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WEBER COUNTY
IMPROVEMENTS GUARANTEE AGREEMENT

THIS AGREEMENT (herein "Agreement") is entered into this 20 day of August, 2019.

*******PARTIES*******

"APPLICANT": SMHG PMDP Phase II LLC, a limited liability company
3923 N. Wolf Creek Drive, Eden, UT 84310
(303) 905-3496

"COUNTY": Weber County, a political subdivision of the State of Utah,
2380 Washington BLVD, Ogden, UT 84401,
(801) 399-8374.

*******RECITALS*******

WHEREAS, APPLICANT desires to post the following improvement guarantee(s) (check):

☐ Off-site improvement guarantee

☒ On-site improvement guarantee

with the COUNTY for the Overlook at Powder Mountain Phase 1 and Phase 2

located in the NE ¼ of Section 8 and the SE ¼ of Section 5, Township 7 North, Range 2 East (undeveloped)

WHEREAS, COUNTY ordinances require APPLICANT to guarantee the construction of certain improvements prior to either the recordation of the above described subdivision plat or the actual issuance of any permit(s) or approval(s) related to the above-described Project; and

WHEREAS, the terms of either the subject subdivision plat approval or the issuance of the subject permit(s)/approval(s) require APPLICANT to complete the following improvements, (herein "the Improvements") (check one and complete):

☒ specified in Exhibit B, attached hereto and incorporated herein by this reference;

- or -

☐ described as follows: _____; and

WHEREAS, COUNTY will not record the subject subdivision or grant the subject permit(s)/approval(s) until adequate provision has been made to guarantee completion of the Improvements and to warrant the Improvements shall be maintained and remain free from any defects or damage, which improvements and required warranty are estimated to cost the amount set forth herein, and which improvements shall be

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installed in accordance with the specifications of COUNTY, and inspected by COUNTY;

NOW THEREFORE, For good and valuable consideration, the parties agree as follows:

*** * * * * TERMS AND CONDITIONS * * * * ***

1. **PURPOSE FOR AGREEMENT.** The parties hereto expressly acknowledge that the purpose of this Agreement is not only to guarantee the proper completion of the Improvements named herein, but also, among other things, to eliminate and avoid the harmful effects of unauthorized subdivisions and other land developments which may leave property or improvements improperly completed, undeveloped or unproductive.

2. **UNRELATED OBLIGATIONS OF APPLICANT.** The benefits and protection of the Proceeds specified herein shall inure solely to COUNTY and not to third parties, including, but not limited to, lot purchasers, contractors, subcontractors, laborers, suppliers, or others. COUNTY shall not be liable to claimants or others for obligations of APPLICANT under this Agreement. COUNTY shall further have no liability for payment of any costs or expenses of any party who attempts to make a claim under this Agreement, and shall have under this Agreement no obligation to make payments to, give Notices on behalf of, or otherwise have obligations to any alleged claimants under this Agreement.

3. **AGREEMENT DOCUMENTS.** All data which is used by COUNTY to compute the cost of or otherwise govern the design and installation of the Improvements is hereby made a part of this Agreement, and is incorporated herein by this reference. This Agreement incorporates herein by reference any subject subdivision plat, plan, construction drawing, permit, condition of approval, and any and all other relevant data and specifications required by the Weber County Land Use Code.

4. **COMPLETION DATE.** APPLICANT shall complete the Improvements: (check one and complete)

☒ within a period of __2__ ☒ Year(s) ☐ Months (check one) from the date this Agreement was entered into;

- or -

☐ as specified in Exhibit _____ (Completion Schedule), attached hereto and incorporated herein by this reference.

5. **FEES.** APPLICANT agrees to pay all Fees required by COUNTY for the entire Project prior to the issuance of any subsequent permit or approval within the Project.

6. **SPECIFIC PERFORMANCE.** APPLICANT has entered into this Agreement with COUNTY for the purpose of guaranteeing construction of the Improvements and payment of the Fees. COUNTY shall be entitled to specifically enforce APPLICANT'S obligation under this Agreement to construct and install the Improvements in a manner satisfactory to COUNTY, and to pay the Fees.

7. **APPLICANT'S INDEPENDENT OBLIGATION.** APPLICANT EXPRESSLY ACKNOWLEDGES, UNDERSTANDS AND AGREES that its obligation to complete and warrant the Improvements and pay the Fees and fulfill any other obligation under this Agreement, COUNTY ordinances, or other applicable law is independent of any obligation or responsibility of COUNTY, either express or implied. APPLICANT agrees that its obligation to complete and warrant the Improvements and pay the Fees is not and shall not be conditioned upon the commencement of actual construction work in the subdivision or development or upon the sale of any lots or part of the subdivision or development. APPLICANT further acknowledges (a) that its contractual obligation to complete and warrant the Improvements and pay the Fees pursuant to this Agreement is independent of any other remedy available to COUNTY to secure proper completion of the

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Improvements and payment of the Fees; (b) that APPLICANT shall not assert as a defense that COUNTY has remedies against other entities or has other remedies in equity or at law that would otherwise relieve APPLICANT of its duty to perform as outlined in this Agreement or preclude COUNTY from requiring APPLICANT'S performance under this Agreement; (c) that APPLICANT has a legal obligation, independent of this Agreement, to timely complete and pay for the Improvements in full and timely pay the Fees in full; and (d) should APPLICANT Default under this Agreement in any degree, APPLICANT agrees to compensate COUNTY for all costs, including Incidental Costs, related to APPLICANT'S failure to perform its obligation to complete and warrant the Improvements or pay the Fees to the extent that such costs are not adequately covered by the Proceeds ("Proceeds" defined in paragraph 10).

8. **INCIDENTAL COSTS.** "Incidental Costs", as used in this Agreement, shall mean engineering and architect fees, administrative expenses, court costs, attorney's fees (whether incurred by in-house or independent counsel), insurance premiums, mechanic's or materialmen's liens, and any other cost and interest thereon incurred by COUNTY, occasioned by APPLICANT'S Default under this Agreement.

9. **DEFAULT.** "Default," as used in this Agreement, shall mean, in addition to those events previously or subsequently described herein, a party's failure to perform, in a timely manner, any obligation, in whole or in part, required of such party by the terms of this Agreement or required by COUNTY ordinance or other applicable law. In addition, the following shall also be considered Default on the part of APPLICANT: APPLICANT'S abandonment of the Project, as determined by COUNTY; APPLICANT'S insolvency, appointment of a receiver, or filing of a voluntary or involuntary petition in bankruptcy; APPLICANT'S failure to file with COUNTY a renewed Financial Guarantee, as defined in paragraph 10, more than 60 days before a Financial Guarantee will expire, unless APPLICANT'S obligations have been terminated under paragraph 36(b); APPLICANT'S Escrow Repository's or Financial Institution's insolvency, appointment of a receiver, filing of a voluntary or involuntary petition in bankruptcy, or failure to perform under the terms of this agreement; the commencement of a foreclosure proceeding against the Project property; or the Project property being conveyed in lieu of foreclosure.

The occurrence of such shall give the other party or parties the right to pursue any and all remedies available at law, in equity, or otherwise available pursuant to the terms of this Agreement. Only the parties hereto are authorized to determine Default. Default shall not be declared prior to the other party receiving written notice.

10. **GUARANTEE OF IMPROVEMENTS.** APPLICANT hereby files, as an independent guarantee (herein "Financial Guarantee") with COUNTY for the purpose of insuring construction and installation of the Improvements and payment of the Fees, one of the following (check one and complete applicable information):

☒ CASH CERTIFICATE, identified by the following:

Escrow Account:_____,

Escrow Account Repository: Weber County Treasurer

☐ IRREVOCABLE LETTER OF CREDIT (herein the "Letter of Credit"), identified by the following:

Letter of credit account or number:_____,

Financial Institution:_____,

The Financial Guarantee shall be in the amount of one hundred ten percent (110%) of the County

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Engineer's Cost Estimate (see also Exhibit _A_ attached hereto). The Escrow Certificate or Letter of Credit shall be issued in favor of COUNTY to the account of APPLICANT herein, in the amount of $2,009,482.13 (herein the "Proceeds"), and is made a part of this Agreement as Exhibit__C__(Escrow Certificate or Letter of Credit).

