

EXHIBIT #2
PERFORMANCE BOND
(Sample Document)

KNOW ALL MEN BY THESE PRESENTS:

That _____, a _____, as **Principal** (herein so called), and _____, a corporation organized under the laws of the State of _____ and duly authorized to do business in the State of Arizona, as **Surety** (herein so called), are held and firmly bound unto the Town of Cave Creek, an Arizona municipal corporation ("**Town**" or "**Obligee**"), 37622 North Cave Creek Road, Cave Creek, Arizona 85331, as Obligee, in the penal sum of _____ (\$ _____), to which payment well and truly to be made, we bind ourselves, our and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

EXECUTED and dated this _____ day of _____, 20__.

WHEREAS, the Principal is obligated to construct, or cause to be constructed, certain subdivision improvements for the so-called " _____ " project, as more specifically set forth in [Zoning/Subdivision] Case No: _____ (collectively, the "**Work**"), on or before the ___ day of _____, 20__ (the "Completion Date").

And

WHEREAS, under the terms of the Town's Codes, regulations, and requirements, the said Principal is required to provide a bond to protect the said Obligee against the failure of the Principal to timely complete the Work, and against the result of incomplete work or faulty materials or workmanship in, or other defects relating to, said Work.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall complete the work by the Completion Date in a manner acceptable to the Town, as evidenced by the Town's acceptance of such Work, and upon the expiration of the warranty period required by the Town, if applicable, then the above obligation is void; otherwise it remains in full force and effect.

If Town provides written notice to Surety that Principal has failed to either commence or complete, to Town's sole satisfaction, any Work, Surety shall promptly, and at the Surety's sole cost and expense, take one of the following actions at the Town's written election:

1. Undertake to perform and complete the Work itself, through its agents or through independent contractors;
2. Obtain bids or negotiated proposals from qualified contractors acceptable to the Town for a contract for performance and completion of the Work, arrange for a contract to be prepared for execution by the Surety and the contractor selected with the Town's concurrence, and thereby to complete the defaulted Work at the sole cost and expense of the Surety; or
3. Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances after investigation, determine the amount for which it may be liable to the Town and, as soon as practicable after the amount is determined, tender payment therefor to the Town.

If the Surety does not proceed as provided immediately above within fifteen (15) days after written notice by the Town of a breach by Owner in the Work, the Surety shall be deemed to be in default on this Bond fifteen (15) days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Town shall be entitled to enforce any remedy available to the Town.

To the limit of the amount of this Bond, the Surety is obligated to the Town, without duplication, for:

1. The responsibilities of the Principal for the Work; and
2. Additional legal, design professional, construction, maintenance and delay costs resulting from the Principal's default or resulting from the actions or failure to act of the Surety in a timely manner in accordance with the terms of this Bond.

The Surety hereby waives notice of any change, including changes of time, to the Construction Contract for the Work, or to related subcontracts, purchase orders and other obligations.

Surety

Developer (Principal)

BY: _____

BY: _____

Title: _____

Title: _____

Date: _____

Date: _____

TO BE SIGNED AFTER EXECUTION:

I have reviewed this bond and certify that the amount of bond represents the Town's estimated costs to construct the improvements.

TOWN OF CAVE CREEK ENGINEER

DATE