

## SUBDIVISION IMPROVEMENT AGREEMENT

This Agreement is made and entered into in the County of Nevada, State of California, as of this 25th day of October, 2016, by and between the COUNTY OF NEVADA, a political subdivision of the State of California ("COUNTY"), and HBT of Saddle Ridge LLC, a California Corporation, ("SUBDIVIDER"), in connection with Phase 4 of the Cascade Crossings Subdivision.

### WITNESSETH

WHEREAS, The Subdivider is possessed of a tract of land consisting of 32.23 acres, lying in the County of Nevada and commonly known as Final Map 04-004 "Cascade Crossings" ("SUBDIVISION"), located in the unincorporated area of County and specifically described in Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, the Final Map of the Subdivision has been approved by the County Surveyor and the Department of Public Works; and

WHEREAS, Subdivider has been required by County, as a condition of approval of the subdivision, to construct certain improvements; and

WHEREAS, the Subdivider desires to defer construction of said improvements until after the Final Map for the Subdivision is recorded in the official County records; and

WHEREAS, the Subdivider has presented certain improvement plans to the County outlining the improvements to be constructed by the Subdivider and which improvement plans are entitled "Phase 4 Improvement Plans for Cascade Crossing Subdivision (Formerly Known as Saddle Ridge)," copies of which are on file with the County of Nevada Department of Public Works and which are incorporated herein by reference; and

WHEREAS, Section L-IV 2.16 of the Nevada County Land Use and Development Code, regulating Final Maps in the County, requires that the Subdivider execute and file an agreement between itself and the County relating to the improvements to be made in and for the Subdivision ("IMPROVEMENTS"), prior to the approval by the Board of Supervisors of the Final Map.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereto mutually agree as follows:

1. County agrees that upon the execution of this Agreement and receipt by County from Subdivider of cash, or good and sufficient surety bonds, or instruments of credit from a recognized financial institution, as provided for by State law and in accordance with this Agreement and any provisions set out in the Board of Supervisors Resolution approving of this agreement, to approve the final map of the Subdivision and to record applicable offers to dedicate the roads and streets and utility easements of the Subdivision.
2. Subdivider agrees to completely construct all of the improvements referenced herein and as

shown on the aforementioned improvement plans by **October 25, 2018**. It is agreed that all of the improvements required by the Subdivider to be constructed within and for the benefit of the development are set forth in the improvement plans. All of said improvements shall be constructed in strict accordance with said improvement plans and any subsequent changes required by changes in County, State or Federal law.

3. Subdivider warrants and agrees that the improvements plans conform with the conditions of the subdivision approval and with all State laws and County ordinances. Subdivider further warrants that the improvement plans are adequate to accomplish the work shown thereon in a good and workerlike manner and in accordance with accepted construction practices. Should the improvement plans, at any time prior to the completion of the work specified thereon, prove to be inadequate in any respect, then Subdivider agrees to make such changes in the improvement plans as are necessary to complete the work in a good or workerlike manner and in accordance with accepted construction practices. Subdivider further agrees to make any changes in the improvement plans to bring them into full compliance with applicable County, State or Federal law in effect at the time of construction.
4. Subdivider shall employ a licensed civil engineer who shall be responsible for inspecting the improvements during the construction thereof and who, upon completion, shall be responsible for certifying to the County that said improvements have been fully and properly installed in all manner and things. Notwithstanding the above, the County shall have an absolute right to separately inspect the construction work at any time.
5. Upon final completion of the work of installing the aforementioned improvements, and upon certification thereof by Subdivider's engineer as set forth in paragraph 4, the Subdivider shall notify the County of such event. Thereafter, the County (pursuant to Government Code Section 66499.8) shall have two (2) months in which to accept the Subdivider's certification of completion or to express the rejection of the same. Should the County reject any such notice of completion, the County shall specify in writing to Subdivider the reasons for the rejection. Thereafter Subdivider shall promptly make all required corrections. Upon acceptance by the County of the work of the improvements, Subdivider shall file a notice of completion pursuant to California Civil Code Section 3117 and shall provide a copy thereof to County.
6. Subdivider shall warrant all improvements referenced herein for a period of one year following completion and acceptance of the improvements pursuant to Government Code Section 66499.9(c).
7. Should Subdivider fail to complete any or all of the improvements referenced herein within the time established therefore in Paragraph 2 above, the County may, at its sole option, after notifying Subdivider pursuant to Section L-IV 3.9.G of the Land Use and Development Code of the County of Nevada, construct the improvements and recover the cost thereof from Subdivider and/or its successors in interest and/or from the sureties or securities tendered herewith. In any such event, Subdivider shall, upon receipt of written notice from the County, immediately discontinue all work under this Agreement.

