

RESOLUTION 2020-036

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; REAFFIRMING SETTLED POLICY GRANTING APPROVAL OF THE FINAL PLAT FOR THE HOLIDAY AT PDS PHASE 5A, LOTS 1-29 AND ACCEPTING THE SUBDIVIDER'S AGREEMENT AND IMPROVEMENT SECURITY; 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, Section 151.19.004 of the City Code requires a final plat in full compliance with the provisions of the Code to be submitted and approved; and

WHEREAS, Section 151.19.005, *Improvement Security*, requires the Developer to provide a Subdivider's Agreement and an Improvement Security Guaranty Agreement (hereforth known as associated documents) for proposed public improvements to be submitted and accepted;

WHEREAS, in accordance with the provisions of Article 151.19 of the City Development Code, the developer of the Holiday at PDS subdivision, Phase 5A, Lots 1-29, has submitted a final plat and associated documents; and

WHEREAS, the final plat and all associated documents were reviewed by the City Staff and found to conform to all appropriate provisions of the City Code and Zoning Ordinance; and

WHEREAS, the Development Review Committee approved the final plat on June 17, 2020; and

WHEREAS, it is the policy of the City of Sierra Vista to only approve those plats which: a) provide for the orderly growth and harmonious development of the City of Sierra Vista; b) secure adequate traffic circulation through a coordinated street system in relation to major thoroughfares, adjoining subdivisions and public facilities; c) achieve individual property lots with optimum utility and livability; d) secure adequate provision for water supply distribution, drainage and flood control, sanitary sewerage, street lights and other health and safety requirements; e) ensure and facilitate provision of sites for schools, recreation and other public purposes; and f) conform to all applicable provisions of the City Code and Zoning Ordinance; and

WHEREAS, approval of this resolution reaffirms established policy, granting approval of final subdivision plats.

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

SECTION 1

That the settled policy of approving final subdivision plats, be, and hereby is, reaffirmed.

SECTION 2

That the final plat for Holiday at PDS, Phase 5A, Lots 1-29 be approved and that the Subdivider's Agreement and Improvement Security Guaranty Agreement, be, and hereby are, accepted.

SECTION 3

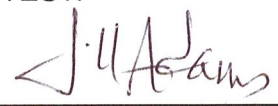
The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, THIS 25TH DAY OF JUNE, 2020.



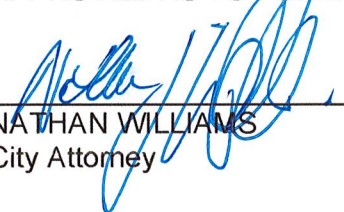
FREDERICK W. MUELLER
Mayor

ATTEST:



JILL ADAMS
City Clerk

APPROVED AS TO FORM:



NATHAN WILLIAMS
City Attorney

PREPARED BY: Jeff Pregler,
Senior Planner

SUBDIVIDER'S AGREEMENT

WITNESS THIS AGREEMENT, made and entered into this 35th day of June, 2020, by and between, Castle & Cooke Arizona, Inc 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 Northwest quarter of Section 19, Township 22 South, Range 21 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 Holiday at Pueblo Del Sol – Phase 5A, 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.

Subdivider's Agreement

Page 2

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 \$ 34,122 . Security is attached hereto and therefore made a part thereof.

In general terms, the improvements contemplated include: Sewerage facilities, drainage facilities, utilities, and street lights.

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 two (2) year from the approval of the final plat by the City Council of the City of Sierra Vista. 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, and (3) an affidavit regarding settlement of claims, (4) and a security in the amount of \$200 per lot to substantiate the validity of the two-year guarantee.

Subdivider's Agreement

Holiday at Pueblo Del Sol – Phase 5A Subdivision, Lots 1 - 29 (total 29)
Page 3

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

SUBDIVIDER:

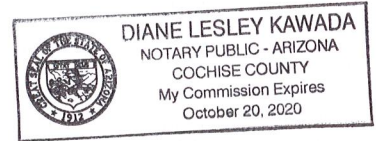
BY: [Signature]
Richard S. Coffman

BY: [Signature]
Laura Whitaker

TITLE Senior Vice President

TITLE President

STATE OF ARIZONA)
)
COUNTY OF Cochise)



This instrument was acknowledged before me this 1 day of APRIL, 2020, by

[Signature]
Notary Public

My Commission expires on: 10/20/2020

CITY OF SIERRA VISTA

[Signature]
Director of Community

Development

APPROVED AS TO FORM:

[Signature]
City Attorney

ATTEST:

[Signature]
City Clerk

IMPROVEMENTS SECURITY GUARANTY AGREEMENT

BOND NO.: LICX1190534

PREMIUM: \$1,365.00

THIS AGREEMENT made and entered into this 17th day of April, 2020 by and among Lexon Insurance Company hereinafter referred to as Guarantor; CASTLE & COOKE ARIZONA, INC., subdivider and Developer of that certain subdivision of Cochise County, Arizona, known as **Final Plat for Holiday at Pueblo Del Sol – Phase 5A**.

Subdivision hereinafter referred to as Subdivision; and the CITY OF SIERRA VISTA, ARIZONA, a municipal Corporation, hereinafter referred to as the City.

