

Upon Recording Return to:
Tremonton City Recorder
102 S. Tremont Street
Tremonton City, UT 84337

**ESCROW AGREEMENT
FOR
HARVEST ACRES SUBDIVISION, PHASE 2**

THIS AGREEMENT is made and entered into by and between HERITAGE LAND DEVELOPMENT, LLC, hereinafter called "Subdivider" and TREMONTON CITY CORPORATION, a municipal corporation, hereinafter called "City" and M&T Bank hereinafter called "Escrow Holder." The Subdivider, City, and Escrow Holder may be referred to collectively as "Parties" or respectively as "Party" in this Agreement.

WITNESSETH:

WHEREAS, Subdivider has caused to be subdivided under the regulations and ordinances of Tremonton City certain property located in said City known as HARVEST ACRES SUBDIVISION, PHASE 2, consisting of certain lots and improvements as specifically designated on the subdivision plat and engineering documents. A copy of the subdivision plat is attached hereto as Exhibit "A" and made part of this Agreement; and

WHEREAS, Subdivider has agreed and undertaken to complete the construction and installation of onsite and offsite improvements and facilities in accordance with the terms of the Tremonton City ordinances, the costs of which are set forth in the Engineer's Estimate thereof, a copy of which is attached hereto and marked as Exhibit "B" and made a part of this Agreement; and

WHEREAS, the Parties have agreed that to insure the completion of such onsite and offsite improvements and facilities by Subdivider on or before the 18 day of September, 2023, the sum of **\$289,424.00**, shall be deposited or held as undisbursed loan funds with the Escrow Holder in favor of the City for the purpose of guaranteeing to City that the onsite and offsite improvements and facilities are timely completed in accordance with the terms and conditions of this Agreement as hereinafter stated.

NOW, THEREFORE, for and in consideration of the promises and the covenants, terms and conditions as hereinafter set forth, it is agreed by Subdivider, City and Escrow Holder as follows, to wit:

1. Subdivider shall either have on deposit or held as undisbursed loan funds with Escrow Holder by the 18th day of September 2023, the sum of **\$289,424.00**, as the remaining costs for installation of onsite and offsite improvements including the required 10% warranty as

specifically itemized in the Engineer's Estimate attached hereto as Exhibit "B" for the purpose of guaranteeing the completion by the Subdivider of such onsite and offsite improvements on or before the **30th day of September, 2024**.

2. All Parties hereto agree that the escrow funds may be used in the following manner only, to wit:

(a) Subdivider shall notify Tremonton City Public Works Department of its intent to install or commence installation of each onsite and offsite improvements not less than 24 hours prior to commencement of work so that the City may inspect, verify, and approve such installation prior to covering.

(b) Upon completion of such onsite and offsite improvements, Subdivider may file with City a written request for withdrawal from escrow for payment of such improvements or installations. Upon approval and acceptance by the City Engineer or designee, City will authorize Escrow Holder to disburse said dedicated funds up to the Engineer's Estimate to the Subdivider, contractor, or agent furnishing such services, as requested by Subdivider.

(c) Immediately upon completion of all onsite and offsite improvements as set forth in Engineer's Estimate, Exhibit "B," Subdivider shall provide to City a mylar copy of subdivision "As-Built Drawings." Upon approval and acceptance of improvements and facilities by the City Engineer or designee, City shall grant "Conditional Acceptance" of the subdivision improvements, City shall immediately, in writing to Escrow Holder, authorize the release and payment of all remaining funds to Subdivider, except the 10% warranty.

(d) Immediately upon conclusion of the subdivision improvements one year warranty period, which commenced on the day City granted Conditional Acceptance, City shall once again inspect subdivision improvements and if found to be satisfactory, City shall grant "Final Acceptance" of all improvements, record a release of financial guarantee, and shall in writing to Escrow Holder, authorize the release and payment to Subdivider of the 10% warranty.

