

RESOLUTION NO. 2341

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING THE FINAL PLAT AND APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT TO CONSTRUCT SUBDIVISION IMPROVEMENTS FOR CEDAR RIDGE PHASE 3 SUBDIVISION.

WHEREAS, the subdivision plat for Cedar Ridge Phase 3 Subdivision has been presented for approval; and

WHEREAS, the developer desires to proceed with construction of the improvements in Cedar Ridge Phase 3 Subdivision; and

WHEREAS, the Town has negotiated an Agreement to Construct Subdivision Improvements with the developer of Cedar Ridge Phase 3 Subdivision requiring the posting of assurances that such improvements will be constructed,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the final plat for Cedar Ridge Phase 3 Subdivision be and is hereby approved as depicted on Exhibit "1" attached hereto and incorporated herein, subject to the conditions, requirements, and notes written thereon or otherwise imposed. Approval of the final plat pursuant to this Resolution Number 2341 is contingent upon the recording of the final plat in the Office of the Gila County Recorder within six (6) months of the approval of this Resolution. If the final plat is not recorded within such time period, final plat approval shall be rescinded with no further action and the final plat shall lapse and be of no further effect.

Section 2. That the Agreement to Construct Subdivision Improvements, attached hereto as Exhibit "2" and incorporated herein as though set forth in full at this point, be and is hereby approved in substantially the form as set forth in said Exhibit "2".

Section 3. That F. Robert Edwards, Mayor of the Town of Payson, be and is hereby authorized to execute such Agreement in substantially the form attached.

Section 4. That the Town of Payson be and hereby is authorized to take such other and further actions as are necessary or appropriate to carrying out the purposes of such Agreement.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2007, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

APPROVED AS TO FORM:

ATTEST.

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

FINAL PLAT FOR CEDAR RIDGE PHASE 3

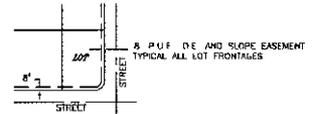
A Resubdivision of Tract "D" of Cedar Ridge Phase 2, Map 756A&B GCR
Located in a portion of HES No 611, being embraced by Sections 31 and 32,
Township 11 North, Range 10 East of the Gila and Salt River Meridian, Town of Payson, Arizona

GENERAL NOTES

- 1) A DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CEDAR RIDGE PHASE 3 WILL BE PROVIDED BY THE DEVELOPER
- 2) THIS SITE WILL INCLUDE STORM WATER CONVEYANCES. THE CEDAR RIDGE PHASE 3 PROPERTY OWNERS ARE RESPONSIBLE FOR ALL REQUIRED MAINTENANCE OF THOSE DRAINAGE CONVEYANCES ON PRIVATE PROPERTY. THE TOWN OF PAYSON OR OTHER PUBLIC AGENCIES HAVING JURISDICTION POSSESS RIGHT OF ACCESS FOR CLEANING, CLEARING OR CHANNELIZING IF NOT PROPERLY MAINTAINED BY THE PROPERTY OWNERS. ALL FUNDS EXPENDED FOR THIS MAINTENANCE BY THE TOWN OF PAYSON WILL BE CHARGED TO THE INDIVIDUAL PROPERTY OWNERS.
- 3) NO LOT IN THIS SUBDIVISION MAY BE DIVIDED AND NOT MORE THAN ONE SINGLE FAMILY RESIDENTIAL STRUCTURE MAY BE CONSTRUCTED ON EACH LOT WITHIN THIS SUBDIVISION.
- 4) ALL ROADWAYS IN THIS SUBDIVISION, INCLUDING CHENNAULT, ARE TO BE ROADWAYS ONLY WITH NO AIRCRAFT ACCESS.
- 5) AN AVIATION EASEMENT IS HEREBY GRANTED OVER ALL LOTS AND STREETS WITHIN THIS SUBDIVISION THAT ALLOWS EXCESS AIRCRAFT NOISE ON ALL PROPERTIES, ALLOWS FOR THE PASSAGE OF LOW FLYING AIRCRAFT OVER THE PROPERTIES, AND PROHIBITS THE CONSTRUCTION OF ANY ITEM THAT MAY INHIBIT THE SAFE OPERATION OF AIRCRAFT ABOVE THE PROPERTIES.
- 6) ALL LOTS AND TRACT CORNERS ARE MARKED WITH A 1/2" REBAR WITH BRASS TAG STAMPED L.S.#23955.
- 7) ALL LOTS IN THIS SUBDIVISION ARE NEAR AN INDUSTRIAL SUBDIVISION AND MAY BE SUBJECT TO NOISE NORMALLY ARISING FROM INDUSTRIAL ACTIVITIES.

