

RESOLUTION NO. R-015- 089

THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF DOUGLAS, COLORADO

A RESOLUTION APPROVING THE DRAW IN THE AMOUNT OF \$270,708.45 ON IRREVOCABLE LETTER OF CREDIT NO. 3100532 ISSUED BY BANK OF AMERICA, N.A., IN CONNECTION WITH THE WARRANTY IMPROVEMENTS FOR MERIDIAN INTERNATIONAL BUSINESS CENTER FILING 7A, PHASE 3, EXECUTED BY MERITAGE HOMES CORPORATION,

WHEREAS, on August 21, 2009, Bank of America, N.A. issued its Irrevocable Letter of Credit No. 3100532 ("LOC"), and subsequent amendments, in the amount of \$270,708.45; and

WHEREAS, said Letter of Credit was issued on the request of Meritage Homes Corporation ("Developer"), as Warranty Performance Improvements security, of its obligations under the Subdivision Improvements Agreement ("SIA"), for Project No. DV 06 157; and

WHEREAS, said Letter of Credit will expire on August 20, 2015, and, under the terms and conditions of the Subdivision Improvements Agreement ("SIA"), security must remain valid and in full force and effect until all public improvements have been accepted and approved for final acceptance by Douglas County; and

WHEREAS, Douglas County's Engineering Division has determined that those obligations of Meritage Homes Corporation have not been fulfilled; and

WHEREAS, Meritage Homes Corporation is in default in the performance of its obligations under the SIA; and

WHEREAS, Meritage Homes Corporation was provided with a minimum of fourteen days written notice of Douglas County's intention to draw on said Letter of Credit; and

WHEREAS, Meritage Homes Corporation was provided timely notice of the hearing on this matter; and

WHEREAS, the Board of County Commissioners has concluded that in order to maintain its security for the performance of the obligations of Meritage Homes Corporation under the terms of the SIA, it must draw on said Irrevocable Letter of Credit No. 3100532, in the amount of \$270,708.45; now, therefore,

BE IT RESOLVED by the Board of County Commissioners of the County of Douglas, State of Colorado, that the Chair or Vice Chair of the Board of County Commissioners is authorized and directed to draw on said Irrevocable Letter of Credit No. 3100532, issued by Bank of America, N.A., the amount of \$270,708.45 and to execute any statement, draft, or other documents necessary to accomplish said draw on or before August 20, 2015; now, therefore,

BE IT FURTHER RESOLVED, in the event that Meritage Homes Corporation extends said Irrevocable Letter of Credit to August 20, 2016 before such draw is made, this resolution shall have no further effect and such draw on said Irrevocable Letter of Credit shall not be made.

PASSED AND ADOPTED this 11 day of August 2015, in Castle Rock, Douglas County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

BY: _____

Jill E. Repella
JILL E. REPELLA, Chair



ATTEST:

Codie Brenner
Codie Brenner, Deputy Clerk to the Board