

# IRREVOCABLE LETTER OF CREDIT

**Borrower:** David A The David A Leatherberry and Deloris E  
Leatherberry Living Trust dated April 9, 2013  
S4166 Crawford Street  
Baraboo, WI 53913

**Lender:** Time Federal Savings Bank  
1601 Lincoln Street P.O. Box 907  
Wisconsin Rapids, WI 54495-0907

**Beneficiary:** Sauk County  
505 Broadway  
Baraboo, WI 53913

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**NO.: 40143286**

**EXPIRATION DATE.** This letter of credit shall expire upon the close of business on 11-22-2020 and all drafts and accompanying statements or documents must be presented to Lender on or before that time (the "Expiration Date").

**AMOUNT OF CREDIT.** Lender hereby establishes at the request and for the account of Borrower, an Irrevocable Letter of Credit in favor of Beneficiary for a sum of Two Hundred Sixty-six Thousand Five Hundred & 00/100 Dollars (\$266,500.00) (the "Letter of Credit"). These funds shall be made available to Beneficiary upon Lender's receipt from Beneficiary of sight drafts drawn on Lender at Lender's address indicated above (or other such address that Lender may provide Beneficiary in writing) during regular business hours and accompanied by the signed written statements or documents indicated below.

**WARNING TO BENEFICIARY:** PLEASE EXAMINE THIS LETTER OF CREDIT AT ONCE. IF YOU FEEL UNABLE TO MEET ANY OF ITS REQUIREMENTS, EITHER SINGLY OR TOGETHER, YOU SHOULD CONTACT BORROWER IMMEDIATELY TO SEE IF THE LETTER OF CREDIT CAN BE AMENDED. OTHERWISE, YOU WILL RISK LOSING PAYMENT UNDER THIS LETTER OF CREDIT FOR FAILURE TO COMPLY STRICTLY WITH ITS TERMS AS WRITTEN.

**DRAFT TERMS AND CONDITIONS.** Lender shall honor drafts submitted by Beneficiary under the following terms and conditions:

Upon Lender's honor of such drafts, Lender shall be fully discharged of Lender's obligations under this Letter of Credit and shall not be obligated to make any further payments under this Letter of Credit once the full amount of credit available under this Letter of Credit has been drawn.

Beneficiary shall have no recourse against Lender for any amount paid under this Letter of Credit once Lender has honored any draft or other document which complies strictly with this Letter of Credit, and which on its face appears otherwise in order but which is signed, issued, or presented by a party or under the name of a party purporting to act for Beneficiary, purporting to claim through Beneficiary, or posing as Beneficiary without Beneficiary's authorization. By paying an amount demanded in accordance with this Letter of Credit, Lender makes no representation as to the correctness of the amount demanded and Lender shall not be liable to Beneficiary, or any other person, for any amount paid or disbursed for any reason whatsoever, including, without limitation, any nonapplication or misapplication by Beneficiary of the proceeds of such payment. By presenting upon Lender or a confirming bank, Beneficiary certifies that Beneficiary has not and will not present upon the other, unless and until Beneficiary meets with dishonor. Beneficiary promises to return to Lender any funds received by Beneficiary in excess of the Letter of Credit's maximum drawing amount.

**USE RESTRICTIONS.** All drafts must be marked "DRAWN UNDER Time Federal Savings Bank IRREVOCABLE LETTER OF CREDIT NO. 40143286 DATED 11-22-2019," and the amount of each draft shall be marked on the draft. Only Beneficiary may complete a draft and accompanying statements or documents required by this Letter of Credit and make a draw under this Letter of Credit. This original Letter of Credit must accompany any draft drawn hereunder.

Partial draws are permitted under this Letter of Credit. Lender's honor of a partial draw shall correspondingly reduce the amount of credit available under this Letter of Credit. Following a partial draw, Lender shall return this original Letter of Credit to Beneficiary with the partial draw noted hereon; in the alternative, and in its sole discretion, Lender may issue a substitute Letter of Credit to Beneficiary in the amount shown above, less any partial draw(s).