(e) As each payment by the Escrow Holder to Subdivider, contractor, or agent is made, Escrow Holder and/or Subdivider shall secure from such contractor or persons performing services good and sufficient lien waivers covering such work and materials.

(f) Nothing contained herein shall prevent Subdivider from paying any or all costs of improvement from separate financial sources or funds, should Subdivider determine to do so.

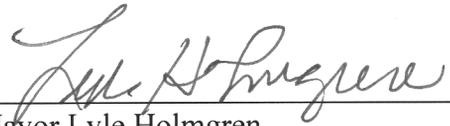
(g) Escrow Holder shall only release escrow funds after receiving written authorization from City to release said funds, notwithstanding the time periods noted herein.

3. Subdivider agrees that they shall complete all onsite and offsite improvements on said subdivision within two years from the date hereof, to wit:
 - (a) On or before the **30th day of September 2024**, and in the event the Subdivider fails to complete such improvements within said time frame, then and in that event, the Escrow Holder shall disburse directly to the City such funds or parts thereof as City may request as reimbursement for improvements caused to be constructed by the City for or on behalf of the City in completing the onsite and offsite improvements and facilities on said Subdivision.
4. In no event shall the Escrow Holder charge or claim a lien against any of the proceeds held hereunder for the benefit of the City for any other debt or obligation owed by Subdivider.
5. This Agreement shall be binding upon and inure to the benefit of the respective Parties hereto, their successors, heirs, and assigns.
6. Subdivider agrees to pay to the Escrow Holder all fees charged by the Escrow Holder for its services and the performance of its duties and obligations under this instrument.
7. Subdivider, by entering into this Agreement, agrees to escrow the amount of money as determined by the Engineer's Estimate. The Subdivider further understands that Subdivider shall be responsible for the actual costs of installation of the improvements, should the actual costs vary from the Engineer's Estimate.
8. If any Party defaults in the terms, covenants, and conditions of this agreement, the defaulting Party shall pay all costs, expenses, and attorney's fees for enforcement of the agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement this **18th day of September 2023**, by the City acting by authority of its governing body, Subdivider by authority of its governing body, and the Escrow Holder by authority of its governing body, granted to it pursuant to bylaws of resolutions authorizing the same.

{Signature Page to Follow}

TREMONTON CITY



Mayor Lyle Holmgren
Tremonton City

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH)
 : §
COUNTY OF BOX ELDER)

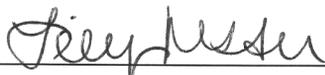
On 19 day of September 2023, Personally appeared before me **Lyle Holmgren**. Who being duly sworn by me did say, for himself, that he is the said authorized agent of Tremonton City Corporation, and that within the foregoing instrument was signed on behalf of said Tremonton City Corporation, and that the said authorized agent did duly acknowledge to me that said corporation executed the same.





Notary Public

ATTEST



Linsey Nessen City Recorder



SUBDIVIDER

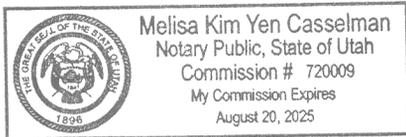


L. Boyd Cook, CFO
Heritage Land Development, LLC

LIMITED LIABILITY ACKNOWLEDGMENT

STATE OF UTAH)
 : §
COUNTY OF BOX ELDER)

On this 17th day of September 2023, ^{L. Boyd Cook, CFO} ~~Jay Stocking, Manager~~ for and on behalf of Heritage Land Development, LLC, personally appeared before me, the undersigned notary public in and for said state and county, being duly sworn, acknowledged to me, that he is the Manager of Heritage Land Development, LLC, a Utah Limited Liability Company, and that within and foregoing instrument was signed in behalf of said corporation, and said authorized agent did duly acknowledge to me that said corporation executed the same.





