

RESOLUTION 2020-003

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING SETTLED POLICY ACCEPTING THE SUBDIVIDER'S AGREEMENT AND IMPROVEMENT SECURITY FOR CANADA VISTA, PHASE 1, LOTS 1-29; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the Canada Vista final plat was approved by the Mayor and City Council on May 22, 2014; and

WHEREAS, a Subdivider's Agreement and Improvement Security are required to be submitted and approved with the Canada Vista final plat; and

WHEREAS, the City and the Developer agreed to defer the submittal of the Subdivider's Agreement and the Improvement Security until the issuance of the first right-of-way permit for the subdivision; and

WHEREAS, the developer is now proceeding with the development and submitting the Subdivider's Agreement and Improvement Security.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the submittal of the Subdivider's Agreement and Improvement Security are in compliance with Development Code Articles, 151.08.002, and 151.19.006.

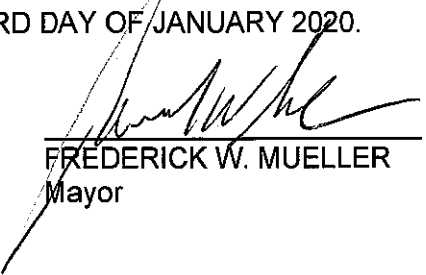
SECTION 2

That the Subdivider's Agreement and Improvement Security for Phase 1 of Canada Vista, Lots 1-29, be and hereby are accepted.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL  
OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 23RD DAY OF JANUARY 2020.



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FREDERICK W. MUELLER  
Mayor

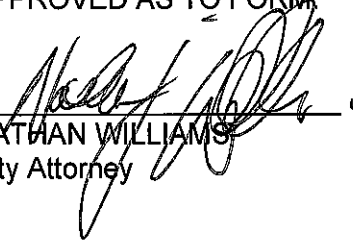
ATTEST:



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JILL ADAMS  
City Clerk

APPROVED AS TO FORM:



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NATHAN WILLIAMS  
City Attorney

PREPARED BY: Jeff Pregler,  
Senior Planner

EXHIBIT A

## SUBDIVIDER'S AGREEMENT

WITNESS THIS AGREEMENT, made and entered into this 23rd day of January 2020, by and between, SV Land Vista, LLC, an Arizona Limited Liability Company hereinafter referred to as Subdivider, and the City of Sierra Vista, hereinafter referred to as City.

### WITNESSETH:

WHEREAS, Subdivider intends to subdivide certain lands located in the City of Sierra Vista Section 2, Township 22 South, Range 20 East, of the Gila and Salt River Base and Meridian, Cochise County, State of Arizona, more particularly described and shown on that certain plat known as the Canada Vista, Lots 1-29, a copy of which is attached hereto, and by reference thereto, made a part hereof; and

WHEREAS, Subdivider has presented said subdivision plat to the City for approval which, upon approval thereof, shall be filed with the County Recorder; and

WHEREAS, Subdivider intends to proceed with the development of said lands upon approval and recordation of said plat by the City in accordance with Chapter 151 of the City Code of the City of Sierra Vista, and to comply with Section 151.19.006 thereof, Subdivider must provide security to assure performance; and

WHEREAS, Subdivider has provided security by either; (1) posting of a performance bond, (2) establishing a cash trust, said funds to be deposited with the City to the credit of the Subdivider, (3) depositing with the City a certificate of deposit issued by a banking institution authorized to issue same, (4) filing with the City an executed contract of guaranty between the City and a trust company, banking institution, or other financial institution authorized to enter into such contracts, or (5) a Third Party Trust Agreement; and

WHEREAS, the amount of said security shall be based on a cost estimate prepared by a registered professional civil engineer in an amount to cover the completed installation of the improvements; and

WHEREAS, the estimate has been submitted as required to the Director of Community Development of the City of Sierra Vista for approval as to the amount, prior to final plat approval by the City Council of the City of Sierra Vista.

NOW, THEREFORE, in consideration of the covenants and promises of the parties hereinafter set forth and other valuable considerations, the adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. This agreement, together with the security provided herewith in the form of a improvement security guaranty agreement, in accordance with Section 151.19.006 of the City Code, is acceptable to the Director of Community Development of the City of Sierra Vista in the amount of \$526,672.25 . Security is attached hereto and therefore made a part thereof.

In general terms, the improvements contemplated include: Water and sewerage facilities, curb, gutters and sidewalks, street pavement, street lights, road signage, drainage facilities and utilities.

2. Subdivider has or will employ a contractor or contractors to construct said subdivision improvements, pursuant to the accompanying plat and the respective improvement plans and specifications of said Subdivision as submitted to the City, and as approved by the Director of Community Development of the City of Sierra Vista.
3. The Subdivider agrees to construct and complete all the subdivision improvements required of this development within one (1) year from the issuance of the first right-of-way permit for Phase 1 of the subdivision. Said completion date may be extended by the City at its discretion upon written request of the Subdivider if evidence of reasonable cause for delay is presented to the Director of Community Development.
4. Subdivider agrees that upon thirty (30) days written notice from the City of his failure to perform in accordance herewith, the City may take any action necessary under the terms of the security arrangement to assure completion of the improvements contemplated hereby.
5. The City agrees that it will accept for maintenance all subdivision improvements contemplated by this agreement and release the security, subject to the two-year guarantee, upon satisfactory completion of said improvements and approval thereof by the City, and upon the submittal of (1) as-built improvement plans, (2) two-year guarantee from the contractor(s) and subdivider, (3) an affidavit regarding settlement of claims, and (4) security in the amount of \$200 per lot to substantiate the validity of the two-year guarantee.

IN WITNESS WHEREOF, the parties hereto executed this agreement the day and year first above written.

SUBDIVIDER:  
BY: *Robert L. Workman*  
TITLE: *Manager*

STATE OF ARIZONA     )  
                                  )  
COUNTY OF Cochise    )

This instrument was acknowledged before me this 14 day of November 2019, by Robert L. Workman, manager SV Land Vista, LLC



*Francisca Milianta*  
Notary Public  
My commission expires: 7/8/20

CITY OF SIERRA VISTA  
*Mark McCall*  
Director of Community Development

APPROVED AS TO FORM:  
*Nancy [Signature]*  
City Attorney

ATTEST:  
*W. Adams*  
City Clerk

### THIRD PARTY TRUST AGREEMENT

This AGREEMENT made and entered into this 23rd day of January, 2020 between Pioneer Title Agency, Inc. an Arizona Corporation, as Trustee Under Trust No. 322067 (hereinafter referred to as TRUSTEE), and the City of Sierra Vista, Arizona, (hereinafter referred to as the CITY).

#### WITNESSETH:

WHEREAS, TRUSTEE is the owner of a certain parcel of property located; situated and lying in the City of Sierra Vista, Arizona; and

WHEREAS, the parties hereto wish to establish specific terms, conditions and guidelines for compliance with the provisions of A.R.S. 9-463.01 and Chapter 151 of the Sierra Vista City Code.

NOW THEREFORE, in consideration of the CITY approving a final plat, it is understood and agreed that the following conditions are established for the property described herein:

I

#### PROPERTY DESCRIPTION

The property which is the subject matter of this Agreement is the Canada Vista Subdivision, Phase 1, Lots 1-29

II

#### CONSTRUCTION OF IMPROVEMENTS

TRUSTEE will not transfer, enter contracts for sale of property, lease, or in any way convey, in whole or in part, any of the property described herein without obtaining the prior Assurances, except that the TRUSTEE may sell and convey all of the property described herein in one transaction to a single purchase, provided that such purchaser shall, prior to conveyance, have entered into an acceptable assurance agreement with the CITY or have provided other security acceptable to the City for completion of the required improvements.

The TRUSTEE may convey all or part of the property described herein to the subdivider or beneficiary(ies) of the trust solely for the purpose of encumbering the property by the recording of mortgages or deeds of trust, provided the property is thereafter immediately re-conveyed into the trust.

The CITY may provide the TRUSTEE with a Release of Assurances at any time prior to completion of the required improvements upon acceptance of substitute assurances or security in conformance with the Sierra Vista City Code.

The CITY, in its discretion, and upon receipt of a written request from the TRUSTEE, may issue a Partial Release of Assurances for a portion of the lots only upon a determination that all of the improvements required in connection with such lots have been completed and accepted for maintenance by the CITY; and provided further that such improvements can be used and maintained separately from the improvements required for the entire subdivision plat.

Before written approval in the form of a Release of Assurance shall be given by the CITY, the improvements required by Chapter 151 of the Sierra Vista City Code and set forth in the Plans and Specifications approved by the Department of Community Development and on file with the CITY shall first be installed in accordance with all applicable Sierra Vista City Codes and specifications and the same shall have been accepted for maintenance by the CITY after the filing of required lien waivers and guarantees.

### III

#### ABANDONMENT AND REVERSION


TRUSTEE, after expiration of two ( 2 ) year(s) from the date hereof, shall petition the CITY to abandon the remaining portions of the subdivision for which written approval to transfer, lease or convey has not been received, so that the remaining portions of the subdivision shall revert to undeveloped property.

TRUSTEE, hereby designates the CITY as its agent to institute proceedings to abandon the remaining portions of the subdivision for which written approval to transfer, lease or convey has not been received, so that the remaining portions of the subdivision shall revert to undeveloped property.

TRUSTEE, hereby designates the CITY as its agent to institute proceedings to abandon the remaining portions of the subdivision for which TRUSTEE has failed to apply for abandonment as provided herein.



IN WITNESS WHERE OF the parties hereto have set their hands and seals on the date first above written.

  
Pioneer Title Agency, Inc.  
An Arizona Corporation, as Trustee under Trust  
No. 322067 only and not otherwise.

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

STATE OF ARIZONA )  
) ss.  
COUNTY OF COCHISE )

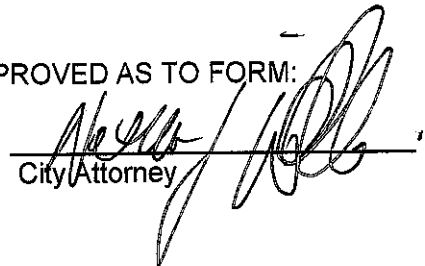
Before me, Francisca Milianta Notary Public, in and for the County of Cochise, and the State of Arizona, on this day personally appeared Susan K. Tawney, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this 14 day of November, 2019.

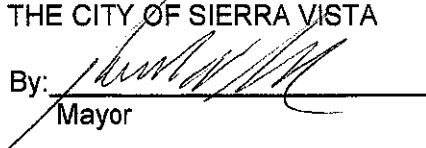
My Commission Expires: Francisca Milianta  
Notary Public



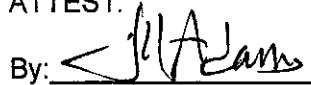
APPROVED AS TO FORM:

By:   
City Attorney

THE CITY OF SIERRA VISTA

By:   
Mayor

ATTEST:

By:   
City Clerk