

**MODIFICATION TO
WARRANTY AND GUARANTY AGREEMENT FOR REQUIRED
IMPROVEMENTS
CONTRACT NO. PD-14-06-04-R&D2(2)**

THIS MODIFICATION, made and entered into this ____ day of January, 2017, by and between **SR 60 VERO LLC, a Florida limited liability company**, hereinafter referred to as "Developer", and **INDIAN RIVER COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as "County".

WITNESSETH:

WHEREAS, Developer entered into a Warranty and Guaranty Agreement for Required Improvements Contract No. PD-14-06-04-R&D2(2) to warranty the road and drainage improvements for a period of one year from December 12, 2016 to December 12, 2017, and simultaneously entered into a Cash Deposit and Escrow Agreement with \$31,650.30 in cash being posted as security for the warranty in order to expedite the issuance of the certificate of completion until such time as alternate acceptable security could be substituted; and

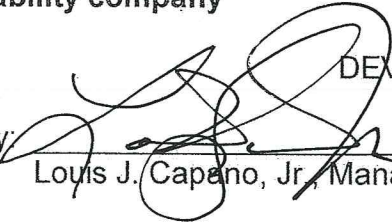
WHEREAS, the developer has now submitted an acceptable substitution of security for the warranty in the form of an M and T Bank Irrevocable Standby Letter of Credit No. SB2002530001 in the amount of \$31,650.30, with an expiration date of March 12, 2018,

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES HEREIN CONTAINED, the parties agree as follows:

1. The substitution of security in the form of an M and T Bank Irrevocable Standby Letter of Credit No. SB2002530001 in the amount of \$31,650.30, with an expiration date of March 12, 2018 is acceptable.
2. The \$31,650.30 cash on deposit in escrow with the County can be returned to the entity that posted the funds in accordance with the Cash Deposit and Escrow Agreement.
3. All other terms set out in the Warranty and Guaranty Agreement for Required Improvements Contract No. PD-14-06-04-R&D2(2) remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

SR 60 VERO LLC, a Florida limited liability company

By:  DEVELOPER
Louis J. Capano, Jr., Manager

INDIAN RIVER COUNTY, FLORIDA


By: _____
Joseph E. Flescher, Chairman

BCC approved: _____

ATTEST: Jeffrey R. Smith, Clerk of Court and Comptroller

By: _____
Deputy Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY:  WILLIAM K. DEBRAAL
DEPUTY COUNTY ATTORNEY



M and T Bank
Trade Finance Operations
1800 Washington Boulevard 8th Floor, MC-MD1-MP37
Baltimore, MD 21230
Tel: Letters of Credit: (410) 244-4475 / 4587
Tel: Collections: (410) 244-4566
SWIFT: MANTUS33INT

COPY

**Irrevocable
Standby Letter of Credit No.:
SB2002530001**

Beneficiary:
INDIAN RIVER COUNTY
BOARD OF COUNTY COMMISSIONERS
1801 27TH STREET
VERO BEACH, FL 32960 United States

Applicant:
SR 60 VERO, LLC
105 FOULK ROAD
WILMINGTON, DE 19803 United States

Date of Issue:
December 21, 2016

Date and Place of Expiry:
March 12, 2018 AT ISSUING BANK'S COUNTER

Amount:
Not Exceeding USD 31,650.30 Thirty One Thousand Six Hundred
Fifty and 30/100 United States Dollars

ORIGINAL

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF SR 60 VERO, LLC FOR AN AMOUNT NOT TO EXCEED IN AGGREGATE THIRTY ONE THOUSAND SIX HUNDRED FIFTY AND 30/100 US DOLLARS (\$31,650.30) AVAILABLE BY YOUR SIGHT DRAFT(S) DRAWN ON M AND T BANK BEARING THE CLAUSE, "DRAWN UNDER M AND T BANK IRREVOCABLE STANDBY LETTER OF CREDIT NO. SB2002530001 DATED DECEMBER 21, 2016," ACCOMPANIED BY THE FOLLOWING:

