWLEDGMENT**

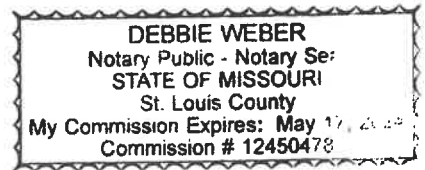
STATE OF MISSOURI    )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 24 day of September, 2010, before me appeared S. Fischer-Turgeon, to me personally known, who, being by me duly sworn, did say that he/she is the AVP (title) of Commerce Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said AVP (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 05.17.14





**CONSTRUCTION DEPOSIT**

SUBDIVISION: Fienup Farms  
 PLAT: 7  
 SUBDIVISION CODE: 330  
 NO. LOTS: 15  
 DATE OF PLAT APPROVAL: 5/20/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	10/14/19	95	\$148,918.66	\$141,472.73 \$0.00	95	\$7,445.93	5
SIDEWALKS	10/14/19	50	\$12,308.23	\$6,154.12 \$0.00	50	\$6,154.12	50
STREET SIGNS	04/13/20	95	\$495.00	\$470.25 \$0.00	95	\$24.75	5
SANITARY SEWER AND PUMP STATIONS	05/08/20	95	\$35,352.90	\$33,585.26 \$0.00	95	\$1,767.64	5
STORM SEWER	05/08/20	95	\$44,562.87	\$42,334.73 \$0.00	95	\$2,228.14	5
GRADING	10/14/19	50	\$46,396.90	\$23,198.45 \$0.00	50	\$23,198.45	50
EROSION CONTROL	10/14/19	50	\$8,320.40	\$4,160.20 \$0.00	50	\$4,160.20	50
SILTATION CONTROL	10/14/19	50	\$5,882.60	\$2,841.30 \$0.00	50	\$2,841.30	50
MONUMENTATION			\$3,003.00	\$0.00 \$0.00	0	\$3,003.00	100
STREET LIGHTS	04/13/20	95	\$3,388.00	\$3,218.60 \$0.00	95	\$169.40	5
WATER MAINS	06/28/19	100	\$106,122.50	\$106,122.50 \$0.00	100	\$0.00	0
<b>TOTALS</b>			<b>\$414,551.06</b>	<b>\$363,558.13</b>	<b>88</b>	<b>\$50,992.93</b>	<b>12</b>

RECEIVED

NOV 6<sup>th</sup> - 2020

City of Chesterfield-Department of Planning

**SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT**

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by  
Consort Homes, LLC  
\_\_\_\_\_, herein called DEVELOPER,  
Commerce Bank  
\_\_\_\_\_, herein called CREDIT  
HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 7)  
\_\_\_\_\_ in accordance with  
Ordinance No. <sup>2971</sup>\_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of maintenance of the required improvements, based on  
the cost of construction of said improvements, all in accordance with the provisions of said  
subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum  
of Thirty thousand eight hundred forty-two DOLLARS  
(\$<sup>30,842.86</sup>\_\_\_\_\_), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a MAINTENANCE DEPOSIT in the amount of Thirty thousand eight hundred forty-two

DOLLARS (\$ 30,842.86), lawful money of the United States of America by:

(check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the CREDIT HOLDER.
- Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City.

Said deposit guarantees the DEVELOPER will perform his maintenance obligations regarding subdivision improvements, including, but not limited to; lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm drainage facilities, in Fienup Farms (Plat 7) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of

the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount



retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages

caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.


IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 24<sup>th</sup> day of SEPTEMBER, 2020 A.D.

ATTEST: (SEAL)

DEVELOPER: Consort Homes, LLC

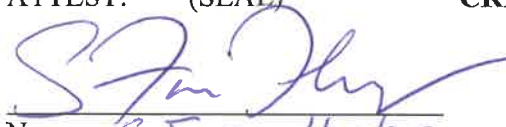
  
Type Name: Robin Ruckman  
Title: Vice President


BY:   
Type Name: Kenneth P Stricker  
Title: President

Firm Address:  
16141 Swingley Ridge Road, St 109  
Chesterfield, MO 63017

ATTEST: (SEAL)

CREDIT HOLDER: Commerce Bank

  
Name: S. Farris Hughes  
Title: SVP

BY:   
Name: J. Fischer-Turgeon  
Title: AVP

Firm Address:  
8000 Forsyth Blvd 15+FL  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

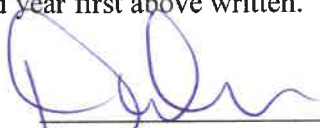
NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

**BANK OFFICIAL'S ACKNOWLEDGMENT**

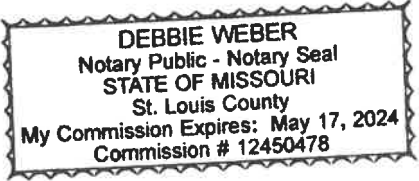
STATE OF MISSOURI    )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 24 day of September, 2020, before me appeared J. Fischer-Turgen, to me personally known, who, being by me duly sworn, did say that he/she is the AWP (title) of Commerce Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said AWP (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 05.17.24