Notary Public

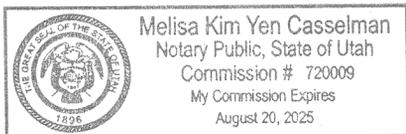
ESCROW HOLDER


 Name: Paul Shin
 Title: Vice President
 Phone Number: 801-304-4480
 Email Address: pshin@mtb.com

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH)
 : §
 COUNTY OF Box Elder)

On the 18th day of September 2023, personally appeared before me, Paul Shin
 _____, who being by me duly sworn did say, for ~~herself~~ ^{himself} that ~~she~~ ^{he} is
 the said authorized agent of M+T Bank, and that within and foregoing
 instrument was signed in behalf of said corporation, and said agent did duly acknowledge to me
 that said corporation executed the same.



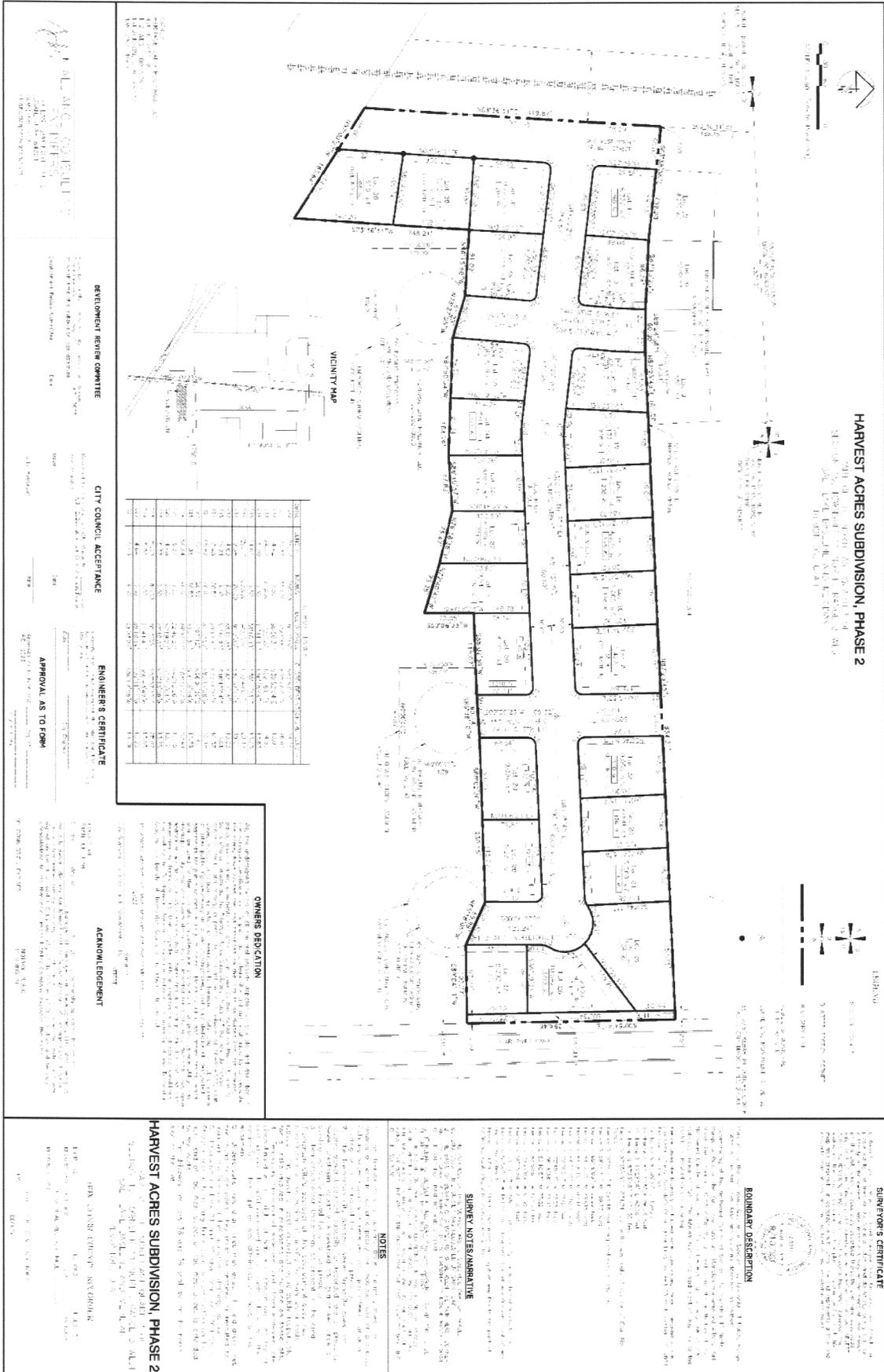


 Notary Public

Exhibit "A"

Harvest Acres Subdivision, Phase 2

Legal Description



BOUNDARY DESCRIPTION

Part of the the Northeast Quarter of Section 15, Township 11 North, Range 3 West of the Salt Lake Base and Meridian described as follows:

Commencing at the Northeast Corner of Section 15, Township 11 North, Range 3 West of the Salt Lake Base and Meridian monumented with a Rail Road Spike, thence S87°25'45"W 2521.21 feet along the north line of the Northeast Quarter of said Section 15 to the east right of way line of the railroad; thence S03°36'11"W 488.48 feet along said right of way line to the POINT OF BEGINNING and running

thence along the boundary of Harvest Acres Subdivision, Phase 1 recorded in the Box Elder County Recorder's Office under Entry No. 443120 on November, 10, 2021 the next four courses:

- 1) thence S 83°38'36" E 159.20 feet;
