

**SUBSTITUTE ASSURANCE AGREEMENT FOR  
CONSTRUCTION OF SUBDIVISION IMPROVEMENTS**

(Letter of Credit)

P12-\_\_\_\_-

THIS AGREEMENT is made and entered into by and between \_\_\_\_\_

\_\_\_\_\_  
("Subdivider") and Pima County, Arizona ("County").

**1. RECITALS**

1.1. Subdivider is the owner of land ("the Land") located in Pima County, Arizona and described in paragraph 2.1 of this agreement.

1.2. County and Subdivider wish to establish specific terms, conditions, and guidelines relating to the subdivision of the Land and construction of related improvements to comply with A.R.S. ' 11-806.01.

1.3. Upon execution by all parties, this agreement is intended to be substituted in place of the assurance agreement entered into between the parties on \_\_\_\_\_.

**2. AGREEMENT**

Based on the foregoing recitals, which are incorporated here as the intent of the parties, and in consideration of County's approval of a final plat for the Land, County and Subdivider agree as follows:

2.1. *Property Description.* The Land is all of the real property which is the subject of the subdivision plat ("the Subdivision Plat") identified as \_\_\_\_\_

\_\_\_\_\_,  
recorded in Book \_\_\_\_\_ of Maps and Plats at Page \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the Office of the Pima County Recorder.

2.2. *Construction of Subdivision Improvements.* As a condition of subdivision approval, Subdivider hereby agrees to construct all subdivision improvements ("the Subdivision Improvements") contemplated by the Subdivision Plat, including but not limited to streets, sanitary sewers (if necessary), water and electric utilities, drainage and flood control improvements.

2.3. *Existing Utilities.* Any relocation or modification of existing utilities or public improvements required in order to construct the Subdivision Improvements shall be done at no expense to the public.

2.4. *Assurance of Construction.* This agreement is submitted as an assurance that Subdivider will construct the Subdivision Improvements, as required by A.R.S. ' 11-806.01 and Pima County Zoning Code Chapter 18.69.

2.5. *Tender of Letter of Credit.* Subdivider tenders to County with this agreement an irrevocable letter of credit ("the Letter of Credit") issued by \_\_\_\_\_ ("Bank").

2.6. *Provisions of the Letter of Credit.* The face amount of the Letter of Credit issued by Bank pursuant to this agreement shall be \$ \_\_\_\_\_, which is County's estimate of the total cost to perform Subdivider's obligations under paragraphs 2.2 and 2.3. The Letter of Credit shall specifically adopt by reference all of the terms of this agreement.

2.7. *Start of Construction.* Subdivider shall begin construction of the Subdivision Improvements within six months of the date of this agreement.

2.8. *Diligence.* Subdivider shall diligently pursue construction of the Subdivision Improvements. The determination of whether Subdivider is diligently pursuing construction of the Subdivision Improvements shall be made by County. Subdivider's failure to do substantial work on the Subdivision Improvements for a period of thirty consecutive calendar days shall be presumptive evidence that Subdivider is failing to diligently pursue construction of the Subdivision Improvements.

2.9. *Substitution of Assurances.* Subdivider may submit substitute assurances in a form and amount acceptable to County at any time during which Subdivider is not in default under this agreement.

2.10. *Completion of the Subdivision Improvements.* Subdivider shall complete the construction of the Subdivision Improvements not less than thirty days before the expiration of the Letter of Credit or any extension of the Letter of Credit. The Subdivision Improvements shall not be considered completed until after they have been constructed in accordance with all applicable plans and after County has inspected them and finds them to be in compliance with the plans.

2.11. *Acceptance of the Subdivision Improvements.* County shall not accept maintenance responsibility for any of the Subdivision Improvements unless and until all of the following have occurred:

- A. They have been completed in accordance with paragraph 2.10.

B. They have been dedicated to County by the Subdivision Plat or by some other instrument of record.

C. The dedication has been accepted by the Pima County Board of Supervisors as evidenced by approval of the dedication on the Subdivision Plat or by some other formal action.

2.12. *Withdrawal of Funds.* If County determines that Subdivider has failed to comply with the terms of this agreement, County may apply to Bank and draw upon the Letter of Credit in an amount necessary to perform Subdivider's obligations under this agreement.

2.13. *County's Option to Re-Plat Upon Default.* At County's sole option, if Subdivider defaults in its obligations under this agreement, County may re-plat all or a portion of the Land for the purpose of returning the portions of Land which are the subject of the re-plat to approximately the same boundary configurations of record which existed before the recording of the Subdivision Plat. Subdivider hereby authorizes County to execute on behalf of Subdivider the re-plat described in this section. The re-plat may exclude any dedications to the public which were made on the Subdivision Plat which are deemed necessary to serve either portions of the Land which are not re-platted, or to serve the public. Subdivider shall pay the reasonable costs incurred in re-platting. County may use some or all of the proceeds of the Letter of Credit to pay for the re-plat. First class mailed notice to the last known address of Subdivider shall be given not less than thirty days before County exercises its option to re-plat under this paragraph.

2.14. *Incorporation and Annexation.* If the Land is incorporated as or annexed by a city or town, the city or town shall automatically succeed to all benefits and duties of County under this agreement.

2.15. *Termination.* This agreement shall remain in full force and effect until one of the following has occurred:

A. The Subdivision Improvements have been completed and accepted by County in accordance with paragraph 2.10 of this agreement; or

B. A new subdivision plat has been recorded for the Land in compliance with any and all applicable laws and regulations; or

C. A substitute assurance agreement has been executed by and between Subdivider and County in accordance with paragraph 2.9.

2.16. *Effective Date.* This agreement is effective on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which is the date of approval of this agreement by the Pima County Subdivision Coordinator.

PIMA COUNTY, ARIZONA

SUBDIVIDER:

\_\_\_\_\_  
Pima County Subdivision Coordinator

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

STATE OF ARIZONA        )  
County of Pima            ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as/for Pima County Subdivision Coordinator.

\_\_\_\_\_  
Notary Public

My Commission Expires:

STATE OF ARIZONA        )  
County of Pima            ) ss.

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ of \_\_\_\_\_

\_\_\_\_\_  
("Subdivider"), a \_\_\_\_\_ corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires: