

1 RESOLUTION NO. 2010-162

First Reading Passage Requested

R.Henwood & A. Dunchuck

2 SPONSOR Mr. Pry

3  
4  
5 DATE April 12, 2010

COMMITTEE Planning

6  
7 **A Resolution accepting and approving a resubdivision titled "The Meadows of**  
8 **Wintergreen, Phase II, A Replat of Meadow of Wintergreen Phase I, Block E", located in**  
9 **Springfield Township, Council District 8, for the Executive-Planning Commission and the**  
10 **County Engineer, and declaring an emergency.**

11  
12 WHEREAS, on March 25, 2010, the Planning Commission approved a resubdivision  
13 titled "The Meadows of Wintergreen, Phase II, A Replat of Meadow of Wintergreen Phase I,  
14 Block E", concerning a subdivision located in Springfield Township; and

15  
16 WHEREAS, under Section 1104.06 (b) (4) of the Codified Ordinances of the County of  
17 Summit and Section 711.041 of the Ohio Revised Code, the approval of this Council is a  
18 prerequisite for the recording of a resubdivision of a previously recorded plat, as though the same  
19 were a major subdivision; and

20  
21 WHEREAS, this Council has determined by reviewing all pertinent information that the  
22 acceptance and approval of the aforementioned replat is necessary and in the best interest of the  
23 County of Summit;

24  
25 NOW, THEREFORE, BE IT ORDAINED by the Council of the County of Summit, State  
26 of Ohio, that;

27  
28 SECTION 1

29  
30 The resubdivision, together with restrictions, covenants, and easements thereon, is hereby  
31 accepted by the County of Summit, to be recorded by the County Fiscal Officer. The affected  
32 property shall remain a part of the Meadows of Wintergreen Subdivision, as shown by the  
33 recorded document titled "The Meadows of Wintergreen, Phase II, A Replat of Meadow of  
34 Wintergreen Phase I, Block E", located in Springfield Township, County of Summit, Council  
35 District 8.

36  
37 SECTION 2

38  
39 The following maintenance bond furnished by Lexon Insurance Company in the amount  
40 of \$56,616.00, having been submitted and approved, is hereby accepted. The documents are to  
41 be retained by the County Executive, who is authorized to release said bonds, in part or in full,  
42 upon satisfactory completion of the obligations set forth.

43  
44 SECTION 3

45  
46 This Resolution is hereby declared an emergency in the interest of the health, safety and  
47 welfare of the citizens of the County of Summit, and for the further reason that it immediately  
48 facilitates development.

1 RESOLUTION NO. 2010-162

2 PAGE TWO

3  
4 SECTION 4

5  
6 Provided this Resolution receives the affirmative vote of eight members, it shall take  
7 effect immediately upon its adoption and approval by the Executive; otherwise, it shall take  
8 effect and be in force at the earliest time provided by law.

9  
10 SECTION 5

11  
12 It is found and determined that all formal actions of this Council concerning and relating  
13 to the adoption of this Resolution were adopted in an open meeting of this Council, and that all  
14 deliberations of this Council and of any of its committees that resulted in such formal action,  
15 were in meetings open to the public, in compliance with all legal requirements, including Section  
16 121.22 of the Ohio Revised Code.

17  
18 INTRODUCED April 12, 2010

19  
20 ADOPTED April 12, 2010

21  
22   
23  
24 CLERK OF COUNCIL

  
25  
26  
27  
28 PRESIDENT OF COUNCIL

29  
30 APPROVED April 12, 2010

31  
32   
33 EXECUTIVE

34 ENACTED EFFECTIVE April 12, 2010

Voice Vote: 11-0 YES: Comunale, Crawford, Crossland, Feeman, Kostandaras  
Poda, Prentice, Rodgers, Schmidt, Shapiro, Smith

10-162

Bond No. 1025300

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, THAT Lockhart Development Co.,  
 (hereinafter referred to as the PRINCIPAL) as PRINCIPAL, and Lexon Insurance Co.,  
 a corporation organized under the laws of the State of Texas,  
 having its principal place of business in the City of Louisville, Kentucky,  
 (hereinafter referred to as the SURETY) as SURETY, are and firmly bound unto the  
 EXECUTIVE OF THE COUNTY OF SUMMIT, OHIO, (hereinafter called the OBLIGEE)  
 in the sum of \$56,616.00 DOLLARS, for the payment whereof to the OBLIGEE the  
 PRINCIPAL binds himself, herself, themselves, itself, his, her, their, its, heirs,  
 administrators, executors, successors and assigns and the SURETY binds itself, its  
 successor and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, said PRINCIPAL has presented the record plat of the  
 Allotment located in Lot(s) 6, Tract 8, Section     , Springfield Township,  
 County of Summit, Ohio, to the OBLIGEE for its approval, and for its dedication and  
 establishment of the streets, roads and public ways shown on said record plat, and for  
 its acceptance of the same and the easements shown thereon for public uses; and