SUBDIVIDERS

JEFF and DEBRA VAUGHN CHRIS and GINA PERKES
HC 3 BOX 618 HC4 BOX 3L
PAYSON, ARIZONA 85541 PAYSON, ARIZONA 85541
(928) 472-8558



TYPICAL PUBLIC UTILITY, DRAINAGE, AND SLOPE EASEMENT

DEDICATION

STATE OF ARIZONA }
COUNTY OF GILA } SS
KNOW ALL MEN BY THESE PRESENTS:

JEFFREY L. VAUGHN AND DEBRA L. VAUGHN, HUSBAND AND WIFE, AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP AS TO AN UNDIVIDED 1/2 INTEREST AND CHRIS PERKES AND GINA PERKES, HUSBAND AND WIFE AS COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP AS TO AN UNDIVIDED 1/2 INTEREST HAVE REASONABLY TRUSTED D OF CEDAR RIDGE PHASE TWO UNDER THE NAME OF CEDAR RIDGE PHASE 3, A PORTION OF H.E.S. NO 611, BEING A PORTION OF SECTIONS 31 AND 32, T.11 N., R. 10 E., GILA COUNTY, ARIZONA, AND HEREBY PUBLICISE THIS PLAT AS AND FOR THE PLAT OF SAID CEDAR RIDGE PHASE 3 AND HEREBY DECLARE THAT SAID PLAT SETS FORTH THE LOCATION AND ONES THE MEASUREMENTS AND DIMENSIONS OF THE LOTS AND STREETS CONSTITUTING SAME AND THAT EACH LOT AND EACH STREET SHALL BE KNOWN BY THE NUMBER OR NAME THAT IS GIVEN TO EACH RESPECTIVELY ON SAID PLAT AND HEREBY DEDICATES TO THE TOWN OF PAYSON FOR USE AS SUCH THE STREETS ON SAID PLAT AND INCLUDED IN THE ABOVE DESCRIBED PREMISES. EASEMENTS ARE HEREBY RESERVED FOR THE PURPOSE SHOWN HEREON. CONSTRUCTION WITHIN EASEMENTS, EXCEPT BY PUBLIC AGENCIES AND UTILITY COMPANIES SHALL BE LIMITED TO UTILITIES AND WOOD WIRE OR REMOVABLE SECTION TYPE FENCING.

IN WITNESS WHEREOF:
THE AFORESAID PROPERTY OWNERS HAVE HEREUNTO CAUSED THEIR NAMES TO BE AFFIXED TO THE DOCUMENT

JEFFREY L. VAUGHN DATE DEBRA L. VAUGHN DATE
CHRIS PERKES DATE GINA PERKES DATE

ACKNOWLEDGMENT

STATE OF ARIZONA }
COUNTY OF GILA } SS
THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____ 2007 BY JEFFREY L. AND DEBRA L. VAUGHN, CHRIS PERKES AND GINA PERKES IN WITNESS WHEREOF I HEREBY SET MY HAND AND OFFICIAL SEAL.

NOTARY PUBLIC
MY COMMISSION EXPIRES _____

CERTIFICATION

THIS IS TO CERTIFY THAT THIS SURVEY WAS PERFORMED UNDER MY SUPERVISION DURING THE MONTH OF JANUARY 2005 AND THAT ALL MONUMENTS ARE CORRECTLY IDENTIFIED



APPROVAL

APPROVED BY THE COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, THIS _____ DAY OF _____ 2007

BY _____ MAYOR TOWN OF PAYSON, ARIZONA

ATTEST _____ TOWN CLERK

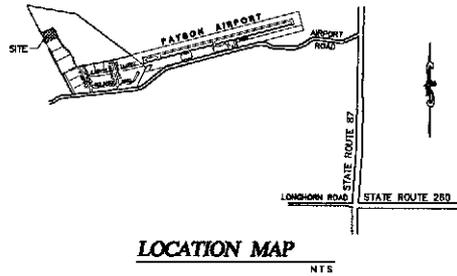
APPROVED BY THE TOWN ENGINEER OF THE TOWN OF PAYSON, ARIZONA, THIS _____ DAY OF _____ 2007