- 2) thence S 87°15'25" E 96.25 feet;
- 3) thence S 89°28'56" E 60.00 feet;
- 4) thence N 87°25'45" E 101.00 feet;

thence N 87°25'45" E 834.21 feet to the west right of way line of Bear River Canal;

thence S 00°54'41" E 294.48 feet along said right of way line;

thence S 89°04'11" W 109.77 feet;

thence N 65°18'05" W 65.99 feet;

thence S 88°02'30" W 230.15 feet;

thence S 86°08'10" W 60.14 feet;

thence S 88°02'30" W 115.07 feet;

thence S 00°06'23" W 70.05 feet;

thence N 72°40'47" W 73.28 feet;

thence N 76°18'38" W 75.47 feet;

thence S 86°10'57" W 77.82 feet;

thence N 87°50'54" W 164.79 feet;

thence N 73°27'05" W 61.25 feet;

thence N 86°15'58" W 91.09 feet;

thence S 03°36'11" W 248.21 feet to the right of way line of Interstate 15;

thence N 57°00'22" W 183.64 feet along said right of way line east right of way line of the railroad;

thence N 03°36'11" E 419.87 feet along said right of way line to the point of beginning, containing 8.61 acres, more or less

Exhibit "B"

Engineer's Estimate



Initial Escrow Estimate

September 11, 2023

Mr. Shawn Warnke
Tremonton City
102 South Tremont Street
Tremonton, Utah 84337

RE: **Harvest Acres - Phase 2**

Shawn,

I have completed a review of the cost estimate for the above referenced subdivision and have included my breakdown of the costs in the attached spreadsheet. The costs and amounts generally followed the Engineer's Estimate from Alliance Consulting Engineers, however there were a couple of changes. The recommended escrow amounts are as follows.

