

MEMORANDUM



Public Works Department
Fiscal Services Division
1022 26th Ave. E..
Bradenton, FL 34285

MANATEE COUNTY
FLORIDA

RECEIVED

APR 08 2010

BOARD RECORDS

Phone: 941-708-7450
941-708-7502
www.myanatee.org

DATE: April 13 2010

TO: Susan Romine, Board Records Supv.
Clerk of Circuit Court

THRU: Sue Sandhoff, Senior Fiscal Services Manager, Public Works *Carol Sandhoff for Sue Sandhoff*

FROM: Murlene LaBarr, Bond Coordinator, *Murlene LaBarr*
Fiscal Services Div., Public Works Dept.

SUBJECT: **PALMA SOLA POINTE
PDR-02-31/05-S-117 (F)
RELEASE REQUIRED PRIVATE IMPROVEMENTS AGREEMENT FOR
SIDEWALKS
ACCEPT REQUIRED PRIVATE IMPROVEMENT AGREEMENT FOR SIDEWALKS**

Please schedule on your consent calendar for the next available Board of County Commissioner's Agenda, the following "Form of Motion".

- **Authorization to release** the following *Required Improvements Agreement for Private Improvements* (sidewalks) in conjunction with the Surety Bond below in the amount of \$21,630.00;

PLEASE DO NOT RELEASE SURETY BOND #1011579 IN CONJUNCTION WITH THE ABOVE AGREEMENT. This Surety Bond, previously accepted by the Board, remains in effect.

- **Acceptance of** and authorization for Chairman to execute the following *Required Improvements Agreement for Private Improvement* for sidewalks in conjunction with the Surety Bond below;
 - **Surety Bond** No. 1011579 issued through Lexon Insurance Company;
 - **Amount** of Performance Bond \$21,630.00.

cc: Records Management
Tim Vining, Palma Sola Bay Partners, LLC
Lexon Insurance Company

APPROVED IN OPEN SESSION

APR 13 2010

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

LARRY BUSTLE * DR. GWENDOLYN Y. BROWN * JOHN R. CHAPPIE * RON GETMAN * DONNA G. HAYES * CAROL WHITMORE * JOE MCCLASH

District 1

District 2

District 3

District 4

District 5

District 6

District

7

Original to Murlene LaBarr - 4/16/10 (vj)

For: Palma Sola Pointe
(Name of Project)

**REQUIRED SIDEWALK AND BIKEWAYS AGREEMENT AND TEMPORARY
CONSTRUCTION EASEMENT FOR PRIVATE IMPROVEMENTS**

(Required with a Surety Bond as security guaranteeing completion of Required Sidewalks and/or Bikeways, Form No. 8417)

WHEREAS, PALMA SOLA BAY PARTNERS, LLC (Developer) has made application to Manatee County, Florida (County), for approval of a proposed subdivision or final site plan identified as PALMA SOLA POINTE (Project), the legal description for which is more particularly described in Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, the Manatee County Land Development Code, Ordinance 90-01, requires that a final subdivision plat not be approved for recording, and that a Certificate of Occupancy not be issued in accordance with final site plan approval, until certain sidewalk/bikeway improvements required by the Land Development Code or required as a condition of approval of the plat or site plan have been duly constructed, completed, and approved, unless the Developer has provided performance security guaranteeing to the satisfaction of the County that such improvements will be duly constructed, completed, and approved; and

WHEREAS, in connection with the Project the Developer has submitted construction drawings for the Required Sidewalks and/or Bikeways which are on file with and have been approved by the County; and

WHEREAS, the Developer desires to obtain approval of the Project prior to installation of the Required Sidewalks and/or Bikeways; and

WHEREAS, the developer has submitted a cost estimate certificate by the Engineer of Record to be an accurate reflection of the cost to complete the remaining Required Sidewalks and/or Bikeways, and the Surety Bond referred to below is in an amount which represents at least 200% of that estimated cost with a 3% administrative fee; and

WHEREAS, the Required Sidewalks and/or Bikeways shall be privately owned necessitating additional covenants and protections for the County and the public in the event that the Developer fails to complete the Required Sidewalks and/or Bikeways; and

WHEREAS, the Developer and LEXON INSURANCE COMPANY, a Surety Company duly authorized to transact business in the State of Florida (Surety) are held and firmly bound unto the County as obligee/owner in the amount of TWENTY-ONE THOUSAND SIX HUNDRED THIRTY AND NO/100 dollars (words) \$ 21,630.00 (numbers), and the Developer herewith tenders to the County a Surety Bond, No. 1011579, dated DECEMBER 20, 2005 with LEXON INSURANCE COMPANY, in the amount of TWENTY-ONE THOUSAND SIX HUNDRED THIRTY AND NO/100 dollars (words) \$ 21,630.00 (numbers). Said Bond shall not expire until the Required Improvements guaranteed by this Bond have been accepted by the County.