**MAINTENANCE DEPOSIT**

**SUBDIVISION: Fienup Farms  
PLAT: 7  
SUB CODE: 330  
DEVELOPER: Wild Horse Residential LLC**

**NOTE: Deposit is adjusted to account for 10% of entire sewer costs, and 0% of LOMR/Elev. Cert's, if any)**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$14,891.87</b>			<b>\$14,891.87</b>
<b>SIDEWALKS</b>	<b>\$1,230.82</b>			<b>\$1,230.82</b>
<b>STREET SIGNS</b>	<b>\$49.50</b>			<b>\$49.50</b>
<b>STREET TREES</b>	<b>\$0.00</b>			<b>\$0.00</b>
<b>SAN. SEWER</b>	<b>\$3,535.29</b>			<b>\$3,535.29</b>
<b>STORM SEWER</b>	<b>\$4,456.29</b>			<b>\$4,456.29</b>
<b>GRADING</b>	<b>\$4,639.69</b>			<b>\$4,639.69</b>
<b>DETENTION &amp; WQ</b>	<b>\$0.00</b>			<b>\$0.00</b>
<b>EROSION CONTROL</b>	<b>\$832.04</b>			<b>\$832.04</b>
<b>SILTATION CONTROL</b>	<b>\$568.26</b>			<b>\$568.26</b>
<b>COMMON GR. SEED</b>	<b>\$0.00</b>			<b>\$0.00</b>
<b>MONUMENTATION</b>	<b>\$300.30</b>			<b>\$300.30</b>
<b>RETAINING WALL</b>	<b>\$0.00</b>			<b>\$0.00</b>
<b>STREET LIGHTS</b>	<b>\$338.80</b>			<b>\$338.80</b>
<b>WATER MAINS</b>	<b>\$10,612.25</b>	<b>6/28/2019</b>	<b>\$10,612.25</b>	<b>\$0.00</b>
<b>FENCE</b>	<b>\$0.00</b>			<b>\$0.00</b>
<b>MISC. REQUIRED IMP.</b>	<b>\$0.00</b>			<b>\$0.00</b>
<b>TOTALS</b>	<b>\$41,455.11</b>		<b>\$10,612.25</b>	<b>\$30,842.86</b>

RECEIVED

NOV 6 - 2020

City of Chesterfield-Department of Planning

SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by  
McBride Fienup Farms, LLC  
\_\_\_\_\_, herein called DEVELOPER,  
Commerce Bank  
\_\_\_\_\_, herein called ESCROW  
HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 8)  
\_\_\_\_\_ in accordance with  
Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of construction, installation and completion of said  
improvements, all in accordance with the provisions of said governing ordinance and  
Subdivision Regulations, as amended, will be in the sum of  
One hundred sixteen thousand five hundred sixty-three \_\_\_\_\_ DOLLARS  
(\$ 116,563.54), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and

WHEREAS, the Subdivision Regulations provide inter alia that the commencement of  
said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory  
construction and maintenance deposit agreements guaranteeing the construction and maintenance

of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a CONSTRUCTION DEPOSIT in the amount of One hundred sixteen thousand five hundred sixty-three, DOLLARS (\$ 116,563.54) lawful money of the United States of America by: (check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the ESCROW HOLDER.
- Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City and issued by the ESCROW HOLDER.

Said deposit guarantees the construction, installation and completion of the required subdivision improvements in Fienup Farms (Plat 8) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of the City of Chesterfield, which are by reference made a part hereof, and in accordance with all ordinances of the CITY regulating same. A cost estimate thereof is attached hereto as "Exhibit A".

2. That the CONSTRUCTION DEPOSIT will be held in escrow by the CITY or the ESCROW HOLDER, as applicable, until such time as releases are authorized by the <sup>DEPARTMENT OF</sup> Planning ~~and Development Services Division~~. The CONSTRUCTION DEPOSIT may be subject to special audit of the CITY from time to time.



3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

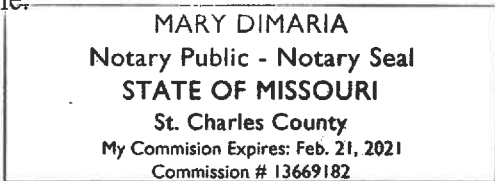
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the 16<sup>th</sup> day of September, 2020.

ATTEST: (SEAL)

DEVELOPER: McBride Fienup Farms, LLC  
BY: McBride & Son Acquisitions, LLC its Managing Member

Mary DiMaria  
Type Name:  
Title:

BY: Jeffrey M. Todd Manager  
Type Name: JEFFREY M. TODD  
Title: MANAGER



Firm Address:  
16091 Swingley Ridge Road, Ste 300  
Chesterfield, MO 63017

ATTEST: (SEAL)

ESCROW HOLDER: Commerce Bank

S. Farris Hughes  
Type Name: S. Farris Hughes  
Title: SVP

BY: J. Fischer Turgeon  
Type Name: J. Fischer Turgeon  
Title: AVP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.





# EXHIBIT A

Attach: Subdivision Deposit Spreadsheet

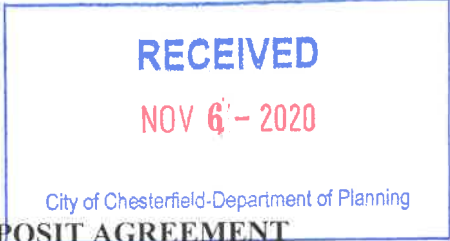
**CONSTRUCTION DEPOSIT**

SUBDIVISION: Fienup Farms  
 PLAT: 8  
 SUBDIVISION CODE: 330  
 NO. LOTS: 40  
 DATE OF PLAT APPROVAL: 12/2/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	01/21/20	95	\$195,494.59	\$185,719.86 \$0.00	95	\$9,774.73	5
SIDEWALKS			\$4,407.04	\$0.00 \$0.00	0	\$4,407.04	100
SANITARY SEWER AND PUMP STATIONS	01/21/20 04/13/20	50 45	\$41,342.40	\$20,671.20 \$18,604.08	95	\$2,067.12	5
STORM SEWER	01/21/20 04/13/20	50 45	\$76,666.59	\$38,333.30 \$34,499.97	95	\$3,833.32	5
GRADING	01/21/20	50	\$133,271.60	\$66,635.80 \$0.00	50	\$66,635.80	50
EROSION CONTROL	01/21/20	50	\$17,732.00	\$8,866.00 \$0.00	50	\$8,866.00	50
SILTATION CONTROL	01/21/20	50	\$9,680.00	\$4,840.00 \$0.00	50	\$4,840.00	50
COMMON GROUND SEED AND ISLAND SODDING			\$10,504.78	\$0.00 \$0.00	0	\$10,504.78	100
MONUMENTATION			\$5,423.00	\$0.00 \$0.00	0	\$5,423.00	100
STREET LIGHTS	04/13/20	95	\$4,235.00	\$4,023.25 \$0.00	95	\$211.75	5
WATER MAINS	01/21/20 04/13/20	50 50	\$138,545.00	\$69,272.50 \$69,272.50	100	\$0.00	0
<b>TOTALS</b>			\$637,302.00	\$520,738.46	82	\$116,563.54	18





**SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT**

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by  
McBride Fienup Farms, LLC \_\_\_\_\_, herein called DEVELOPER,  
Commerce Bank \_\_\_\_\_, herein called CREDIT  
HOLDER (~~strike through this party if cash deposited with City~~), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 8) \_\_\_\_\_ in accordance with  
Ordinance No. <sup>2971</sup> \_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of maintenance of the required improvements, based on  
the cost of construction of said improvements, all in accordance with the provisions of said  
subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum  
of Forty-nine thousand eight hundred seventy-five DOLLARS  
(\$<sup>49,875.70</sup> \_\_\_\_\_), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and



the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount

retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages

caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the 16<sup>th</sup> day of September, 2020 A.D.

ATTEST: (SEAL)

DEVELOPER: McBride Fienup Farms, LLC

Mary Li Maria  
Type Name: MARY LI MARIA  
Title: Notary Public - Notary Seal  
**STATE OF MISSOURI**  
St. Charles County  
My Commission Expires: Feb. 21, 2021  
Commission # 13669182

BY: McBride & Son Acquisitions, LLC its Managing Member

BY: [Signature]  
Type Name: JEFFREY M. TODD  
Title: MANAGER

Firm Address:  
16091 Swingley Ridge Road, Ste 300  
Chesterfield, MO 63017

ATTEST: (SEAL)

CREDIT HOLDER: Commerce Bank

[Signature]  
Name: S. Fabric Hughes  
Title: SVP

BY: [Signature]  
Name: J. Fischer - Turgeon  
Title: AVP

Firm Address:  
8000 Forsyth Blvd 15<sup>th</sup> FL  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.







**MAINTENANCE DEPOSIT**

**SUBDIVISION: Fienup Farms  
PLAT: 8  
SUB CODE: 330  
DEVELOPER: Wild Horse Residential LLC**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$19,549.46</b>			<b>\$19,549.46</b>
<b>SIDEWALKS</b>	<b>\$440.70</b>			<b>\$440.70</b>
<b>SAN. SEWER</b>	<b>\$4,134.24</b>			<b>\$4,134.24</b>
<b>STORM SEWER</b>	<b>\$7,666.66</b>			<b>\$7,666.66</b>
<b>GRADING</b>	<b>\$13,327.16</b>			<b>\$13,327.16</b>
<b>EROSION CONTROL</b>	<b>\$1,773.20</b>			<b>\$1,773.20</b>
<b>SILTATION CONTROL</b>	<b>\$968.00</b>			<b>\$968.00</b>
<b>COMMON GR. SEED</b>	<b>\$1,050.48</b>			<b>\$1,050.48</b>
<b>MONUMENTATION</b>	<b>\$542.30</b>			<b>\$542.30</b>
<b>STREET LIGHTS</b>	<b>\$423.50</b>			<b>\$423.50</b>
<b>WATER MAINS</b>	<b>\$13,854.50</b>	<b>4/13/2020</b>	<b>\$13,854.50</b>	<b>\$0.00</b>
<b>TOTALS</b>	<b>\$63,730.20</b>		<b>\$13,854.50</b>	<b>\$49,875.70</b>

RECEIVED

**SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT**

City of Chesterfield-Department of Planning

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by Fischer & Frichtel Custom Homes, LLC, herein called DEVELOPER, Commerce Bank, herein called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 9) in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of One hundred eleven thousand seven hundred three DOLLARS (\$111,703.88), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance



3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 15<sup>TH</sup> day of May 2020.

ATTEST: (SEAL) DEVELOPER: Fischer & Frichtel Custom Homes, LLC



Carl F. Hammer  
Type Name: CARL F. HAMMER  
Title: AGENT

BY: Chris DeGuentz  
Type Name: CHRIS DEGUENTZ  
Title: AGENT

Firm Address:  
695 Trade Center Blvd.  
Chesterfield, MO 63005

ATTEST: (SEAL)

ESCROW HOLDER: Commerce Bank

Mark Kamel  
Type Name: Mark Kamel  
Title: AVP

BY: Jennifer Fischer Furgerson  
Type Name: Jennifer Fischer Furgerson  
Title: AVP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.







# EXHIBIT A

Attach:       Subdivision Deposit Spreadsheet

**CONSTRUCTION DEPOSIT**

SUBDIVISION: Fienup Farms  
 PLAT: 9  
 SUBDIVISION CODE: 330  
 NO. LOTS: 27  
 DATE OF PLAT APPROVAL: 12/2/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	01/21/20	95	\$164,246.45	\$156,034.12 \$0.00	95	\$8,212.33	5
SIDEWALKS			\$14,251.05	\$0.00 \$0.00	0	\$14,251.05	100
STREET SIGNS	04/13/20	95	\$495.00	\$470.25 \$0.00	95	\$24.75	5
SANITARY SEWER AND PUMP STATIONS	01/21/20 04/13/20	50 45	\$21,443.40	\$10,721.70 \$9,649.53	95	\$1,072.17	5
STORM SEWER	01/21/20 04/13/20	50 45	\$46,900.26	\$23,450.13 \$21,105.12	95	\$2,345.01	5
GRADING	01/21/20	50	\$112,535.50	\$56,267.75 \$0.00	50	\$56,267.75	50
EROSION CONTROL	01/21/20	50	\$12,412.40	\$6,206.20 \$0.00	50	\$6,206.20	50
SILTATION CONTROL	01/21/20	50	\$7,420.60	\$3,710.30 \$0.00	50	\$3,710.30	50
COMMON GROUND SEED AND ISLAND SODDING			\$8,696.12	\$0.00 \$0.00	0	\$8,696.12	100
MONUMENTATION			\$7,315.00	\$0.00 \$0.00	0	\$7,315.00	100
RETAINING WALLS	01/21/20	95	\$61,967.40	\$58,869.03 \$0.00	95	\$3,098.37	5
STREET LIGHTS	04/13/20	95	\$4,235.00	\$4,023.25 \$0.00	95	\$211.75	5
WATER MAINS	01/21/20 04/13/20	50 50	\$156,777.50	\$78,388.75 \$78,388.75	100	\$0.00	0
FENCE	04/13/20	95	\$5,861.90	\$5,568.81 \$0.00	95	\$293.09	5
<b>TOTALS</b>			<b>\$624,557.57</b>	<b>\$512,853.69</b>	<b>82</b>	<b>\$111,703.88</b>	<b>18</b>

RECEIVED

NOV 9 - 2020

SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT

City of Chesterfield Department of Planning

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by Fischer & Frichtel Custom Homes, LLC, herein called DEVELOPER, Commerce Bank, herein called CREDIT HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 9) in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of maintenance of the required improvements, based on the cost of construction of said improvements, all in accordance with the provisions of said subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum of Forty-six thousand seven hundred seventy-eight DOLLARS (\$46,778.01), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and



the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount



retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages

caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 15<sup>TH</sup> day of OCTOBER, 2020 A.D.

ATTEST: (SEAL) DEVELOPER: Fischer & Frichtel Custom Homes, LLC



Carl F. Hausman  
Type Name: CARL F. HAUSMAN  
Title: AGENT

BY: Chris DeGuentz  
Type Name: CHRIS DEGUENTZ  
Title: AGENT

Firm Address:  
695 Trade Center Blvd.  
Chesterfield, MO 63005

ATTEST: (SEAL)

CREDIT HOLDER: Commerce Bank

Mark Kamel  
Name: Mark Kamel  
Title: AVP

BY: Jennifer Fischer-Furgerson  
Name: Jennifer Fischer-Furgerson  
Title: AVP

Firm Address:  
8000 Forsyth Blvd  
Clayton, MO 63105

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

**BANK OFFICIAL'S ACKNOWLEDGMENT**

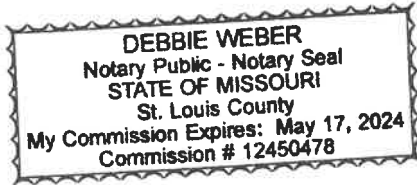
STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 15 day of October, 2020, before me appeared S. Fischer-Turgeon, to me personally known, who, being by me duly sworn, did say that he/she is the Asst (title) of Commerce Bank (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said Asst (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

[Signature]  
Notary Public

My Commission Expires: 05.17.24





**MAINTENANCE DEPOSIT**

**SUBDIVISION: Fienup Farms  
PLAT: 9  
SUB CODE: 330  
DEVELOPER: Wild Horse Residential LLC**

<b>CATEGORY</b>	<b>ORIGINAL BALANCE</b>	<b>DATE OF RELEASE</b>	<b>AMOUNT RELEASED</b>	<b>CURRENT BALANCE</b>
<b>STREETS</b>	<b>\$16,424.64</b>			<b>\$16,424.64</b>
<b>SIDEWALKS</b>	<b>\$1,425.11</b>			<b>\$1,425.11</b>
<b>STREET SIGNS</b>	<b>\$49.50</b>			<b>\$49.50</b>
<b>SAN. SEWER</b>	<b>\$2,144.34</b>			<b>\$2,144.34</b>
<b>STORM SEWER</b>	<b>\$4,690.03</b>			<b>\$4,690.03</b>
<b>GRADING</b>	<b>\$11,253.55</b>			<b>\$11,253.55</b>
<b>EROSION CONTROL</b>	<b>\$1,241.24</b>			<b>\$1,241.24</b>
<b>SILTATION CONTROL</b>	<b>\$742.06</b>			<b>\$742.06</b>
<b>COMMON GR. SEED</b>	<b>\$869.61</b>			<b>\$869.61</b>
<b>MONUMENTATION</b>	<b>\$731.50</b>			<b>\$731.50</b>
<b>RETAINING WALL</b>	<b>\$6,196.74</b>			<b>\$6,196.74</b>
<b>STREET LIGHTS</b>	<b>\$423.50</b>			<b>\$423.50</b>
<b>WATER MAINS</b>	<b>\$15,677.75</b>	<b>4/13/2020</b>	<b>\$15,677.75</b>	<b>\$0.00</b>
<b>FENCE</b>	<b>\$586.19</b>			<b>\$586.19</b>
<b>TOTALS</b>	<b>\$62,455.76</b>		<b>\$15,677.75</b>	<b>\$46,778.01</b>

RECEIVED

SEP 28 2020

City of Chesterfield-Department of Planning

**SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT**

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by Prestige Custom Homes, Inc. \_\_\_\_\_, herein called DEVELOPER, Central Bank \_\_\_\_\_, herein called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 10) \_\_\_\_\_ in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of Fifty-seven thousand nine hundred seven \_\_\_\_\_ DOLLARS (\$57,907.09), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance





3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Planning and Development Services Division addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST: (SEAL) DEVELOPER: Prestige Custom Homes, Inc.

Melissa Hoyer  
Type Name: Melissa Hoyer  
Title: OFFICE MANAGER

BY: [Signature]  
Type Name: J Randall Mayer, Jr  
Title: President

Firm Address:  
755 S. New Ballas Road, Suite 210  
St. Louis, MO 63141

ATTEST: (SEAL) ESCROW HOLDER: Central Bank

Karen A Michel  
Type Name: Karen A Michel  
Title: Branch Manager

BY: [Signature]  
Type Name: NORM MUELLER  
Title: EVP

Firm Address:  
2996 Highway K  
O'Fallon, MO 63368

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning and Development Services

ATTEST: (SEAL) APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.





CONSTRUCTION DEPOSIT

SUBDIVISION: Fienup Farms  
 PLAT: 10  
 SUBDIVISION CODE: 330  
 NO. LOTS: 15  
 DATE OF PLAT APPROVAL: 12/2/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STREETS	01/21/20	95	\$104,459.30	\$99,236.34 \$0.00	95	\$5,222.96	5
SANITARY SEWER AND PUMP STATIONS	01/21/20 04/13/20	50 45	\$20,029.68	\$10,014.84 \$9,013.36	95	\$1,001.48	5
STORM SEWER	01/21/20 04/13/20	50 45	\$9,505.98	\$4,752.99 \$4,277.69	95	\$475.30	5
GRADING	01/21/20	50	\$71,173.30	\$35,586.65 \$0.00	50	\$35,586.65	50
EROSION CONTROL	01/21/20	50	\$7,502.00	\$3,751.00 \$0.00	50	\$3,751.00	50
SILTATION CONTROL	01/21/20	50	\$5,335.00	\$2,667.50 \$0.00	50	\$2,667.50	50
COMMON GROUND SEED AND ISLAND SODDING			\$4,725.20	\$0.00 \$0.00	0	\$4,725.20	100
MONUMENTATION			\$4,477.00	\$0.00 \$0.00	0	\$4,477.00	100
WATER MAINS	01/21/20 04/13/20	50 50	\$80,575.00	\$40,287.50 \$40,287.50	100	\$0.00	0
TOTALS			\$307,782.46	\$249,875.37	81	\$57,907.09	19

RECEIVED

SEP 28 2020

City of Chesterfield-Department of Planning

**SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT**

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by  
Prestige Custom Homes, Inc.  
\_\_\_\_\_, herein called DEVELOPER,  
Central Bank  
\_\_\_\_\_, herein called CREDIT  
HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield,  
Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY  
for the creation and development of a subdivision to be known as  
Fienup Farms (Plat 10)  
\_\_\_\_\_ in accordance with  
Ordinance No. <sup>2971</sup>\_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision  
Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably  
estimated and determined that the cost of maintenance of the required improvements, based on  
the cost of construction of said improvements, all in accordance with the provisions of said  
subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum  
of Twenty-two thousand seven hundred twenty DOLLARS  
(\$ <sup>22,720.75</sup>\_\_\_\_\_), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of  
the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision  
Regulations; and



WHEREAS, the Subdivision Regulations provide inter alia that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a MAINTENANCE DEPOSIT in the amount of Twenty-two thousand seven hundred twenty

DOLLARS (\$ 22,720.75), lawful money of the United States of America by:

(check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the CREDIT HOLDER.
- Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City.

Said deposit guarantees the DEVELOPER will perform his maintenance obligations regarding subdivision improvements, including, but not limited to; lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm drainage facilities, in Fienup Farms (Plat 10) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of

the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Planning and Development Services Division.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning and Development Services. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been

inspected and accepted by the appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning and Development Services to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning and Development Services shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning and Development Services shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning and Development Services may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that

the total maintenance amount retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Planning and Development Services Division addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning and Development Services shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning and Development Services. This release shall in no way be construed to indemnify or release any person from any

civil liability that may exist for defects or damages caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance

for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ A.D.

ATTEST: (SEAL)

DEVELOPER: Prestige Custom Homes, Inc.

Melissa Hayes  
Type Name: Melissa Hayes  
Title: OFFICE MANAGER

BY: [Signature]  
Type Name: J Randall Mayer, Jr  
Title: President

Firm Address:  
755 S. New Ballas Road, Suite 210  
St. Louis, MO 63141

ATTEST: (SEAL)

CREDIT HOLDER: Central Bank

Karen A Michel  
Name: Karen A Michel  
Title: Branch Manager

BY: [Signature]  
Name: NORM MUELLER  
Title: EVP

Firm Address:  
2996 Highway K  
O'Fallon, MO 63368

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning and Development Services

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.



**CORPORATE EXECUTING OFFICIAL'S ACKNOWLEDGEMENT**

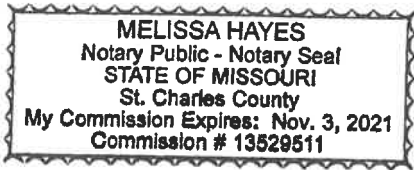
STATE OF MISSOURI     )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 14<sup>th</sup> day of September, 2020, before me appeared J. R. MAYOR, JR, to me personally known, who, being by me duly sworn, did say that he/she is the President (title) of Prestige Custom Homes, Inc (name of corporation), a Missouri Corporation, and that he/she executed the foregoing agreement pursuant to the authority given him/her by the Board of Directors of the aforesaid corporation, and that said agreement was signed and sealed by him/her on behalf of the aforesaid corporation by authority of its Board of Directors, and he/she as President (title of Corporate Executing Official) of the said corporation, acknowledged said agreement to be the lawful, free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, this 14<sup>th</sup> day of September, 2020.

Melissa Hayes  
Notary Public

My Commission Expires: 11-3-2021





MAINTENANCE DEPOSIT

SUBDIVISION: Fienup Farms  
PLAT: 10  
SUB CODE: 330  
DEVELOPER: Wild Horse Residential LLC

CATEGORY	ORIGINAL BALANCE	DATE OF RELEASE	AMOUNT RELEASED	CURRENT BALANCE
STREETS	\$10,445.93			\$10,445.93
SAN. SEWER	\$2,002.97			\$2,002.97
STORM SEWER	\$950.60			\$950.60
VALLEY STORMWATER CHA	\$0.00			\$0.00
GRADING	\$7,117.33			\$7,117.33
WATER QUALITY	\$0.00			\$0.00
EROSION CONTROL	\$750.20			\$750.20
SILTATION CONTROL	\$533.50			\$533.50
COMMON GR. SEED	\$472.52			\$472.52
MONUMENTATION	\$447.70			\$447.70
WATER MAINS	\$8,057.50	4/13/2020	\$8,057.50	\$0.00
TOTALS	\$30,778.25		\$8,057.50	\$22,720.75

