

**ASSURANCE AGREEMENT FOR
CONSTRUCTION OF SUBDIVISION IMPROVEMENTS**
(Third Party Trust)
P12-06-027

THIS AGREEMENT is made and entered into by and between SANTA RITA RANCH III, L.L.C., a Delaware limited liability company ("Subdivider"), FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation ("Trustee"), as trustee under Trust No. 9316; and Pima County, Arizona ("County").

1. RECITALS

1.1. Subdivider is the beneficiary and Trustee is the trustee of a trust which owns land ("the Land") located in Pima County, Arizona and described in paragraph 2.1 of this agreement.

1.2. County, Subdivider and Trustee 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. § 11-821.

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, Subdivider and Trustee 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 SANTA RITA RANCH III, Lots 1-275, and Common Areas "A" (Drainage/Recreation/Functional Open Space) and Common Area "B" (Natural Open Space) recorded in Fee# _____ on the ____ day of _____, 2013, 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, and parks, trails or other recreational facilities.

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. Subdividers performance of this requirement shall be considered in determining whether to release assurances under paragraphs 2.5 and 2.6.

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. *Limitation on Transfer of Title.* Trustee shall not convey title to any of the Land without obtaining prior written approval from County in the form of a Release of Assurance. A Release of Assurance shall not be provided by County until the Subdivision Improvements are completed in accordance with paragraph 2.11.

2.6. *Partial Release of Assurances.* County shall issue a Release of Assurance for some of the lots depicted on the Subdivision Plat if both of the following have occurred:

A. All of the Subdivision Improvements required in connection with the released lots have been completed in accordance with paragraph 2.11, and

B. County finds that the released lots and the Subdivision Improvements required in connection with them can be used and maintained separately from the Subdivision Improvements not yet completed in accordance with paragraph 2.11.

2.7. *Deposit Receipt Agreements.* Notwithstanding paragraph 2.5, Trustee may enter into a deposit receipt agreement for the sale of the Land or any portion of it if the agreement clearly states that no portion of the Land shall be conveyed until Subdivider performs its obligations under this agreement.

2.8. *Bulk Sales.* Notwithstanding paragraph 2.5, Trustee may sell and convey all of the Land in one transaction to a single purchaser who has entered into a satisfactory assurance agreement with County, assuring completion of the Subdivision Improvements.

2.9. *Conveyance Out of Trust for the Purpose of Encumbrance.* Notwithstanding paragraph 2.5, Trustee may convey all or part of the Land to the Subdivider for the sole purpose of encumbering the Land by the recording of mortgages or deeds of trust, provided that the Land is thereafter immediately reconveyed into the trust.

2.10. *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.

2.11. *Completion of the Subdivision Improvements.* The Subdivision Improvements shall be completed by Subdivider not more than four years after the date of this agreement. 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.

2.12. *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 2.11.
- 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.

2.13. *County's Option to Re-Plat Upon Default.* At County's sole option, if Subdivider or Trustee 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. First class mailed notice to the last known address of Subdivider and Trustee 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 2.11 and a Release of Assurances with respect to all the Land has been recorded in the Office of the Pima County Recorder in accordance with paragraph 2.5; 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 2.10.

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 Board of Supervisors.

PIMA COUNTY, ARIZONA

SUBDIVIDER: SANTA RITA RANCH III, L.L.C., A Delaware limited liability company

Chair, Board of Supervisors

By: See attached signature and notary page
Its: _____

ATTEST:

TRUSTEE: FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation as Trustee only under Trust No. 9316 and not otherwise

Clerk of the Board

By: *Rachel L. Turnipseed*
Rachel L. Turnipseed
Its: Trust Officer

STATE OF ARIZONA)
County of Pima)

The foregoing instrument was acknowledged before me this 11 day of 11/11, 2013, by See attached notary and signature page of SANTA RITA RANCH III, L.L.C., ("Subdivider"), a Delaware limited liability company, on behalf of the company.

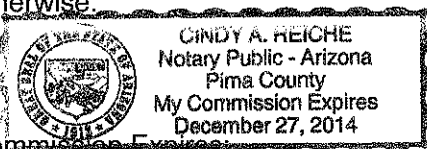
Notary Public

My Commission Expires:

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STATE OF ARIZONA)
County of Pima)

The foregoing instrument was acknowledged before me this 10th day of December, 2013, by Rachel L. Turnipseed of First American Title Insurance Company, ("Trustee"), a California corporation, on behalf of the corporation, as trustee under trust number 9316, only and not otherwise.


My Commission Expires:
12-27-14

Cindy A. Reiche
Notary Public

SUBDIVIDER:
Santa Rita Ranch III, LLC,
a Delaware limited liability company

By: Petrus Land Investors II, L.P.
a Delaware limited partnership,
its Member

By: Petrus-Crown GP Land II, L.L.C.,
a Delaware limited liability
company, its General Partner

By: Crown West Realty, L.L.C.,
a New York limited liability company,
its Managing Member

By: 
Its: Managing Member

STATE OF New York)
County of New York)

The foregoing instrument was acknowledged before me this 4th day of December, 2013, by Frank Walter, Managing Member of SANTA RITA RANCH III, L.L.C., ("Subdivider"), a Delaware limited liability company, on behalf of the company.


Notary Public

My Commission Expires:
8/20/15

AMBER SMOKE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01SM6173220
Qualified in Queens County
My Commission Expires August 20, 2015