SUBSTANTIALLY CONFORMS TO PRELIMINARY PLAT ENGINEERING PLANS COMPLY WITH THE SUBDIVISION REQUIREMENTS

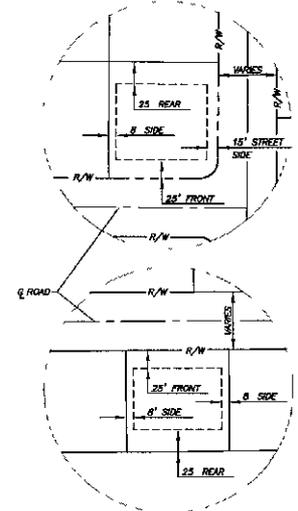
BY _____ TOWN ENGINEER

LEGEND

- FOUND 1/2" IRON PIPE UNLESS OTHERWISE NOTED
- FOUND BRASS CAP STAMPED TOWN OF PAYSON
- SET 1/2" REBAR W/ BRASS TAG STAMPED LS #23955
- SURVEY MONUMENT
- (R) RECORDED INFORMATION
- (M) MEASURED INFORMATION
- BOUNDARY LINE
- RIGHT OF WAY LINE
- CENTER LINE
- LOT LINE
- BUILDING SETBACK LINE
- EASEMENT LINE
- 307-21-036P ASSESSOR'S PARCEL NO
- D.E DRAINAGE EASEMENT
- N.V.A.F NON VEHICULAR ACCESS EASEMENT
- P.U.E PUBLIC UTILITY EASEMENT



LOCATION MAP



TYPICAL R1-12 LOT SETBACKS

BENCH MARK

BENCHMARK =
TOP OF 1/2" REBAR 11' SOUTH OF THE RIGHT-OF-WAY
● THE RETURN OF EYEBROW ON MOONEY PARKWAY ON LOT 5
ELEVATION = 5080.91 FEET
(NOT SHOWN)

BASIS OF BEARINGS

BASIS OF BEARING =
THE LINE BETWEEN CORNER NO. 1 AND CORNER NO. 2
OF H.E.S. 611
BEING N 26°50'00" W
(SHOWN)

SHEET INDEX

DESCRIPTION	
1-2 COVER SHEET	
2-2 FINAL PLAT	



Project No 6149 0008



EXHIBIT 1 TO RESOLUTION 2341

WHEN RECORDED, RETURN TO:

**Samuel I. Streichman, Town Attorney
Town of Payson Legal Department
303L North Beeline Highway
Payson, Arizona 85541
Phone: 928-474-5242, ext. 208**

AGREEMENT TO CONSTRUCT SUBDIVISION IMPROVEMENTS

Cedar Ridge Phase 3 Subdivision, Payson, Arizona

THIS AGREEMENT is made and entered into this _____ day of _____, 2007, by and between Jeffrey L Vaughn and Debra L. Vaughn, husband and wife ("Subdivider"), and the Town of Payson, an Arizona municipal corporation ("Town") (collectively, the "Parties"). The Parties hereby confirm and agree as follows:

RECITALS

- A. Subdivider intends to subdivide and develop the property located in Payson, Arizona, more fully described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"), identified as "Cedar Ridge Phase 3" (the "Subdivision"), and
- B. The Parties to this Agreement wish to establish specific terms, conditions, and guidelines to provide for assurances for the completion of the required subdivision improvements in the Subdivision in compliance with the provisions of A.R.S. § 9-463.01(C)(8) and Articles 15-2 and 15-4 of the Payson Town Code; and
- C. The Town seeks to protect the health, safety, and general welfare of the community by requiring the completion of various improvements in the Subdivision and thereby to limit the harmful effects of substandard subdivision, including premature subdivision, which leaves property undeveloped and unproductive; and
- D. This Agreement inures to the benefit of the Parties and is not executed for the benefit of third parties, such as, but not limited to, materialmen, laborers, or others providing work, services, or materials for the Subdivision, or for the benefit of lot or home purchasers in the Subdivision.

AGREEMENT

NOW, THEREFORE, based on the foregoing and in consideration of the Town approving a Final Plat (the "Subdivision Plat") for the Property, the Parties agree as follows:

1. Construction of Subdivision Improvements Subdivider hereby agrees to construct and install, at its own expense, all subdivision improvements for the Property as described in Exhibit "B" attached hereto and incorporated herein by this reference (the "Improvements"). The Subdivider's obligation to complete the Improvements will arise as of the date of this Agreement (the "Start Date"); provided, however, that such Subdivision improvements may be constructed and installed in phases as provided for in this Agreement. The Subdivider's obligation to complete the Improvements is independent of any obligations of the Town contained herein and is not conditioned on the sale of any lots or improvement within the development.
2. Existing Utilities. Any relocation or modification of existing utilities or public improvements to construct the Improvements shall be done at no expense to the public.
3. Assurance of Construction. This Agreement is submitted as an assurance that Subdivider will construct the Improvements as required by A.R.S. § 9-463.01(C)(8) and the Payson Town Code.
4. Start of Construction. Subdivider shall begin construction of the Improvements within six (6) months of the date of the Start Date, and will diligently pursue completion of the Improvements. Subdivider's failure to do substantial work on the Improvements for a period of sixty (60) consecutive calendar days shall be presumptive evidence that Subdivider is failing to diligently pursue construction of the Improvements
5. Completion of Improvements The Improvements shall be completed by the Subdivider not more than two (2) years after the Start Date. The Improvements shall not be considered completed unless and until such Improvements have been completed in accordance with all applicable plans which have been approved by the Town and Town regulations, and after the Town has inspected them for compliance with the plans and regulations and has accepted the Improvements in accordance with paragraph 6 herein below. The period for completion of the Improvements may be extended for good cause shown at the discretion of the Town of Payson or its designated representative.
6. Acceptance of Improvements. The Town shall not accept the Improvements or accept maintenance responsibility for the Improvements, nor shall the Improvements be deemed accepted unless and until all of the following have occurred:
 - (a) The Improvements have been completed in accordance with Paragraph 5 of this Agreement.
 - (b) The Improvements and the right-of-way in which the Improvements are located has been dedicated or conveyed to the Town in accordance with the Subdivision Plat or separate instrument, as applicable.
 - (c) The dedication or conveyance, as applicable, has been accepted by the Town as

evidenced by the approval of the Subdivision Plat or by some other formal action.

(d) The Town Council will act to accept the Improvements as built. The Parties anticipate that each portion of the Improvements will be given a preliminary acceptance by the Town or its inspector; however, the Parties understand and acknowledge that no such preliminary acceptance shall be effective as a final acceptance until each of the requirements of this section, including approval by the Payson Town Council, has occurred. The Parties further understand that it shall be the sole responsibility of Subdivider to repair any Improvements which are damaged, fall into disrepair, or are defective prior to acceptance of such Improvements by the Payson Town Council and/or the termination of the warranty period.

(e) The Town shall not give final acceptance for the Improvements nor shall such Improvements be deemed accepted until Subdivider's contractor(s) has(have) been paid in full and has(have) furnished complete lien releases to Subdivider, who shall provide the Town with copies of such complete lien releases.

7. Warranty. The Subdivider warrants that the Improvements, each and every one of them, will be free from defects for a period of two years from the date that the Town Council accepts the maintenance of the last Improvement completed by the Subdivider.