11. **PARTIAL RELEASE OF PROCEEDS.** As the Improvements are initially accepted by COUNTY and the Fees are paid, the APPLICANT may submit written request to COUNTY for authorization for a partial release of Proceeds. APPLICANT is only entitled to make a request once every 30 days. The amount of any release shall be determined in the sole discretion of COUNTY. No release shall be authorized by COUNTY until such time as COUNTY has inspected the Improvements and found them to be in compliance with COUNTY standards and verified that the Fees have been paid. Payment of Fees or completion of Improvements, even if verified by COUNTY, shall not entitle APPLICANT to an automatic authorization for a release of the Proceeds. At no time may APPLICANT request a release of funds directly from Escrow Account Repository or Financial Institution.

12. **NOTICE OF DEFECT.** COUNTY will provide timely notice to APPLICANT whenever an inspection reveals that an Improvement does not conform to the standards and specifications shown on the Improvement drawings on file in COUNTY's Engineering and Surveyor's Office or is otherwise defective. The APPLICANT will have 30 days from the issuance of such notice to cure or substantially cure the defect.

13. **FINAL ACCEPTANCE.** Notwithstanding the fact that Proceeds may be released upon partial completion of the Improvements, neither any partial release nor any full release of the Proceeds shall constitute final acceptance of the Improvements by COUNTY. Final acceptance of the Improvements shall be official only upon written notice to APPLICANT from COUNTY expressly acknowledging such and only after APPLICANT provides a policy of title insurance, where appropriate, for the benefit of the County showing that the APPLICANT owns the improvement in fee simple and that there are no liens, encumbrances, or other restrictions on the improvement unacceptable to the County in its reasonable judgment.

14. **WARRANTY OF IMPROVEMENTS.** Following initial acceptance of the Improvements, APPLICANT hereby warrants that the Improvements shall be maintained by APPLICANT and remain free from defects or damage as determined by COUNTY, such that the Improvements continue to meet COUNTY standards for 1 year following said initial acceptance.

15. **RETAINAGE.** APPLICANT expressly agrees that, notwithstanding any partial release of any of the Proceeds, the Proceeds shall not be released below 10% of the estimated cost of the Improvements (herein the "Retainage"), as specified herein, for the timeframe specified in paragraph 14. The Retainage shall be held to insure that the Improvements do not have any latent defects or damage as determined by COUNTY, such that the Improvements do not continue to meet COUNTY standards for the timeframe specified in paragraph 14. Notwithstanding said Retainage, APPLICANT shall be responsible for bringing any substandard, defective, or damaged Improvements to COUNTY standard if the Retainage is inadequate to cover any such Improvements.

16. **APPLICANT INDEMNIFICATION.** APPLICANT agrees to indemnify, defend, and save harmless COUNTY, its elected officials, officers, employees, agents, and volunteers from and against any and all liability which may arise as a result of the installation of the Improvements prior to COUNTY'S initial acceptance of the Improvements as defined herein, and from and against any and all liability which may arise as a result of any Improvements which are found to be defective during the warranty period covered by this Agreement. With respect to APPLICANT'S agreement to defend COUNTY, as set forth above, COUNTY shall have the option to either provide its own defense, with all costs for such being borne by APPLICANT, or require that APPLICANT undertake the defense of COUNTY.

17. **FINAL RELEASE OF PROCEEDS.** In the event the Improvements have been installed to the

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satisfaction of COUNTY and the Fees have been paid pursuant to this Agreement and COUNTY ordinances within the above stated time period(s), COUNTY agrees to execute a written release to Escrow Account Repository or Financial Institution of the remaining Proceeds.

18. **DEMAND FOR AND USE OF PROCEEDS.** In the event APPLICANT fails to install Improvements to the satisfaction of COUNTY, or the Fees are not paid pursuant to this Agreement and COUNTY ordinances within the above stated time period(s), or APPLICANT Defaults on any obligation under this Agreement or COUNTY ordinances, as determined at the sole discretion of COUNTY, COUNTY shall send Notice of APPLICANT'S Default to Escrow Account Repository or Financial Institution with a written demand for the release of Proceeds. COUNTY may, at its sole discretionary option, use and expend all the Proceeds or such lesser amount as may be estimated by COUNTY to be necessary to complete Improvements, pay Fees, and/or reimburse COUNTY for Incidental Costs as required herein.. COUNTY may, at its sole discretionary option, convert the Proceeds to a COUNTY held cash escrow for future satisfactory installation of Improvements.

