

MEMORANDUM



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

MANATEE COUNTY FLORIDA

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

To: Vicki Tessmer, Board Records Supervisor, Clerk of the Circuit Court

Thru: Carmen Mosley, Fiscal Operations Division Manager

From: Jane Oliver, Bond Coordinator

Date: September 13, 2013

Emailed to Jane O 9/25/13/jr

Subject: CORTEZ LANDINGS
05-S-108

APPROVED IN OPEN SESSION 9/24/2013
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

**RELEASE PRIVATE IMPROVEMENTS AGREEMENT
ACCEPT PRIVATE IMPROVEMENTS EXTENSION AGREEMENT
ACCEPT VERIFICATION CERTIFICATE**

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 and Temporary Construction Easement for Private Improvements* in the amount of \$157,953.59 securing landscape and irrigation;

PLEASE DO NOT RELEASE SURETY BOND NO. 1014070. This Surety will be used to secure the approved extension agreement securing landscape and irrigation (see below).

- **Acceptance of** and authorization for Chairman to execute the following *Required Improvements Agreement and Temporary Construction Easement for Private Improvements* securing landscape and irrigation;
- **Acceptance of** the following Verification Certificate:
 - **Surety Bond No. 1 014070** issued through Lexon Insurance Company (on file), Verification Certificate dated August 26, 2013;

Vicki Tessmer – Cortez Landings
September 13, 2013
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- **Verification Certificate Remains in force and effect.** No Expiration date given;
- **Amount of Performance Bond \$157,953.59.**

CM/jo

cc: Records Management
Diana Shoemaker, Manatee County Habitat for Humanity
Lexon Insurance Co.

Attachments

For: Cortez Landings
(Name of Project)
Landscape & Irrigation

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

(Required with a Surety Bond (Attachment "B") as security guaranteeing completion of Required Improvements, Form No. 8417)

WHEREAS, MANATEE COUNTY HABITAT FOR HUMANITY (Developer) has made application to Manatee County, Florida (County), for approval of a proposed subdivision or final site plan identified as **CORTEZ LANDINGS** (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 improvements required by the Land Development Code or required as a condition of approval of the plat or site plan (Required Improvements) 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 Improvements 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 Improvements.

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 Improvements, 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 Improvements 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 Improvements; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

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 Improvements 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.

(Pvt Impv Agree)

For: Cortez Landings
(Name of Project)

2. 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 ONE HUNDRED FIFTY-SEVEN THOUSAND NINE HUNDRED FIFTY-THREE & 59/100 Dollars (words) \$157,953.59 (numbers), and the Developer herewith tenders to the County a Surety Bond, No. 1014070, dated FEBRUARY 27, 2006, and VERIFICATION CERTIFICATE dated AUGUST 26, 2013 with LEXON INSURANCE COMPANY, in the amount of ONE HUNDRED FIFTY-SEVEN THOUSAND NINE HUNDRED FIFTY-THREE & 59/100 Dollars (words) \$157,953.59 (numbers). Said Bond shall not expire until the Required Improvements guaranteed by this Bond has been accepted by the County.

3. 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 Improvements on or before the 4TH day of OCTOBER, 2014 in accordance with the construction drawings or any amendments thereto approved by the County, and unless the County elects to proceed in accordance with Paragraph (b) below, the Surety, upon thirty (30) days written notice of the default from the County will cause to be completed the Required Improvements pay all costs, thereof, including without limitation all engineering, legal and contingent costs.

 - (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 Improvements. 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 Improvements, 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. The Developer 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 its obligations as described herein.

 - (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 Improvements.

 - (d) Should it become necessary for the County to complete the Required Improvements, the Developer hereby appoints the County as its agent for the purposes of using the approvals granted for the required improvements.

(Pvt Impv Agree)

For: Cortez Landings
(Name of Project)

4. 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 Improvements 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 Improvements, 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.
5. The Developer understands and agrees that in the event that the Required Improvements 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 Improvements have been completed or adequate progress, as determined by the Board of County Commissioners, toward completion of the Required Improvements has been demonstrated.
6. 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 restrictions 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 Imp./Surety- Developer is Corp.)