WITNESSETH:

WHEREAS, Subdivider has caused improvements plans and specifications to be prepared and submitted to the City of Sierra Vista, State of Arizona, through its Department of Community Development pertaining to a proposed Subdivision with the City of designated as **Final Plat for Holiday at Pueblo Del Sol – Phase 5A** Subdivision; and

WHEREAS, in order to insure the proper installation of Subdivision improvements as required by Chapter 151 of the Sierra Vista Code and to comply with Section 151.19.006 thereof, which requires that the Subdivider shall provide security for filing with the City, or other financial institution authorized to enter into such contracts; and

WHEREAS, in accordance with said Section aforesaid, the amount of said Contract of Guaranty shall be based on a accost estimate prepared by a registered professional civil engineer in an amount to cover the completed installation of the improvements, and in this regard, said cost estimate prepared by a registered professional civil engineer is in the amount of **Thirty Four Thousand, One Hundred Twenty Two dollars and no/100 (\$34,122)**;

and

WHEREAS, this Contract of Guaranty and the cost estimate herein above referenced are required to be submitted to the Director of Community Development of the City for approval of the amount said security prior to the final plat approval by the City, as provided in said Section 151.19.006 and, in this regard, provision for said approval is made herein; and

WHEREAS, Subdivider plans to subdivide and develop said subdivision in conjunction with and operating through Lexon Insurance Company as Guarantor; and

WHEREAS, Subdivider declares and hereby gives notice to the City that the Completion date of said Subdivision improvements as more particularly described in the plan and accompanying improvement plans and specifications of said **Final Plat for Holiday at Pueblo Del Sol – Phase 5A** Subdivision, as submitted to said City, shall be on or before the expiration of one (2) year(s) following the date of recordation of the final plan of the Subdivision.

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 as follows:

1. Subdivider has or will employ a contractor or contractors to make said Subdivision improvements as contemplated to be secured by Chapter 151, pursuant to the plat and accompanying improvement plans and specifications of said **Final Plat for Holiday at Pueblo Del Sol – Phase 5A** Subdivision, as submitted to said City and approved by said City.
2. In consideration of the City's accepting the promise of the Subdivider to make and complete all required improvements within one (2) year(s) from the recordation of the final subdivision plat, and other valuable considerations, the receipt of which is hereby acknowledged, the undersigned Guarantor hereby agrees that is, for any reason whatsoever, the Subdivider does not perform full and completely the said agreement to guaranty hereby created shall become absolute and the Guarantor shall be primarily liable unto the City for payment of any amount required for the completion of the improvements in an amount not to exceed **Thirty Four Thousand, One Hundred Twenty Two dollars and no/100 (\$34,122)**, upon written demand by the City. Said completion date may be extended by the City at the discretion upon written request of the Subdivider or the Guarantor.
3. Said Guarantor hereby certifies that it is fully authorized by law and its corporate records to become a guarantor in the manner indicated above.

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

Lexon Insurance Company Company

By: 
Joshua Sanford, Attorney-in-Fact
Guarantor

CASTLE & COOKE ARIZONA, INC.

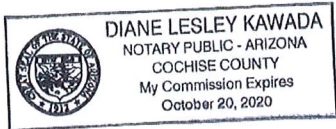
BY: [Signature]
Richard S. Coffman, Senior Vice President

BY: [Signature]
Laura Whitaker, President

STATE OF ARIZONA)
) ss.
COUNTY OF COCHISE)

On APRIL 1, 2020, before me, Diane L. Kawada, Notary Public,

personally appeared Richard S. Coffman AND personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



[Signature]
Notary Public

My Commission Expires: 10/20/2020

APPROVED AS TO AMOUNT
BY: [Signature]
Director of Community Development

THE CITY OF SIERRA VISTA
BY: [Signature]
Mayor

APPROVED AS TO FORM
BY: [Signature]
City Attorney

ATTEST:
BY: [Signature]
City Clerk

NOTARY ACKNOWLEDGMENT OF SURETY:

State of Connecticut

County of Hartford ss.

On this the 17th day of April, 2020, before me, Brendan Fletcher, the undersigned officer, personally appeared Joshua Sanford, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-In-Fact for Lexon Insurance Company, and acknowledged that s/he executed the same as the act of his/her principal for the purposes therein contained.

In witness whereof I hereunto set my hand.



Signature of Notary Public

Date Commission Expires: February 28, 2025

Brendan Fletcher

Printed Name of Notary

BRENDAN FLETCHER
NOTARY PUBLIC - CT 180835
My Commission Expires Feb. 28, 2025

POWER OF ATTORNEY

9349

Lexon Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that LEXON INSURANCE COMPANY, a Texas Corporation, with its statutory home office in Austin, Texas, does hereby constitute and appoint: Donna M. Planeta, Joshua Sanford, Aimee R. Perondine, Aiza Anderson, Danielle D. Johnson, Michelle Anne McMahon its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of LEXON INSURANCE COMPANY on the 1st day of July, 2003 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$10,000,000.00, Ten Million dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Assistant Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, LEXON INSURANCE COMPANY has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 22nd day of June, 2018.

LEXON INSURANCE COMPANY



BY [Signature] Brian Beggs President

ACKNOWLEDGEMENT

On this 22nd day of June, 2018, before me, personally came Brian Beggs to me known, who be duly sworn, did depose and say that he is the President of LEXON INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



AMY TAYLOR Notary Public- State of Tennessee Davidson County My Commission Expires 5-9-2023

BY [Signature] Amy Taylor Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of LEXON INSURANCE COMPANY, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the forgoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Seal at Mount Juliet, Tennessee this 17th Day of April, 2020.



BY [Signature] Andrew Smith Assistant Secretary

“WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

**ARIZONA ENDORSEMENT
INSURANCE PRODUCER
IN ACCORDANCE WITH HB 2342**

PLEASE READ CAREFULLY, THIS ENDORSEMENT CHANGES THE POLICY.

Bond Number: LICX1190534

Your Agency and Agent / Producer for this policy is:

Agency: Willis Towers Watson Insurance Services West, Inc.

Agent / Producer: Carlos Albelo

Address: 920 Memorial City Way, Suite 500
Houston, TX 77024

Phone: 713-625-1166

All other terms and conditions of this policy shall remain unchanged.
This endorsement forms a part of the policy number referenced above.