ACCEPTED IN OPEN SESSION

APR 13 2010

BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

(PVT IMPV FOR SIDEWALKS)

For: Palma Sola Pointe
(Name of Project)

1. That the Developer, in consideration of the County's approval of the proposed Project, and for other valuable consideration, hereby agrees to duly construct and complete the Required Sidewalks and/or Bikeways and to otherwise comply fully with the Land Development Code, any conditions of the Project's approval, and all other applicable regulations, requirements and agreements.
2. That in consideration of the foregoing, it is hereby mutually AGREED as follows:
 - (a) The Developer shall complete to the satisfaction of the County all Required Sidewalks and/or Bikeways, in accordance with the construction drawings or any amendments thereto approved by the County within three (3) years from County approval of the plat or applicable site plan, the County upon thirty (30) days written notice to the Developer, at the County's option, shall have the right to construct and complete, or cause to be constructed, the aforesaid required Sidewalks. In the event the County should exercise such right, the Developer shall be liable for the cost of such construction and completion and shall indemnify and save harmless the County against or from all claims, costs, expenses, damages, injury, or loss, either direct or consequential, including without limitation all engineering, legal, and contingent costs which the County may sustain on account of the failure of the Developer to fulfill within the time specified its obligations as described herein.
 - (b) In the event the Developer should fail or refuse to fulfill within the time specified its obligations under this Agreement, the County, at its option, shall have the right to enter upon that portion of the Project property, as determined necessary by the County and take all actions required to construct and complete, or cause to be constructed the Required Sidewalks and/or Bikeways. In the event the County should exercise such right, the County shall have the unqualified right to draw funds for the purpose of construction and completing the Required Sidewalks and/or Bikeways, or causing the same to be done, and for paying costs incidental to the exercise of its rights hereunder, in such amount as the County shall in its sole discretion determine, in accordance with the terms of the Surety Bond.
 - (c) The Developer, his successors and assigns, hereby grants a temporary easement over property in the Project as necessary to allow the County to complete the Required Sidewalks and/or Bikeways.
 - (d) Should it become necessary for the County to complete the Required Sidewalks and/or Bikeways, the Developer hereby appoints the County as its agent for the purposes of using the approvals granted for the Required Sidewalks and/or Bikeways.

(PVT IMPV/SIDEWALKS-Surety)

For: Palma Sola Pointe
(Name of Project)

3. The Developer agrees that it is liable to the County for all costs and damages, as described above, that the County may incur in connection with constructing and completing the Required Sidewalks and/or Bikeways for the life of the Project, without regard to the amount of the Surety Bond identified above. Should the Developer fail or refuse to complete the Required Sidewalks and/or Bikeways, as required, nothing herein shall be construed as affecting the County's right to resort to any and all legal and equitable remedies against the Developer, including specific performance, to which the Developer hereby agrees.
4. The Developer understands and agrees that in the event that the Required Sidewalks and/or Bikeways are not constructed or installed in the manner or time consistent with this Agreement, the County shall withhold further permits or approvals for the Project until the Required Sidewalks and/or Bikeways have been completed or adequate progress, as determined by the Board of County Commissioners, toward completion of the Required Sidewalks and/or Bikeways has been demonstrated.
5. Upon the County's completion of private improvements, the improvement shall be transferred to the Homeowner's Association or that entity set up in the deed restriction to be responsible for ongoing maintenance of the improvements. In no event shall public funds be used for the maintenance of private improvements, unless they are dedicated to and accepted by the County.

(Pvt Impv. Sidewalks-Surety: Dev is Corp.)

FOR: Palma Sola Pointe

SIGNED AND SEALED this 8th day of October, 2009

WITNESSES:

Sonia Davis

Witness

Sonia Davis

Type or Print Name

Marlene La Barr

Witness

Marlene La Barr

Type or Print Name

Palma Sola Development

Developer

BY:

[Signature]

Signature

C. Timothy Vining, II

Type or Print Name

MANAGING MEMBER

Title (If attorney-in-fact Attach Power of Attorney)

1401 MANATEE AVE, W, STE 510

Postal Address

BRADENTON FL 34205

City

State

Zip

NOTARY ACKNOWLEDGMENT

STATE OF: FL

COUNTY OF: MANATEE

The foregoing instrument was acknowledged before me this 8th day of OCTOBER, 2009, by C. Timothy Vining, II, as MANAGING MEMBER (Title), on behalf of the corporation identified herein as Developer and who is personally known to me or who has produced N/A (Type of Identification) as identification.

NOTARY SEAL:



Myra Jane Oliver

Notary Public

MYRA-JANE OLIVER

Print Name of Notary

Approved and accepted for and on behalf of Manatee County, Florida, this 13th day of April, 2010.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

BY:

[Signature]
Chairman

ATTEST: By: [Signature]

R. B. Shore, Clerk of the Circuit Court