8. Security To secure performance of its obligations to construct the Improvements under this Agreement, Subdivider shall provide a surety bond acceptable to the Town, such bond to be executed solely by a surety company or companies holding a certificate of authority to transact surety business in the State of Arizona, issued by the Director of the Department of Insurance, pursuant to Title 20, Chapter 2, Article 1, Arizona Revised Statutes. The bond shall not be executed by an individual surety or sureties and shall be conditioned upon the faithful performance of this Agreement in accordance with the plans, specifications and conditions hereof and of the Final Plat and of any conditions of any zoning change applicable to the Subdivision. Said surety bond shall be in the amount of Two Hundred Forty Nine Thousand Six Hundred Sixty Nine Dollars and Eighty Five Cents (\$249,669 85), which is the amount equal to the Engineer's Estimate of total costs to perform Subdivider's obligations under this Agreement, and an additional ten percent (10%) of such sum, and the inspection fees provided for herein. This amount may be increased from time to time on request of the Town based upon change orders issued for additional compensated work to construct and install the Improvements, provided that the change order and the amount of the increase in cost resulting therefrom has been approved in writing by Lender. Subdivider agrees that if this Agreement is terminated for any reason before the completion of all Improvements required under this Agreement, Subdivider shall tender to the Town (1) monetary assurances in an amount equal to the Town's estimate of the total cost to complete the Improvements, or (2) other assurances acceptable to the Town. Subdivider and Town agree that the sum referenced above will be used only for the purpose of installing the Improvements as provided in this Agreement. Such surety bond shall be provided within thirty (30) days of the execution of this Agreement.

In order to further secure performance of its obligations under this Agreement, and to provide for the acceptability of the Improvements constructed hereunder, Subdivider shall pay to the Town the greater of the amount equal to three percent (3%) of the amount of the Public Works Engineer's estimate of the cost of the Improvements or the actual cost to the Town of Payson for inspection of the construction of the Improvements. Subdivider shall additionally, at its sole cost, provide for all tests required by the Town of Payson and shall provide the results of all such tests, free of charge, to the Town of Payson. Concurrently with the surety bond referred

to in this paragraph 8 or the execution of this Agreement, whichever last occurs, Subdivider shall pay over to the Town of Payson, as a deposit against such construction inspection, a sum equal to three percent (3%) of the Public Works Engineer's estimate, excluding any amount for construction of sewer collection facilities.

In the event that such surety bond is not established in the amount required pursuant to this paragraph 8, Subdivider shall provide additional security in cash or other form acceptable to the Town equal to such amount prior to commencing or continuing construction of the Improvements.

9. Retention. The additional ten percent (10%) of funds provided for in paragraph 8 herein shall be released upon the final release of assurances by the Town. Such amount represents a retention in the event of a default by Subdivider to provide additional funds for completion of the Improvements by the Town. Additionally, the Town at the request of the Subdivider may cause to be retained 10% of the construction invoices to assure compliance by a contractor with that contractor's responsibilities.
10. Limitation on Transfer of Title. Subdivider shall not convey title to any of the Property without obtaining prior written approval from Town in the form of a Release of Assurance. Subdivider specifically understands and agrees that a Release of Assurance shall not be provided by Town until the Subdivision Improvements are completed in accordance with Paragraph 5.
11. Deposit Receipt Agreements. Notwithstanding Paragraph 11, Subdivider may enter into a deposit receipt agreement for the sale of the Property or any portion of it if the agreement clearly states that no portion of the Property may be conveyed until Subdivider performs its obligations under this agreement.
12. Bulk Sales. Notwithstanding Paragraph 11, Subdivider may sell and convey all of the Property in one transaction to a single purchaser who has entered into a satisfactory assurance agreement with Town, assuring completion of the Subdivision Improvements.
13. Building Permits Subdivider may seek and Town may issue building permits for the lots contained within each construction phase after the portion of the improvements relating to each construction phase, as determined in the sole discretion of the Public Works Engineer of the Town, is commenced. To facilitate the construction of the Subdivision in phases, the Town may inspect and issue preliminary approval for the improvements constructed in each construction phase, but in no event shall any such preliminary approval be deemed or recognized as waiving, forgiving, or superseding the requirements of paragraph 5 hereinabove. Subdivider understands and expressly agrees that Subdivider will not transfer title to any lot in any construction phase in the Subdivision prior to the time that the Subdivision Improvements for that phase are approved for construction, commenced and pursued with diligence in accordance with paragraph 5 hereinabove.
14. Substitution of Assurances Subdivider may submit substitute assurances in a form and amount acceptable to Town at any time during which Subdivider is not in default under this agreement.
15. Town's Option Upon Default. If Subdivider defaults on any of its obligations under this Agreement or fails to complete construction of the Improvements within the time period required by this Agreement, the Parties agree that, in addition to any other remedies the Town may have against the Subdivider for failure to perform as required under this Agreement, the Town shall

have and is hereby granted the rights, at its sole discretion, to (1) to withhold the granting of any permit for grading or construction on any of the real property shown on Exhibit "A", or (2) to initiate a process to replat to acreage any portion of the Property that has not been identified as a construction phase or upon which construction of Subdivision improvements has not been completed. The Subdivider hereby authorizes the Town to execute on behalf of the Subdivider all documents necessary to so replat the Property, and appoints the Town as its agent and attorney in fact to do so. The replat may exclude any dedications to the public which were made on the Subdivision Plat or by separate instrument which are deemed necessary to serve the portions of the Property which are not replatted or to necessarily serve the public. Subdivider shall pay the reasonable costs incurred in replatting. The Town may use some or all of the aforesaid Assurance Agreement trust and other assurance funds to pay for the replatting of the Property. Prior to initiating any action to replat the Property or any portion of Property, the Town shall give forty-five (45) days first-class mailed notice to the Subdivider at its last known address and Subdivider shall have an opportunity to cure any such defaults within such period. In addition, if Subdivider defaults on its obligations under this Agreement or fails to complete construction of the Improvements within the time period required by this Agreement, and, after notice and opportunity to cure, defaults as provided in this paragraph, the Parties agree that, without election and in addition to any other remedies the Town may have against the Subdivider for failure to perform as required under this Agreement, the Town may make claim against the surety bond procured under paragraph 8 hereinabove and receive and use said funds to complete construction of the Improvements. In this connection, the Town shall have sole discretion in determining a default under this Agreement, which discretion the Town may exercise in any manner, whether or not the exercise of such discretion is fair or reasonable under the circumstances. . Subdivider shall not transfer title to any of the property in the Subdivision at any time after Subdivider commits a default upon any of its obligations under this Agreement.

16. **Termination.** This Agreement shall remain in full force and effect until one of the following has occurred:
- a) All of the Improvements have been completed and accepted for maintenance by action of the Town Council and Subdivider's contractor(s) has(have) been paid in full and furnished complete lien releases to the Subdivider, who shall provide the Town with copies of such complete lien releases.
 - b) The Subdivider has tendered substitute assurances acceptable to the Town for the completion of the Improvements
 - c) A new Subdivision Plat has been recorded for the Property in compliance with any and all applicable laws and regulations.
17. **Binding Effect** This Agreement shall be binding upon the Parties and their respective successors and assigns.
18. **Severability.** If any portion of this Agreement is found to be invalid, such finding will not affect the validity of the remainder of this Agreement and to this end the provisions of this Agreement are severable.

19. No Waiver. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed to be a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the Town and the Subdivider, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default of the same type. The Town's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Subdivider.
20. Notice. The Subdivider agrees to provide written notice to the Town, within ten (10) days of the occurrence of (1) a change of name, corporate identity, or address of the Subdivider or the Escrow Agent, (2) intent to transfer, or transfer of title to the Property by deed, or transfer of title to the Property by deed, contract, or operation of law; (3) the foreclosure of a lien against the Property or a portion of the Property, (4) the filing of a voluntary or involuntary petition of bankruptcy respecting the Subdivider; (5) any other event that may affect performance of the Parties under this Agreement.

21. Address of the Parties

Subdivider: Jeffrey L. Vaughn and Debra L. Vaughn
Box 618
Payson, Arizona 85547

Town: Town of Payson
303 North Beeline Highway
Payson, Arizona 85541
Attention: Public Works Engineer

22. Date of Agreement. The date of this Agreement shall for all purposes be the date of the signature of the last Party to sign this Agreement.
23. Controlling Law This Agreement and the rights of the Parties hereto shall be governed by and construed in accordance with the internal laws of the State of Arizona without regard to conflicts of laws principles.
24. Authority. The Parties acknowledge and warrant that each of them is fully authorized and empowered to execute this Agreement by and through the individual(s) executing hereinafter.
25. Further Documents. The Parties shall execute and deliver any and all such documents and perform any and all such acts as are reasonably necessary or required to carry out the matters contemplated by this Agreement
26. Representations. Each of the Parties acknowledges and warrants that it has been, or has had an opportunity to be, represented by independent counsel. This Agreement is the result of negotiation between the Parties and their respective attorneys, and the terms, conditions, and provisions of this Agreement shall be construed in a fair and even manner regardless of which Party drafted this Agreement or any provision or portion thereof.

27. Counterparts This Agreement may be executed in one or more counterparts. Each executed
Cedar Ridge Phase 2 Subdivision
Agreement to Construct Subdivision Improvements

counterpart shall for all purposes be deemed an original, but all of which together shall constitute in the aggregate but one in the same instrument. The signature pages from one or more counterparts may be removed therefrom and attached to one or more duplicate agreements containing all original signatures.

28. Date of Performance. If this Agreement provides that any time period expires or date for performance specified in this Agreement falls on a non-business day (a Saturday, Sunday, or legal holiday recognized by the Town), such time period or performance deadline shall be extended to the Town's next business day. Except as may otherwise be set forth herein, any performance shall be timely made and completed no later than 5:00 p.m. (Payson time) on the date the performance is due.
29. Complete Agreement. This Agreement and additional written agreements described or incorporated herein, if any, contain and set forth the entire and exclusive Agreement and understanding between the Parties hereto pertaining to the subject matter of this Agreement and reflect the reasonable expectations of the Parties hereto. This Agreement may not be amended or modified in any way whatsoever without the prior written consent of all Parties to this Agreement.
30. Dispute Resolution. Any dispute, controversy, claim, or cause of action arising out of or related to this Agreement shall be governed by Arizona law and may, but in no event need, be settled by submission with the consent of both Parties to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, et seq., and judgment upon any award rendered by the arbitrator(s) may be entered in the Superior Court of Gila County; or any such dispute, controversy, claim, or cause of action may be litigated in a court. The venue for any such dispute shall be Gila County, Arizona. Both Parties consent in advance to such venue and jurisdiction and waive any right to object that Gila County is an inconvenient or improper forum based upon lack of venue. Neither Party shall be entitled to recover from the other Party any of its attorneys' fees or other costs incurred in any such dispute, controversy, claim, or cause of action, but each Party shall bear its own attorneys' fees, whether the same is resolved through arbitration, litigation in a court, or otherwise.
31. Cancellation. This Agreement is subject to the provisions of A.R.S. § 38-511, the terms of which are incorporated herein by reference. Said statute provides, among other things, that if any person significantly involved in initiating, negotiating, securing, drafting, or creating this Agreement is an employee or agent of any other Party to the contract, at any time while this Agreement or any extension hereof is in effect, this Agreement may be cancelled.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above mentioned

SUBDIVIDER:

TOWN OF PAYSON,
an Arizona municipal corporation.

Jeffrey L. Vaughn

By _____
F. Robert Edwards, Mayor

ATTEST.

Debra L. Vaughn

By _____
Silvia Smith, Town Clerk

.....

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APPROVAL AS TO FORM

The Town of Payson Legal Department has reviewed this agreement and approved it as to form and has determined that said agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

Dated this ____ day of _____, 2007

By _____
Samuel I. Streichman, Town Attorney

STATE OF ARIZONA)
) ss.
County of Gila)

The foregoing Agreement to Construct Subdivision Improvements was signed before me this ____
_ day of _____, 2007, by Jeffrey L. Vaughn.

Notary Public

My commission expires.

STATE OF ARIZONA)
) ss.
County of Gila)

The foregoing Agreement to Construct Subdivision Improvements was signed before me this ____
_ day of _____, 2007, by Debra L. Vaughn.

Notary Public

My commission expires.

STATE OF ARIZONA)
) ss.
County of Gila)

The foregoing Agreement to Construct Subdivision Improvements was signed before me this ____ day of _____, 2007, by F.Robert Edwards, Mayor of the Town of Payson, on behalf of the Town.

Notary Public

My commission expires:

*Prepared by Town of Payson Legal Department
October 23 2007 (3 13pm) SIS drs
C:\agmnttoconstructcedarridgephase3bond.wpd*

EXHIBIT "A"
LEGAL DESCRIPTION

Those lots and tracts as shown on Cedar Ridge Phase 3 Subdivision Plat recorded on _____, 2007, as Map Number _____, in the Office of the Gila County Recorder, Gila County, Arizona.

**EXHIBIT “B”
IMPROVEMENTS**

Those improvements as shown on the “Cedar Ridge Phase 3 Improvement Plans”
consisting of eight (8) sheets dated October 4, 2007, and approved by the Town of Payson
on _____, 2007.