RECEIVED

OCT 26 2020

City of Chesterfield Department of Planning

SUBDIVISION IMPROVEMENT CONSTRUCTION DEPOSIT AGREEMENT

THIS CONSTRUCTION DEPOSIT AGREEMENT made and entered into by Claymont Development, LLC \_\_\_\_\_, herein called DEVELOPER, Midwest Bank Centre \_\_\_\_\_, herein called ESCROW HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 11) \_\_\_\_\_ in accordance with Ordinance No. <sup>2971</sup> \_\_\_\_\_, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of construction, installation and completion of said improvements, all in accordance with the provisions of said governing ordinance and Subdivision Regulations, as amended, will be in the sum of Twenty-eight thousand seven hundred ninety-eight \_\_\_\_\_ DOLLARS (\$<sup>28,798.60</sup> \_\_\_\_\_), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alia that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance

of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a CONSTRUCTION DEPOSIT in the amount of Twenty-eight thousand seven hundred ninety-eight, DOLLARS (\$ 28,798.60) lawful money of the United States of America by: (check one)

Depositing cash with the City.

Submitting a Letter of Credit in the form required by the CITY and issued by the ESCROW HOLDER.

Submitting a \_\_\_\_\_ (type of readily negotiable instrument acceptable to the CITY) endorsed to the City and issued by the ESCROW HOLDER.

Said deposit guarantees the construction, installation and completion of the required subdivision improvements in Fienup Farms (Plat 11) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of the City of Chesterfield, which are by reference made a part hereof, and in accordance with all ordinances of the CITY regulating same. A cost estimate thereof is attached hereto as "Exhibit A".

2. That the CONSTRUCTION DEPOSIT will be held in escrow by the CITY or the ESCROW HOLDER, as applicable, until such time as releases are authorized by the <sup>DEPARTMENT OF</sup> ~~Planning and Development Services Division~~. The CONSTRUCTION DEPOSIT may be subject to special audit of the CITY from time to time.

3. That the CONSTRUCTION DEPOSIT guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the plans and specifications for the said subdivision which have been filed with the CITY, which are made a part hereof by reference as if set forth herein word for word.

4. Pursuant to Revised Statutes of Missouri, 89.410, the amounts set out on Exhibit "A" are identified by separate line item and are subject to release of ninety five percent (95%) of said estimated costs within thirty (30) days of the completion of said specific component of work by DEVELOPER. The Developer shall notify CITY in writing when they consider the specific component ready for release of funds. Accordingly, the CITY may not allow for the reallocation of escrowed funds from one line item to another, without specific written agreement between the DEVELOPER and CITY indicating what specific component or components are being modified. ESCROW HOLDER shall not modify or expend funds from other than the identified line item component without written approval from CITY. Completion is when the particular item has had all documentation and certification filed in a complete and acceptable form and the specific items have been inspected and all identified deficiencies have been corrected and the work has been approved by the City.

5. That in the event the CITY should determine that the ESCROW SUM or any line item thereon as herein provided, is insufficient to complete the said Subdivision Improvements, or the specific line item, the CITY will so notify the DEVELOPER who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said specific component of the improvement and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum shall cause for immediate cessation of all work on said subdivision until the additional amount is paid.

6. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall certify the completion of all said improvements, along with the filing of all documentation and certification, all as provided in the governing ordinance for this subdivision and the Subdivision Regulations of the CITY.

7. That the ESCROW HOLDER, in accordance with paragraph 4 above, shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the Department of Planning addressed to the ESCROW HOLDER, which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That in the event the DEVELOPER shall abandon the subdivision or fail to complete the subdivision improvements within two (2) years, from the date of the CITY'S approval of the said subdivision plat or subsequent extension period granted to this DEPOSIT AGREEMENT, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the completion of the subdivision improvements and require the ESCROW HOLDER to immediately perform on this agreement for completion of the specific components of the project or disburse said funds identified by the City Engineer's estimates directly to the CITY. The CITY may complete, or have completed by outside resources, the said improvements. The ESCROW HOLDER having disbursed the escrow sums therefore as ordered and directed by the CITY, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

9. That in the event of any legal actions taken by the CITY against DEVELOPER or ESCROW HOLDER to enforce the provision of this agreement, the parties agree to pay a reasonable attorney's fee in addition to any other sums due under this agreement

10. That there shall be no assignment by DEVELOPER or ESCROW HOLDER under the terms of this agreement without written approval of the CITY.

11. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to complete the Subdivision improvements as may be determined by the CITY or if the DEVELOPER or ESCROW HOLDER shall go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

12. That the ESCROW HOLDER will immediately inform the City of any changes of address for ESCROW HOLDER or DEVELOPER (known to ESCROW HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or ESCROW HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by ESCROW HOLDER to be paid to the CITY without further legal process, to be used to complete the subdivision improvements as set out under the terms hereof.

13. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

14. That the CITY hereby accepts this agreement as a satisfactory ESCROW AGREEMENT under the provisions and requirements of the governing ordinance for this

subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

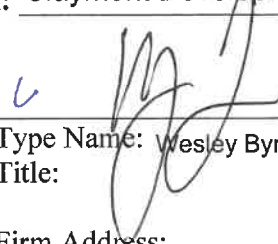
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 22<sup>nd</sup> day of OCTOBER, 2020.