Description	Estimated Cost of Improvements	Previous Amount Released	Work Completed this Period	Current Amount Req'd in Escrow
Culinary Water System	\$321,650.00	\$0.00	\$296,900.00	\$24,750.00
Sanitary Sewer System	\$181,320.00	\$0.00	\$177,570.00	\$3,750.00
Storm Drain System	\$90,000.00	\$0.00	\$84,000.00	\$6,000.00
Irrigation System	\$157,400.00	\$0.00	\$137,400.00	\$20,000.00
Landscaping	\$0.00	\$0.00	\$0.00	\$0.00
Streets	\$348,670.00	\$0.00	\$326,170.00	\$22,500.00
Sidewalk	\$82,200.00	\$0.00	\$0.00	\$82,200.00
Miscellaneous Items	\$11,000.00	\$0.00	\$0.00	\$11,000.00
10% Contingency	\$119,224.00	\$0.00	\$0.00	\$119,224.00
Totals	\$1,311,464.00	\$0.00	\$1,022,040.00	\$289,424.00

<u>Prepaid Items</u>	
Chip Seal and Fog Coat (\$2.81/sy)	\$19,264.24
Street Lights (\$3,500/ea)	\$14,000.00
Totals	\$33,264.24

<u>Water Shares Required</u>	
BRCC Water Shares	3.65 shares

Sincerely,

Chris Breinholt, P.E.
Jones & Associates Engineering

Estimated Cost of Improvements				Completed Items	
Item	Units	Unit Price	Total	Released Amount	Remaining Amount
<u>CULINARY WATER SYSTEM</u>					
8" Water Main	2,240 lf	\$55.00	\$123,200.00	\$123,200.00	\$0.00
8" Water line Tees, Bends	17 ea	\$3,000.00	\$51,000.00	\$51,000.00	\$0.00
8" gate valves	12 ea	\$1,500.00	\$18,000.00	\$18,000.00	\$0.00
Fire Hydrants	7 ea	\$6,250.00	\$43,750.00	\$25,000.00	\$18,750.00
Temp blow off	1 ea	\$1,000.00	\$1,000.00	\$1,000.00	\$0.00
Connect to Existing Water Lines	2 ea	\$1,700.00	\$3,400.00	\$3,400.00	\$0.00
Plug	5 ea	\$800.00	\$4,000.00	\$4,000.00	\$0.00
Water Service Laterals	26 ea	\$1,800.00	\$46,800.00	\$46,800.00	\$0.00
Bedding	1,500 ton	\$15.00	\$22,500.00	\$22,500.00	\$0.00
Valve Collars	12 ea	\$500.00	\$6,000.00	\$0.00	\$6,000.00
Testing	1 ls	\$2,000.00	\$2,000.00	\$2,000.00	\$0.00
CULINARY WATER SYSTEM SUBTOTAL =			\$321,650.00	\$296,900.00	\$24,750.00
<u>SANITARY SEWER SYSTEM</u>					
8" P.V.C. Main Line	1,585 lf	\$42.00	\$66,570.00	\$66,570.00	\$0.00
10" P.V.C. Main Line	0 lf	\$30.00	\$0.00	\$0.00	\$0.00
Sewer Services	26 ea	\$1,350.00	\$35,100.00	\$35,100.00	\$0.00
Manholes	5 ea	\$5,000.00	\$25,000.00	\$25,000.00	\$0.00
Bedding/trench fill	3,260 ton	\$15.00	\$48,900.00	\$48,900.00	\$0.00
Manhole Collars	5 ea	\$750.00	\$3,750.00	\$0.00	\$3,750.00
Clean and Camera	1 ls	\$2,000.00	\$2,000.00	\$2,000.00	\$0.00
SANITARY SEWER SYSTEMS SUBTOTAL =			\$181,320.00	\$177,570.00	\$3,750.00
<u>STORM DRAIN SYSTEM</u>					
15" ADS Storm Pipe"	900 lf	\$35.00	\$31,500.00	\$31,500.00	\$0.00
18" ADS Storm Pipe"	140 lf	\$45.00	\$6,300.00	\$6,300.00	\$0.00
Storm manhole	1 ea	\$3,000.00	\$3,000.00	\$3,000.00	\$0.00
Catch Basin\Junction Box	18 ea	\$2,400.00	\$43,200.00	\$43,200.00	\$0.00
Grading of channels/ponds	1 LS	\$6,000.00	\$6,000.00	\$0.00	\$6,000.00
STORM DRAIN SYSTEM SUBTOTAL =			\$90,000.00	\$84,000.00	\$6,000.00
<u>SECONDARY WATER SYSTEM</u>					
6" Irrigation main	2,160 L.F. @	\$40.00	\$86,400.00	\$86,400.00	\$0.00
Irrigation laterals	16 Each	\$2,000.00	\$32,000.00	\$32,000.00	\$0.00
Irrigation fittings	1 lump	\$18,000.00	\$18,000.00	\$18,000.00	\$0.00
Drain station	3 Each	\$5,000.00	\$15,000.00	\$0.00	\$15,000.00
Valve Collars	10 ea	\$500.00	\$5,000.00	\$0.00	\$5,000.00
Testing	1 LS	\$1,000.00	\$1,000.00	\$1,000.00	\$0.00
SECONDARY WATER SYSTEM SUBTOTAL =			\$157,400.00	\$137,400.00	\$20,000.00
<u>LANDSCAPING</u>					
Detention pond landscaping	LS		\$0.00	\$0.00	\$0.00
Park Strip Landscaping	LS		\$0.00	\$0.00	\$0.00
LANDSCAPING SUBTOTAL=			\$0.00	\$0.00	\$0.00