For: Cortez Landings

SIGNED AND SEALED this 5th day of Sept., 2013

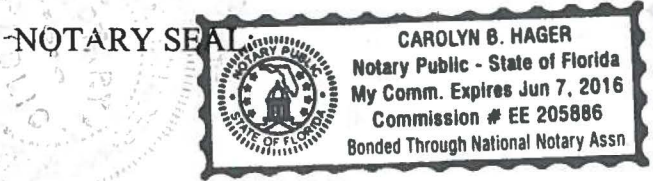
WITNESSES:
Mariah Groom
 Witness
Mariah Groom
 Type or Print Name
Marion F. Siegel
 Witness
Marion F. Siegel
 Type or Print Name

**MANATEE COUNTY
 HABITAT FOR HUMANITY**
 Developer
 BY: Diana Shoemaker
 Signature
Diana Shoemaker
 Type or Print Name
Executive Director
 Title (If attorney-in-fact Attach Power of Attorney)
4105 Cortez Road West
 Postal Address
Bradenton FL 34205
 City State Zip

NOTARY ACKNOWLEDGMENT

STATE OF: Florida
COUNTY OF: Manatee

The foregoing instrument was acknowledged before me this 5th day of September, 2013, by Diana Shoemaker, as Executive Director, (Title), on behalf of the corporation identified herein as Developer and who is personally known to me or who has produced _____ (Type of Identification) as identification.



Carolyn B. Hager
 Notary Public
 CAROLYN B. HAGER
 Print Name of Notary

Approved and accepted for and on behalf of Manatee County, Florida, this 24 day of September, 2013

**BOARD OF COUNTY COMMISSIONERS
 OF MANATEE COUNTY, FLORIDA**
 BY: Larry Sustis
 Chairman

ATTEST: R. B. Shore (Deputy Clerk)
 R. B. Shore, Clerk of the Circuit Court



ACCEPTED IN OPEN SESSION 9/24/13
BOARD OF COUNTY COMMISSIONERS, MANATEE COUNTY

VERIFICATION CERTIFICATE

SURETY: Lexon Insurance Company

PRINCIPAL: Manatee County Habitat for Humanity

OBLIGEE: Manatee County

DESCRIPTION: Cortez Landings Subdivision

BOND NUMBER: 1014070

BOND AMOUNT: \$157,953.59

EFFECTIVE DATE: February 27, 2006

This Verification Certification is necessary to certify that the Surety has not terminated its suretyship under the above described bond and that such bond according to Surety's records is still in full force and effect.

Signed and Sealed this 26th day of August, 2013

LEXON INSURANCE COMPANY

By: [Signature]
Print Name: Craig Sherman
Its: Attorney-in-Fact

STATE OF ILLINOIS
COUNTY OF COOK

The foregoing instrument was subscribed and sworn to before me this 26th day of August, 2013, by Craig Sherman, as Attorney-in-Fact of Lexon Insurance Company,

personally known to me
 who produced Driver's License
(type of identification)

as identification and who acknowledged to and before me that he/she executed the same freely and voluntarily for the purposes therein expressed, for and on behalf of said company.

My Commission expires:

[Signature]
Signature
Karen Genoff
Print Name
NOTARY PUBLIC
Commission No. 297992



POWER OF ATTORNEY

LX - 125721

Lexon Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that LEXON INSURANCE COMPANY, a Texas Corporation, with its principal office in Louisville, Kentucky, does hereby constitute and appoint: Ted Sherman, Craig Sherman, Judy Blaigne, Karen Genoff *****

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 \$2,500,000.00, Two-million five hundred thousand 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 21st day of September, 2009.



LEXON INSURANCE COMPANY

BY [Signature] David E. Campbell President

ACKNOWLEDGEMENT

On this 21st day of September, 2009, before me, personally came David E. Campbell to me known, who being 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.

OFFICIAL SEAL MAUREEN K. AYE Notary Public, State of Illinois My Commission Expires 09/21/13

[Signature] Maureen K. Aye 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 foregoing 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 Sealed at Woodridge, Illinois this 26th Day of August, 2013



[Signature] Philip G. Lauer Assistant Secretary

WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files an application for insurance or statement 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.