

EXHIBIT A-1

**PERFORMANCE BOND AGREEMENT**

**THIS AGREEMENT** is entered into by and between **AVON AMBERWOOD DEVELOPMENT CO., LLC.**, an Ohio Limited Liability Company, hereinafter referred to as "Subdivider," and the City of Avon, Lorain County, Ohio, hereinafter referred to as "City." "Council" as referred to herein, shall refer to the City Council of Avon, Lorain County, Ohio, and "City Engineer" shall refer to the City Engineer or his designee hired to perform services on this project. The term "Development" shall refer to the installation/construction of improvement(s) as set forth in the plans and specifications submitted to Planning Commission and approved on April 18, 2013 as part of the Final Development Plan.

**WHEREAS**, the Subdivider has agreed to construct the public improvements in Amberwood Subdivision No. 4 (hereinafter "Subdivision") in accordance with the Subdivision Regulations of the City of Avon, and in accordance with a Subdivider's Agreement entered into between Subdivider and the City of Avon; and

**WHEREAS**, the Subdivision Regulations of the City of Avon contained in Avon Codified Ordinance §1244.10(d) and the Subdivider's Agreement provide that the Subdivider shall furnish financial guarantees of performance in an amount equal to 110% of the estimated construction costs, engineering and inspection fees in a form, manner of execution and surety approved by the Finance Director and the Law Director of the City of Avon; and

**WHEREAS**, based upon the estimates of cost of construction of the public improvements in the Subdivision by the Subdivider's Engineer, approved by the City Engineer, Subdivider is required to provide a financial guarantee of performance to the Finance Director of the City of Avon in the amount of Six Hundred Sixty-Nine Thousand Seven Hundred Eighty-Six and 00/100 (\$669,786.00) Dollars.

**NOW, THEREFORE**, in consideration of the foregoing promises and to insure the faithful performance of said Subdivider's Agreement, the Subdivider has undertaken the following:

1. Subdivider will post a surety bond, or in lieu of a bond, (a) a letter of credit, drawn on a federally insured financial institution, payable to the City, (b) cash, (c) certificates of deposit conditionally assigned to the City made by a federally insured financial institution or (d) a combination of these items, in the amount of Six Hundred Sixty-Nine Thousand Seven Hundred Eighty-Six and 00/100 (\$669,786.00) Dollars. This financial guarantee must be delivered to the City's Finance Director in a form acceptable to said Director in the appropriate sum.

2. The Subdivider and its surety shall, at all times, keep the records of said Performance Bond or other financial guarantee open to inspection by the Engineer of the City or any other duly authorized agent of the City.

3. Upon completion of all public improvements in the Subdivision to the satisfaction of the City Engineer, acceptance of dedication of said public improvements, payment of all engineering and legal expenses of the City of Avon, and compliance with all provisions of the Subdivider's Agreement, the Director of Finance of the City of Avon will release the financial guarantee posted.

4. In the event of Subdivider's default, as defined in the Subdivider's Agreement, the City shall have the right to execute on the financial guarantee posted herein and to complete construction of public improvements at the Subdivision, or any part thereof, and to pay any engineering or legal fees for the Subdivision over and above the Subdivider's deposit, and the guarantor/surety is authorized and required to release the funds upon certification by the Director of Finance of the City of Avon that the funds will be used for completion of construction of public improvements for the Subdivision and any applicable fees.

5. The guarantor/surety shall accept as full and complete evidence of default and of the resulting right of the City of Avon to complete said project or any portion thereof, a copy of a resolution from the City of Avon duly authenticated by the Clerk of Council declaring said default and the intention of the City of Avon to proceed to complete the performance of said public improvements or any portion thereof.

**IN WITNESS WHEREOF**, the parties have affixed their signature hereto this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

WITNESSES:

**AVON AMBERWOOD DEVELOPMENT CO. LLC**

\_\_\_\_\_

By: \_\_\_\_\_

Richard Batt

\_\_\_\_\_  
Print Name

**CITY OF AVON**

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

James A. Smith, Mayor

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

Daniel S. Zegarac, Council President

Approved as to Form

\_\_\_\_\_

John A. Gasior, Esq.  
Law Director  
City of Avon

**ACKNOWLEDGMENT AND ACCEPTANCE  
BY LENDING INSTITUTION**

The lending institution for **AVON AMBERWOOD DEVELOPMENT CO., LLC**.  
Amberwood Subdivision No. 4, does hereby acknowledge receipt of a copy of this Performance  
Bond Agreement and the Subdivider's Agreement, accepts same, is willing to be bound by these  
documents as additional escrow instructions for the financial guarantees therein provided.

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_  
Printed Name of Bank or Surety

\_\_\_\_\_  
Title of Officer

\_\_\_\_\_  
Date