STREET IMPROVEMENTS						
Base & Asphalt	61,700	sf	\$2.75	\$169,675.00	\$169,675.00	\$0.00
Clear and Grub, excavation	1	LS	\$10,000.00	\$10,000.00	\$10,000.00	\$0.00
Fill to bring road to subgrade	4,050	ton	\$14.00	\$56,700.00	\$56,700.00	\$0.00
Curb & Gutter	3,460	lf	\$19.00	\$65,740.00	\$65,740.00	\$0.00
Saw cut road	450	lf	\$3.50	\$1,575.00	\$1,575.00	\$0.00
Asphalt removal	2,230	sf	\$1.00	\$2,230.00	\$2,230.00	\$0.00
Asphalt re-asphalt	8,100	sf	\$2.50	\$20,250.00	\$20,250.00	\$0.00
Construct temporary turn around w/3" of asphalt and 8" road base	3	ea	\$7,500.00	\$22,500.00	\$0.00	\$22,500.00
STREET IMPROVEMENTS SUBTOTAL =				\$348,670.00	\$326,170.00	\$22,500.00
SIDEWALK						
4' Sidewalk w/ Base	3,400	lf	\$19.00	\$64,600.00	\$0.00	\$64,600.00
Handicap Ramps	11	ea	\$1,600.00	\$17,600.00	\$0.00	\$17,600.00
SIDEWALKS SUBTOTAL =				\$82,200.00	\$0.00	\$82,200.00
MISCELLANEOUS						
Survey Street Monuments	3	ea	\$1,000.00	\$3,000.00	\$0.00	\$3,000.00
SWPPP Implementation	1	ls	\$8,000.00	\$8,000.00	\$0.00	\$8,000.00
MISC. SUBTOTAL =				\$11,000.00	\$0.00	\$11,000.00
Estimated Improvement Cost =				\$1,192,240.00		
10% Contingency and Guarantee				\$119,224.00		
TOTAL ESCROW AMOUNT				\$1,311,464.00		\$289,424.00

PREPAID ITEMS				
Chip and Seal	6855.6	sy	\$2.81	\$19,264.24
Light Poles	4	ea	\$3,500.00	\$14,000.00

WATER SHARE SUMMARY			
	Lots	Shares per Lot	Shares per Lot Size
6,000 TO 8,000		0.10	0
8,001 to 10,000	19	0.13	2.47
10,001 to 12,000	6	0.16	0.96
12,001 to 14,000		0.19	0
14,001 to 16,000	1	0.22	0.22
16,001 to 18,000		0.25	0
18,001 to 20,000		0.29	0
>20,000		TBD	
Total Shares Required			3.65 Total Shares