19. **INADEQUATE PROCEEDS.** If the Proceeds are inadequate to pay the cost of the completion of the Improvements according to COUNTY standards or to pay the Fees or to compensate for Incidental Costs, for whatever reason, including previous reductions, APPLICANT shall be responsible for the deficiency independent of the Financial Guarantee. Additionally, no further approvals, permits or business licenses shall be issued, and any existing approvals, permits or business licenses applicable to the location of the Improvements may be immediately suspended or revoked by COUNTY'S Community and Economic Development Director until the Improvements are completed and the Fees are paid, or, until a new guarantee acceptable to the COUNTY has been executed to insure completion of the remaining Improvements and payment of the Fees. Furthermore, the cost of completion of the Improvements shall include reimbursement to COUNTY for all costs including, but not limited to, construction costs and any Incidental Costs incurred by COUNTY in completing the Improvements or collecting the Proceeds.

20. **ACCESS TO PROPERTY.** Should COUNTY elect to use the Proceeds to complete the Improvements, APPLICANT herein expressly grants to COUNTY and any contractor or other agent hired by COUNTY the right of access to the Project property to complete the Improvements.

21. **IMPROVEMENT STANDARDS.** Improvements shall be done according to the specifications and requirements of the COUNTY. All work shall be subject to the inspection of COUNTY. Any questions as to conformity with COUNTY specifications or standards, technical sufficiency of the work, quality, and serviceability shall be decided by the County Engineer. The County Engineer's decision shall be final and conclusive.

22. **SUBSTANDARD IMPROVEMENTS.** Should any Improvements prove to be substandard or defective within the timeframe specified in paragraph 14, COUNTY shall notify APPLICANT in writing of such substandard or defective Improvements. APPLICANT shall then have 15 days from Notice from the COUNTY in which to commence repair of the Improvements, and a reasonable amount of time, as determined by COUNTY, which shall be specified in the Notice, to complete repair of the Improvements. Should APPLICANT fail to either commence repair of the Improvements or complete repair of the Improvements within the required time periods, COUNTY may exercise its option to remedy the defects and demand payment for such from APPLICANT, should the Proceeds be insufficient to cover the costs incurred by COUNTY.

23. **INSURANCE.** Should COUNTY elect to install, complete, or remedy any defect or damage in the Improvements, APPLICANT shall be responsible for the payment of the premium for an insurance policy covering any liability, damage, loss, judgment, or injury to any person or property, including, but not limited to, damage to APPLICANT or its property as a result of the work of any contractor or agent hired by COUNTY to complete or remedy the Improvements. The minimum dollar amount and the scope of coverage of the insurance policy shall be determined and set by COUNTY. APPLICANT shall indemnify,

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defend, and hold harmless COUNTY, its officers, employees, and agents for any liability which exceeds the insurance policy limit. COUNTY, at its option, may collect and expend the Proceeds to make the premium payments should APPLICANT fail to pay said premium. No permit, approval or business license shall be issued by COUNTY, and any existing permit, approval, or business license shall be suspended until said premium is initially paid and a bond is in place to cover subsequent payments.

24. **NOTICE.** Notice to any party herein shall be mailed or delivered to the address shown in this Agreement. The date Notice is received at the address shown in this Agreement shall be the date of actual Notice, however accomplished.

25. **MECHANIC/MATERIAL LIENS.** Should COUNTY elect to complete or remedy the Improvements, APPLICANT shall indemnify, defend, and hold harmless COUNTY from and against any liability which exceeds the Proceeds for the payment of any labor or material liens as a result of any work of any contractor (including subcontractors and materialmen of any such contractor or agent) hired by COUNTY or which may arise due to either a defect in or failure of this Agreement or insufficient Proceeds to cover such costs.

26. **WAIVER.** The failure by any party to insist upon the immediate or strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a Default thereof shall not constitute a waiver of any such Default or any other covenant, agreement, term, or condition. No waiver shall affect or alter the remainder of this Agreement, but each and every other covenant, agreement, term, and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring Default.

27. **ATTORNEY'S FEES.** In the event there is a Default under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith, either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party, and, in addition, such costs and expenses as are incurred in enforcing this Agreement.