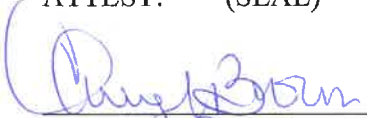
ATTEST: (SEAL)

  
Type Name: Cheryl Brown  
Title:


DEVELOPER: Claymont Development, LLC

BY:   
Type Name: Wesley Byrne  
Title:  
Firm Address:  
26 Pacland Estates Drive  
Chesterfield, MO 63005

ATTEST: (SEAL)

  
Type Name: Cheryl Brown  
Title:

ESCROW HOLDER: Midwest Bank Centre

BY:   
Type Name: Wm. Karl  
Title: Pres. St. Charles  
Firm Address:  
2191 LEMAY FERRY ROAD  
ST. LOUIS, MO 63125

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

**BANK OFFICIAL'S ACKNOWLEDGMENT**

STATE OF MISSOURI    )  
  ) SS  
COUNTY OF ST. LOUIS    )

On this 22 day of Oct, 2020, before me appeared Wm Kral, to me personally known, who, being by me duly sworn, did say that he/she is the PRES - ST CHARLES (title) of Midwest Bank Centre (name of bank), a MO Bank Company (corporation, etc.) organized and existing under the laws of the United States of America, and that the seal affixed to the foregoing instrument is the Corporate Seal of said bank, and that said instrument was signed and sealed on behalf of said bank by authority of its Board of Directors, and said \_\_\_\_\_ (title) acknowledged said instrument to be the free act and deed of said bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in County and State aforesaid, the day and year first above written.

Tia Patton  
Notary Public

My Commission Expires: 1/26/2021

**Tia Patton  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Jefferson County  
My Commission Expires: January 26, 2021  
Commission #17769083**





# EXHIBIT A

Attach: Subdivision Deposit Spreadsheet

**CONSTRUCTION DEPOSIT**

SUBDIVISION: Fienup Farms  
 PLAT: 11  
 SUBDIVISION CODE: 330  
 NO. LOTS: 15  
 DATE OF PLAT APPROVAL: 12/2/2019

DEVELOPER: Wild Horse Residential LLC

CATEGORY	DATE OF RELEASE	% RELEASE	ORIGINAL BALANCE	TOTAL RELEASED	TOTAL % RELEASED	CURRENT BALANCE	% REMAINING
STORM SEWER	01/21/20	50	\$17,909.10	\$8,954.55	95	\$895.45	5
	04/13/20	45		\$8,059.10			
GRADING	01/21/20	50	\$33,069.30	\$16,534.65 \$0.00	50	\$16,534.65	50
EROSION CONTROL	01/21/20	50	\$7,502.00	\$3,751.00 \$0.00	50	\$3,751.00	50
SILTATION CONTROL	01/21/20	50	\$5,335.00	\$2,667.50 \$0.00	50	\$2,667.50	50
MONUMENTATION			\$4,950.00	\$0.00 \$0.00	0	\$4,950.00	100
<b>TOTALS</b>			<b>\$68,765.40</b>	<b>\$39,966.80</b>	<b>58</b>	<b>\$28,798.60</b>	<b>42</b>

RECEIVED

OCT 26 2020

City of Chesterfield Department of Planning

**SUBDIVISION IMPROVEMENT MAINTENANCE DEPOSIT AGREEMENT**

THIS MAINTENANCE DEPOSIT AGREEMENT made and entered into by Claymont Development \_\_\_\_\_, herein called DEVELOPER, Midwest Bank Centre \_\_\_\_\_, herein called CREDIT HOLDER (*strike through this party if cash deposited with City*), and the City of Chesterfield, Missouri, herein called CITY.

WITNESSETH:

WHEREAS, the DEVELOPER has submitted plans, information and data to the CITY for the creation and development of a subdivision to be known as Fienup Farms (Plat 11) \_\_\_\_\_ in accordance with Ordinance No. 2971, the governing ordinance for the subdivision, and the Subdivision Regulations of the City of Chesterfield, and has requested approval of same; and

WHEREAS, the subdivision plans have been approved and the CITY has reasonably estimated and determined that the cost of maintenance of the required improvements, based on the cost of construction of said improvements, all in accordance with the provisions of said subdivision governing ordinance and Subdivision Regulations, as amended, will be in the sum of Six thousand eight hundred seventy-six DOLLARS (\$ 6,876.54), lawful money of the United States of America; and

WHEREAS, the DEVELOPER is seeking approval from the CITY of the record plat of the aforesaid subdivision as the same is provided in said governing ordinance and Subdivision Regulations; and

WHEREAS, the Subdivision Regulations provide inter alias that the commencement of said subdivision may be approved by the CITY upon the DEVELOPER submitting satisfactory construction and maintenance deposit agreements guaranteeing the construction and maintenance of the subdivision improvements in accordance with the approved plans, said governing ordinance and Subdivision Regulations.

NOW, THEREFORE, in consideration of the covenants, promises and agreement herein provided;

IT IS HEREBY MUTUALLY AGREED:

1. That the DEVELOPER has established a MAINTENANCE DEPOSIT in the amount of Six thousand eight hundred seventy-six

DOLLARS (\$ 6,876.54), lawful money of the United States of America by:

(check one)

- Depositing cash with the City.
- Submitting a Letter of Credit in the form required by the CITY and issued by the CREDIT HOLDER.
- Submitting a \_\_\_\_\_ (*type of readily negotiable instrument acceptable to the CITY*) endorsed to the City.

Said deposit guarantees the DEVELOPER will perform his maintenance obligations regarding subdivision improvements, including, but not limited to; lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm drainage facilities, in Fienup Farms (Plat 11) Subdivision, all in accordance with the approved plans, the governing ordinance for the subdivision and the Subdivision Regulations of

the City of Chesterfield, which by reference are made a part hereof, and in accordance with all ordinances of the CITY regulating same.

2. That the MAINTENANCE DEPOSIT will be held in escrow by the CITY or the CREDIT HOLDER, as applicable, until such time as releases are authorized by the Department of Planning.

3. That the DEVELOPER shall be responsible for, and hereby guarantees, the maintenance of the subdivision improvements, including, but not limited to, lots, streets, sidewalks, trees, common ground areas, erosion and siltation control, and storm and drainage facilities, until (1) expiration of twelve (12) months after occupancy permits have been issued on eighty percent (80%) of all of the lots in the subdivision plat(s), or (2) twelve (12) months after completion of the subdivision and acceptance / approval of all required improvements by the CITY, whichever is longer. In the case of landscaping, the maintenance period shall be twenty-four (24) months after installation is approved by the CITY. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and snow removal. All repairs and replacement shall comply with CITY specifications and standards. Any maintenance of improvements accepted by the CITY for public dedication shall be completed under the supervision of and with the prior written approval of the Director of Planning. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected and accepted by the

appropriate governmental entity and the deposit for same shall be released. Irrespective of other continuing obligations, the developer's snow removal obligations shall terminate on the date a street is accepted by the CITY for public maintenance.