**PERMITTED TRANSFEREES.** The right to draw under this Letter of Credit shall be nontransferable, except for:

- A. A transfer (in its entirety, but not in part) by direct operation of law to the administrator, executor, bankruptcy trustee, receiver, liquidator, successor, or other representative at law of the original Beneficiary; and
- B. The first immediate transfer (in its entirety, but not in part) by such legal representative to a third party after express approval of a governmental body (judicial, administrative, or executive).

**TRANSFEREES REQUIRED DOCUMENTS.** When the presenter is a permitted transferee (i) by operation of law or (ii) a third party receiving transfer from a legal representative, as described above, the documents required for a draw shall include a certified copy of the one or more documents which show the presenter's authority to claim through or to act with authority for the original Beneficiary.

**COMPLIANCE BURDEN.** Lender is not responsible for any impossibility or other difficulty in achieving strict compliance with the requirements of this Letter of Credit precisely as written. Beneficiary understands and acknowledges: (i) that unless and until the present wording of this Letter of Credit is amended with Lender's prior written consent, the burden of complying strictly with such wording remains solely upon Beneficiary, and (ii) that Lender is relying upon the lack of such amendment as constituting Beneficiary's initial and continued approval of such wording.

**NON-SEVERABILITY.** If any aspect of this Letter of Credit is ever declared unenforceable for any reason by any court or governmental body having jurisdiction, Lender's entire engagement under this Letter of Credit shall be deemed null and void ab initio, and both Lender and Beneficiary shall be restored to the position each would have occupied with all rights available as though this Letter of Credit had never occurred. This non-severability provision shall override all other provisions in this Letter of Credit, no matter where such provision appears within this Letter of Credit.

**GOVERNING LAW.** This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Wisconsin without regard to its conflicts of law provisions, and except to the extent such laws are inconsistent with the 2007 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, ICC Publication No. 600. This Agreement has been accepted by Lender in the State of Wisconsin.

**EXPIRATION.** Lender hereby agrees with Beneficiary that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to Lender on or before the Expiration Date unless otherwise provided for above.

**ADDITIONAL TERMS.** This letter of credit is effective on November 22, 2019, and shall expire on November 22, 2020 (this being the "TERMINATION DATE"), except that this letter of credit shall automatically renew on the termination date for a term of one year and annually thereafter on each successive termination date until all of the reclamation requirements have been completed, unless the bank elects to cancel this letter of credit. In the event the bank wishes to cancel this letter of credit, the bank shall provide notice in writing of its intent to cancel to the beneficiary by registered or certified mail not less than 90 days prior to the end of the current term of this letter of credit. Unless the customer delivers to the beneficiary a replacement letter of credit or other acceptable proof of financial responsibility under section 295.13, Wisconsin Statutes, section NR 135, Wisconsin Administrative Code, and Sauk County Code of Ordinances, as applicable, we will pay to the beneficiary the unused balance of this letter of credit on the termination date.

**IRREVOCABLE LETTER OF CREDIT  
(Continued)**

Beneficiary must demonstrate in writing to Time Federal Savings Bank that Borrower failed to comply with Ch. 24 Nonmetallic Mining Reclamation Ordinance, Sauk County Code of Ordinances and specifically s.24.07(8)(a)(b) which states: (8) Forfeiture. Financial assurance shall be forfeited if any of the following occur: (a) A permit is revoked under s. 24.11 Permit Suspension and Revocation and the appeals process has been completed. (b) An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan within 12 month from the date of cessation. Pursuant to Sauk County Code Ordinances s. 24.11(3)(b), Sauk County may use forfeited financial assurance to reclaim the site to the extent needed to comply with Ch. 24 Nonmetallic Mining Reclamation Ordinance, Sauk County Code of Ordinances and the applicable reclamation ordinance

**Dated: November 22, 2019****LENDER:****TIME FEDERAL SAVINGS BANK****By:**  
Craig Philipp, Senior Vice President**ENDORSEMENT OF DRAFTS DRAWN:**

| <u>Date</u> | Negotiated By | Amount<br>In Words | Amount<br>In Figures |
|-------------|---------------|--------------------|----------------------|
|             |               |                    |                      |