28. **TIME IS OF THE ESSENCE.** Time is of the essence of this Agreement. In case either party shall Default on its obligations at the time fixed for the performance of such obligations by the terms of this Agreement, the other party may pursue any and all remedies available in equity or law.

29. **GOVERNING LAW.** This Agreement shall be interpreted pursuant to, and the terms thereof governed by, the laws of the State of Utah. This Agreement shall be further governed by COUNTY ordinances in effect at the time of the execution of this Agreement. However, the parties expressly acknowledge that any subdivision or other development regulations enacted after the execution of this Agreement, which are reasonably necessary to protect the health, safety, and welfare of the residents of COUNTY, shall also apply to the subdivision or development which is the subject of this Agreement.

30. **SUCCESSORS.** "APPLICANT" and "COUNTY," as used in this Agreement, shall also refer to the heirs, executors, administrators, successors, or assigns of APPLICANT and COUNTY respectively.

31. **INDUCEMENT.** The making and execution of this Agreement has been induced by no representations, statements, warranties, or agreements other than those herein expressed.

32. **INTEGRATION.** This Agreement embodies the entire understanding of the parties, and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter herein.

33. **MODIFICATION.** Except as otherwise authorized by this Agreement, this instrument may be amended or modified only by an instrument of equal formality signed by the respective parties.

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34. **CAPTIONS.** The titles or captions of this Agreement are for convenience only and shall not be deemed in any way to define, limit, extend, augment, or describe the scope, content, or intent of any part or parts of this Agreement.

35. **SEVERABILITY.** If any portion of this Agreement is declared invalid by a court of competent jurisdiction, the remaining portions shall not be affected thereby, but shall remain in full force and effect.

36. **TERMINATION.**
(a) APPLICANT cannot unilaterally terminate its obligations under this Agreement.
(b) If, under the terms of this Agreement, COUNTY releases the full amount of the Proceeds or demands and receives the full remaining amount of the Proceeds, then APPLICANT'S obligations under paragraphs 4 and 10 shall terminate.
(c) All rights and obligations in this Agreement that are not terminated under sub-paragraph (b) shall survive until all applicable statutes of limitations have run with respect to the types of claims that may be associated with those rights and obligations.
(d) The entire Agreement shall terminate when all applicable statutes of limitations have run or when the parties jointly execute an agreement to terminate this Agreement.

37. **CONFLICT.** Any conflict between this Agreement and its exhibits or any other document shall be interpreted against the exhibit or other document and in favor of statements made in the numbered paragraphs of this Agreement.

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WHEREUPON, the parties hereto have set their hands the day and year first above written.

"APPLICANT"

By: _____ 8·20·19
Applicant Signature Date

Title: Authorized Signatory

(Signature must be notarized on following pages.)

"COUNTY"

By: _____ _____
Commission Chair Date

ATTEST: _____ _____
County Clerk Date:

APPROVED AS TO CONTENT:

By _____ _____
Planning Division Director Date

By _____ _____
County Engineer Date

By _____ _____
County Treasurer Date

APPROVED AS TO FORM:

By _____ _____
County Attorney Date

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APPLICANT NOTARIZATION

State of Utah)
:ss
County of Weber)

On this 20 day of August, 2019, personally appeared before me Don Guerra whose identity is personally known to me or proved to me on the basis of satisfactory evidence, and who affirmed that he/she is the authorized signatory of SMHG PMDP Phase II LLC limited liability company, by authority of its members or its articles of organization, and he/she acknowledged to me that said limited liability company executed the same.

Notary Public

OLGA MARIASINA
NOTARY PUBLIC • STATE of UTAH
COMMISSION NO. 700338
COMM. EXP. 06-18-2022

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Exhibit A: County Engineer-Approved Cost Estimate