4. That the maintenance deposit shall be retained by the CITY OR CREDIT HOLDER to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Section 02-12.G of the Unified Development Code and other remedies of the City Code, shall be subject to the immediate order of the Director of Planning to defray or reimburse any cost to the CITY of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director of Planning shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the CITY, or its agents. The Director of Planning shall have the authority to require the maintenance deposit to be replaced or replenished by the developer, in any form permitted for an original deposit, where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the CITY for maintenance.

5. That in determining the amount of MAINTENANCE DEPOSIT that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Director of Planning may approve such further releases if it is determined in his or her discretion, after inspection of the improvements, that the total maintenance amount

retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.

6. That in the event the CITY should determine that the MAINTENANCE DEPOSIT, or any line item thereon as herein provided, is insufficient, the CITY will so notify the DEVELOPER who shall, within thirty (30) days of said notice, deposit additional sums with the CITY or have the amount of the letter of credit or other banking instrument increased as will be required to maintain the said specific component of the improvement and said additional sum will be subject to the terms of this MAINTENANCE DEPOSIT AGREEMENT. Failure to provide said sum shall be cause for immediate cessation of all work on said subdivision until the additional amount is paid.

7. That the CREDIT HOLDER, in accordance with paragraphs 2, 4 and 5 above, shall only release or disburse the MAINTENANCE DEPOSIT, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the Credit Holder, which authorization may be for payment, as provided in the Subdivision Regulations or governing ordinance for this subdivision.

8. That upon expiration of the maintenance obligations established herein, the Director of Planning shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations including payment of all sums due, are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director of Planning. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages



caused by any construction, improvement or development for which any deposit has been released.

9. That there shall be no assignment by DEVELOPER or CREDIT HOLDER under the terms of this agreement without written approval of the CITY.

10. That if DEVELOPER is unable to meet its obligation hereunder or to provide additional sums to guarantee maintenance of the Subdivision improvements as may be determined by the CITY or if the DEVELOPER shall abandon the subdivision or go into receivership or file for bankruptcy protection, then in any such event the CITY may declare the DEVELOPER in default and may immediately order the payment of all remaining sums held in the MAINTENANCE DEPOSIT to be paid to the CITY without further legal process, to be used to complete and maintain the subdivision improvements as set out under the terms hereof.

11. That the CREDIT HOLDER will immediately inform the City of any changes of address for CREDIT HOLDER or DEVELOPER (known to CREDIT HOLDER) during the period of this Agreement. Failure to do so shall result in a breach of this Agreement and the CITY may declare the DEVELOPER or CREDIT HOLDER (as the case may be) in default and may immediately order the payment of all remaining sums held by CREDIT HOLDER to be paid to the CITY without further legal process, to be used to maintain the subdivision improvements as set out under the terms hereof.

12. That no forbearance on the part of the CITY in enforcing any of its rights under this agreement, nor any extension thereof by CITY, shall constitute a waiver of any terms of this Agreement or a forfeiture of any such rights.

13. That the CITY hereby accepts this agreement as a satisfactory MAINTENANCE DEPOSIT AGREEMENT under the provisions and requirements of the governing ordinance


for this subdivision and any amendments or revisions thereto and the Subdivision Regulations of the CITY.

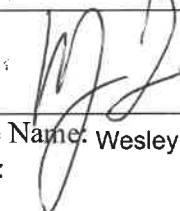
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and

seals the 22<sup>nd</sup> day of OCTOBER, 2020 A.D.

ATTEST: (SEAL)

DEVELOPER: Claymont Development

  
Type Name: Cheryl Brown  
Title: \_\_\_\_\_


BY:   
Type Name: Wesley Byrne  
Title: \_\_\_\_\_

Firm Address:  
26 Pacland Estates Drive  
Chesterfield, MO 63005

ATTEST: (SEAL)

CREDIT HOLDER: Midwest Bank Centre

  
Name: Cheryl Brown  
Title: \_\_\_\_\_

BY:   
Name: Wm. Kral  
Title: Pres. - St. Charles

Firm Address:  
2191 Lemay Ferry Road  
St. Louis, MO 63125

**CITY OF CHESTERFIELD, MISSOURI**

BY \_\_\_\_\_  
Director of Planning

ATTEST: (SEAL)

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

NB: The signatures of the DEVELOPER and CREDIT HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.





MAINTENANCE DEPOSIT

SUBDIVISION: Fienup Farms  
PLAT: 11  
SUB CODE: 330  
DEVELOPER: Wild Horse Residential LLC

NOTE: Deposit is adjusted to account for 10% of entire sewer costs, and 0% of LOMR/Elev. Cert's, if any)

CATEGORY	ORIGINAL BALANCE	DATE OF RELEASE	AMOUNT RELEASED	CURRENT BALANCE
STREETS	\$0.00			\$0.00
SIDEWALKS	\$0.00			\$0.00
STREET SIGNS	\$0.00			\$0.00
STREET TREES	\$0.00			\$0.00
SAN. SEWER	\$0.00			\$0.00
STORM SEWER	\$1,790.91			\$1,790.91
GRADING	\$3,306.93			\$3,306.93
DETENTION & WQ	\$0.00			\$0.00
EROSION CONTROL	\$750.20			\$750.20
SILTATION CONTROL	\$533.50			\$533.50
COMMON GR. SEED	\$0.00			\$0.00
MONUMENTATION	\$495.00			\$495.00
RETAINING WALL	\$0.00			\$0.00
STREET LIGHTS	\$0.00			\$0.00
WATER MAINS	\$0.00			\$0.00
FENCE	\$0.00			\$0.00
MISC. REQUIRED IMP.	\$0.00			\$0.00
TOTALS	\$6,876.54		\$0.00	\$6,876.54