8. Subdivider shall, upon execution of this Agreement, deposit with County cash, irrevocable instruments of credit from a recognized financial institution or such corporate surety bonds as shall be accepted by County. Separate security shall be provided for (1) the full and faithful performance of the Subdivider's obligation under this Agreement and (2) the payment of all labor and materials claims that properly result from undertaking the construction of the subdivision improvements. Each security instrument shall be in the full face amount of \$76,237 (representing 100% of the estimated cost of the improvements including contingency plus a 5% of the cost of improvements for attorneys' fees and 10% for additional reasonable expenses and fees incurred if the security is enforced per Section L-IV 3.9.D of the Land Use and Development Code of the County of Nevada). Work relating to NID water service and water improvements shall be covered by additional securities pursuant to a separate conveyance agreement between Subdivider and NID. Said securities shall not lapse due to the expiration of any period of time but shall remain in effect until the improvements are fully and satisfactorily completed. Each security instrument shall also state that any additions, alterations or modification to this Agreement or to the improvement plans or any portion thereof, including any extensions of time within which the work hereunder may be completed, shall not release or exonerate the surety on the bond or the financial institution's obligation given in connection with this Agreement. Subdivider agrees to increase any security it has posted if, prior to construction, laws change which would require modifications to the improvements causing an increase in construction costs not covered by the above specified 10%.
9. All security posted by the Subdivider or its sureties to secure payment of labor and materials shall be released by the County pursuant to the provisions of Section L-IV 3.9.E.
10. All security posted by the Subdivider or its sureties to secure the faithful performance for this Agreement shall, upon acceptance of the full and satisfactory construction of the improvements by the County be reduced to 10% of the actual cost of work per Section L-IV 3.9.F. of the Land Use of Development Code of the County of Nevada and Government Code Section 66499.9, which shall remain in effect for a period of one year from the date of acceptance by the County and in order to guarantee and warrant the construction of the improvements against any defective work or labor done or defective materials furnished in the performance of this Agreement. The County shall be authorized to attach the security in order to repair any defects discovered within the one year warranty period.
11. For the purpose of providing notice to the Subdivider with regard to any event or right the Subdivider may have hereunder, Subdivider agrees that notice will be deemed delivered to and received by Subdivider upon the notice being deposited in the United States mail, postage prepaid and addressed to:

HBT of Saddle Ridge, LLC  
11060 White Rock Road, Suite 150  
Rancho Cordova, CA 95670

12. Subdivider agrees to be liable for the total cost of construction of all of the subject improvements and any other costs or fees relating to the improvements. In the event that County should exercise its right to seize the security and contract for construction of any of the improvements, Subdivider shall, notwithstanding the engineer's estimate and any security posted, reimburse to County all funds expended by County in excess of the security posted, including compensation to County for all County staff time, costs, and reasonable expenses and fees for enforcement of the security, including attorney fees, spent thereon.
13. County shall not be responsible for any of the costs of said improvements or for the performance or nonperformance of the work of construction of said improvements, or for a defect therein or any injury resulting therefore, and the Subdivider shall indemnify County and hold County free and harmless from any claims or liability resulting from or arising out of the same, whether or not Subdivider or County completed said improvements.
14. County and Subdivider hereby renounce the existence of any third-party beneficiary to this Agreement and agree that nothing contained herein shall be construed as giving any other person or entity third-party beneficiary status.
15. This Agreement shall be binding upon and inure to the benefit the parties and any and all successors or assigns.
16. Subdivider shall have sole responsibility for making all arrangements and assuming all expenses as may be required in connection with the furnishing and installing of electrical and telephone facilities.

IN WITNESS WHEREOF, the parties have so agreed on the date first written above.

ATTEST:

COUNTY OF NEVADA

\_\_\_\_\_  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Chairman of the Board of  
Supervisors

APPROVED:

SUBDIVIDER:  
HBT of Saddle Ridge, LLC

\_\_\_\_\_  
County Counsel

By:   
Jeff Penstein