Item	Unit	Unit Price	Total Qty	Escrow Amount
EARTHWORK- ROADWAYS				**$299,092.83**
Clear and Grub, haul off vegetation	SF	$0.07	115,294	$8,070.58
Windrow Topsoil at edges of slopes	CY	$0.50	4,270	$2,135.00
Roadway Excavation	CY	$14.25	12,070	$171,997.50
Embankment Fill	CY	$7.75	4,592	$35,588.00
Compaction Testing	CY	$0.25	4,592	$1,148.00
Stockpile Excess Material in Phase 3	CY	$965.00	5	$4,680.25
Haul/Dump Excess Material	CY	$9.75	6,646	$64,798.50
Topsoil Replacement from windrow	CY	$2.50	4,270	$10,675.00
EROSION CONTROL				**$21,495.38**
SWPPP Management and Maintenance	LS	$3,000.00	1	$3,000.00
Stabilized Construction Entrance	EA	$2,500.00	1	$2,500.00
Inlet Protection	EA	$215.00	12	$2,580.00
Seeding (broadcast & rake)	SF	$0.02	60,979	$1,219.58
Erosion Control Blanket	SF	$0.20	60,979	$12,195.80
SEWER				**$345,892.05**
8" SDR-35 PVC Pipe	LF	$46.00	1,857	$85,422.00
8" DR-17 HDPE Pipe	LF	$45.75	1,173	$53,664.75
Test/Flush Video	LF	$3.75	3,030	$11,362.50
Compaction Testing	LF	$1.76	3,030	$5,332.80
4' Concrete Manhole	EA	$5,070.00	17	$86,190.00
5' Concrete Manhole	EA	$6,640.00	3	$19,920.00
Sewer Lateral	EA	$2,100.00	40	$84,000.00
WATER				**$525,538.75**
8" C-900 PVC Pipe	LF	$36.50	1,329	$48,508.50
10" C-900 PVC Pipe	LF	$42.00	2,002	$84,084.00
12" DR-13.5 HDPE Pipe	LF	$46.00	1,770	$81,420.00
Test/Flush/Sample	LF	$1.25	5,101	$6,376.25
Compaction Testing	LF	$1.00	5,101	$5,101.00
8" Bends and Tees	EA	$750.00	8	$6,000.00
10" Bends and Tees	EA	$1,975.00	7	$13,825.00
18x12 reducer	EA	$3,000.00	1	$3,000.00
18x10 reducer	EA	$2,800.00	1	$2,800.00
12x10 reducer	EA	$1,960.00	1	$1,960.00
10x8 reducer	EA	$1,550.00	2	$3,100.00
8" Gate Valve	EA	$2,765.00	8	$22,120.00
10" Gate Valve	EA	$3,573.00	3	$10,719.00
Fire Hydrant Assembley	EA	$7,425.00	5	$37,125.00
Air/Vac Valve	EA	$7,890.00	2	$15,780.00
PRV Vault	EA	$95,620.00	1	$95,620.00
2" Water Service Lateral	EA	$2,200.00	40	$88,000.00
STORM SEWER				**$158,257.40**
15" RCP culvert	LF	$47.75	2,186	$104,381.50
Compaction Testing	LF	$0.65	2,186	$1,420.90
Curb Inlet, single grate	EA	$4,035.00	13	$52,455.00
ROADBASE & STRUCTURAL FILL				**$110,673.00**
Aggregate Base Course	CY	$26.00	3,346	$86,996.00
Compaction Testing	CY	$1.00	3,346	$3,346.00
Stabilization Fabric	SF	$0.30	67,770	$20,331.00
CURB & GUTTER				**$183,284.75**
Curb and Gutter	LF	$30.00	6,059	$181,770.00
Concrete Testing	LF	$0.25	6,059	$1,514.75
PAVING/ASPHALT				**$172,567.77**
Asphalt Import and Place	TON	$90.00	1,631	$146,790.00
Asphalt Testing	TON	$1.25	1,631	$2,038.75
Chip Seal @ 1 year	SY	$2.80	8,478	$23,739.02
MISC ROADWAY				**$10,000.00**
Street Signs	LS	$2,500.00	4	$10,000.00
			SUBTOTAL	$1,826,801.93
			10% WARRANTY	**$182,680.19**
			TOTAL	**$2,009,482.13**

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Exhibit B: County Engineer-Approved Construction Drawings

The Overlook Ph1 & Ph2 at Powder Mtn Site Construction Drawings (Rev. 3) by Talisman Civil Consultants, stamped 7/25/2019, project #18-200.23, sheets 1-33.

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Exhibit C: Reserved for Escrow Certificate or Letter of Credit