

RESOLUTION NO. R-021- 115

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

**RESOLUTION APPROVING THE DRAW IN THE AMOUNT OF \$161,059.00 ON
IRREVOCABLE LETTER OF CREDIT NO. IS000154365U, ISSUED BY WELLS
FARGO BANK, N.A. IN CONNECTION WITH STERLING RANCH FILING 1
(IGA/SIA) AND THE EXTENDED WARRANTY AGREEMENT OF ASPHALT
SETTLEMENT PHASES 2-8, PERFORMANCE SECURITY. DOUGLAS COUNTY
FILE NUMBER DV2014-224.**

WHEREAS, on November 9, 2020, Wells Fargo Bank, N.A. issued its Irrevocable Letter of Credit No. IS000154365U (“LOC”), in the amount of \$161,059.00, and

WHEREAS, said Letter of Credit was issued at the request of M.A. Mortenson Company (“Developer”), as Extended Warranty Performance for Phases 2 through 8 of Sterling Ranch Filing 1, of its obligations under the Intergovernmental Improvements/Subdivision Improvements Agreement (“IGA/SIA”), for Project No. DV 2014-224; and

WHEREAS, said Letter of Credit will expire on October 15, 2021 and, under the terms and conditions of the Intergovernmental Improvements/Subdivision Improvements Agreement (“IGASIA”), security must remain valid and in full force and effect until all required improvements have been completed and inspected by Douglas County; and

WHEREAS, the Douglas County Engineering Division has determined that those obligations of M.A. Mortenson Company have not been fulfilled; and

WHEREAS, M.A. Mortenson Company is in default in the performance of its obligations under the IGA/SIA; and

WHEREAS, M.A. Mortenson Company was provided with a minimum of fourteen days written notice of Douglas County’s intention to draw on said Letter of Credit; and

WHEREAS, M.A. Mortenson Company 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 M.A. Mortenson Company under the terms of the IGA/SIA, it must draw on said Letter of Credit No. IS000154365U, in the amount of \$161,059.00 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 Letter of Credit No. IS000154365U, issued by Wells Fargo Bank, N.A., in the amount of \$161,059.00, and to execute any statement, draft, or other documents necessary to accomplish said draw on or before October 15, 2021; now, therefore,

BE IT FURTHER RESOLVED, in the event that M.A. Mortenson Company extends said Letter of Credit to October 15, 2022 before such draw is made, this resolution shall have no further effect and such draw on said Letter of Credit shall not be made.

PASSED AND ADOPTED this 12th day of October 2021, in Castle Rock, Douglas County, Colorado.

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

BY:

DocuSigned by:

Lora L. Thomas

A4003FF630E6444

LORA L. THOMAS, Chair

ATTEST:

DocuSigned by:

Kristin Randlett

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DocuSigned by:



KRISTIN RANDETT, Clerk to the Board