1. THE ORIGINAL OF THIS LETTER OF CREDIT AND ALL AMENDMENTS, IF ANY.
2. A LETTER FROM THE COUNTY ADMINISTRATOR OR HIS DESIGNEE, WITH APPROVAL SIGNATURES OF THE COUNTY ATTORNEY OR HIS DESIGNEE, AND THE DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET OR HIS DESIGNEE, STATING: SR 60 VERO LLC HAS DEFAULTED UNDER THE TERMS OF THE WARRANTY AND GUARANTY AGREEMENT FOR REQUIRED IMPROVEMENTS NO. PD-14-06-04-R&D2(2) RELATING TO ROAD AND DRAINAGE IMPROVEMENTS WITHIN THE RESERVE AT VERO BEACH P.D. PHASE 2, AND THAT THE AMOUNT OF THE DRAFT REPRESENTS THE AMOUNT REQUIRED BY THE COUNTY TO FULFILL THE PERFORMANCE OF SAID AGREEMENT.


THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR UNDERTAKING. SUCH UNDERTAKING SHALL NOT IN ANY WAY BE MODIFIED, AMENDED, OR AMPLIFIED BY REFERENCE TO

ANY DOCUMENT, INSTRUMENT, OR CONTRACT REFERRED TO HEREIN OR IN WHICH THIS LETTER OF CREDIT IS REFERRED TO OR TO WHICH THIS LETTER OF CREDIT RELATES AND ANY SUCH REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCE ANY DOCUMENT, INSTRUMENT, OR CONTRACT.

PRESENTATION OF DRAWING DOCUMENTS IN COMPLIANCE WITH THIS LETTER OF CREDIT SHALL BE PRESENTED AT OUR OFFICE AT THE ABOVE ADDRESS ON OR BEFORE THE EXPIRATION DATE, NOT LATER THAN 3:00 P.M. ALTERNATIVELY, PRESENTATION OF SUCH DRAWING DOCUMENTS MAY BE MADE VIA FACSIMILE TRANSMISSION TO 410-244-4147, OR TO SUCH OTHER FAX NUMBER IDENTIFIED BY US TO YOU IN WRITING. IN THE EVENT OF A FAX PRESENTATION, YOU SHALL: (I) PROVIDE TELEPHONIC NOTIFICATION THEREOF TO US AT 410-244-4801, OR TO SUCH OTHER TELEPHONE NUMBER IDENTIFIED BY US TO YOU IN WRITING, AND (II) SEND THE ORIGINAL OF SUCH DRAWING DOCUMENTS TO US VIA OVERNIGHT COURIER AT THE ABOVE ADDRESS, PROVIDED, HOWEVER, THAT OUR RECEIPT OF SUCH TELEPHONIC NOTIFICATION AND ORIGINAL DOCUMENTS SHALL NOT BE A CONDITION TO PAYMENT HEREUNDER. ANY CHANGE IN FAX NUMBER, PHONE NUMBER OR ADDRESS AFFECTING PRESENTATION, MUST BE PROVIDED IMMEDIATELY IN WRITING TO THE ATTENTION OF OFFICE OF MANAGEMENT AND BUDGET, AT BENEFICIARY'S ADDRESS. SUCH FAX PRESENTATION SHALL BE CONSIDERED THE OPERATIVE PRESENTATION, PROVIDED, HOWEVER, THAT ANY PRESENTATION RECEIVED BY US AFTER 3:00 P.M. EASTERN TIME SHALL BE DEEMED TO HAVE BEEN PRESENTED ON THE NEXT BANKING DAY.

THE VENUE IS INDIAN RIVER COUNTY, FLORIDA AND ANY DISPUTES WILL BE GOVERNED BY THE LAWS OF FLORIDA.

SINCERELY,

BY 
SHARON DIESO
ASSISTANT VICE PRESIDENT

ATTEST 
MELISSA FITCH CICCOTELLI
ASSISTANT VICE PRESIDENT