WHEREAS, the Summit County Planning Commission did on 10/15/09 give  
 preliminary approval of said allotment, and on 10/15/09 did give final approval thereto,  
 subject to the completion of all conditions precedent as prescribed by the Rules and  
 Regulations of the EXECUTIVE OF THE COUNTY OF SUMMIT, OHIO, adopted by  
 them as made effective on March 17, 2008, and made a part of hereof as though fully  
 written herein; and

10-162

WHEREAS, pursuant to Section 711.101 Revised Code the OBLIGEE did adopt as effective March 17, 2008, certain Rules and Regulations governing the subdivision of lands in the unincorporated area of Summit County and which did establish, among other things, standards and specifications for the construction of streets, roads, open and closed storm sewer systems, bridges and all appurtenances and easements to these requirements and the conditions set forth therein for a period of two years after the said streets, roads open and/or closed storm sewer systems, bridges and all appurtenances and easements to these requirements have been completely constructed to the satisfaction of the County Engineer and OBLIGEE; and

WHEREAS, the County Engineer did on 12/4/2009 recommend a Maintenance Bond in the amount of \$56,616.00 DOLLARS to insure the maintenance of the STORM SEWER (X), PAVING (X), MISCELLANEOUS(X) as itemized and on file with the Summit County Engineer as required by said final stage of construction.

NOW THEREFORE, if the PRINCIPAL shall maintain said STORM SEWER (X), PAVING (X), MISCELLANEOUS (X) until release of this bond by Summit County Engineer and the OBLIGEE, said release to occur no earlier than two years after the said STORM SEWER (X), PAVING (X), MISCELLANEOUS (X) has been completely constructed and approved by the Summit County Engineer, said maintenance to be conducted in accordance with the requirements and conditions set forth in aforementioned Rules and Regulations, all to the complete satisfaction of the County Engineer and the OBLIGEE, and if the said PRINCIPAL shall save said OBLIGEE harmless from any and all actions, loss, injury, damage or liability of whatsoever nature arising by reason of the condition of said STORM SEWER (X), PAVING (X), MISCELLANEOUS (X) during said final stage of construction and shall pay all just and lawful claims for labor performed upon, and for material, fuel and machinery furnished

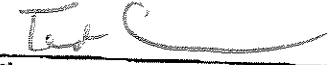
for said improvement, it being understood that this undertaking shall be for the use of any laborer, fuel, machinery or material man having a just claim, as aforesaid, as well as for the OBLIGEE, then this obligation shall be void; otherwise it shall remain in full force and effect.

IN WITNESS THEREOF, we have hereunto set our hands this 4th day of December, A. D., 2009.

PRINCIPAL: Lockhart Development Co.

SURETY: Lexon Insurance Company

  
\_\_\_\_\_

By:   
\_\_\_\_\_ Ted Sherman-Attorney-in-Fact

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attached Power of Attorney and Certificate of Compliance.

APPROVED AS TO FORM:

\_\_\_\_\_  
ASSISTANT PROSECUTING ATTORNEY  
SUMMIT COUNTY, OHIO

Effective Date: March 24, 2004  
Expiration Date: April 1, 2010

State of Ohio  
Department of Insurance  
*Certificate of Authority*

This is to Certify, that

**LEXON INSURANCE COMPANY**

NAIC No. 13307

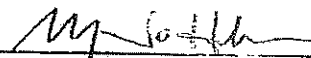
is authorized in Ohio to transact the business of insurance as defined in the following section(s)  
of the Ohio Revised Code:

Section 3929.01 (A)  
Fidelity  
Surety

This Certificate of Authority is subject to the laws of the State of Ohio.



Ted Strickland, Governor

  
Mary Jo Hudson, Director

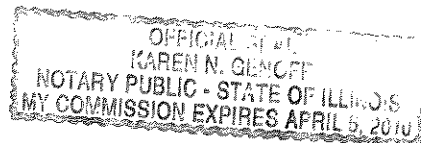
STATE OF ILLINOIS ( ( SS  
COUNTY OF COOK (

I, Karen N. Genoff A Notary of Public of Cook County, State of Illinois do Hereby Certify that Ted Sherman Attorney in Fact of Lexon Insurance Company Who is Personally Known to me to be the Same Person Whose Name is Subscribed to the Foregoing Instrument, Appeared Before Me This Day in person and Acknowledged That he Signed, Sealed, and Delivered Said Instrument, For and on Behalf of Lexon Insurance Company of Lombard, IL, Texas Corporation for the Uses and Purposes Therein Set Forth.

Given Under My Hand and Notarial Seal at My Office in Chicago, Illinois in Said County This 4<sup>th</sup> Day of December , 2009.

My Commission Expires

*Karen N. Genoff*  
\_\_\_\_\_  
NOTARY Karen N. Genoff



10-182

POWER OF ATTORNEY

LX - 59182

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 Vice President, 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 2nd day of July, 2003.

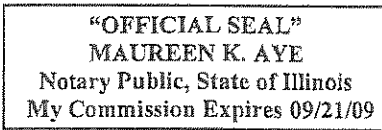


LEXON INSURANCE COMPANY

BY [Signature] David E. Campbell President

ACKNOWLEDGEMENT

On this 2nd day of July, 2003, 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.



[Signature] Maureen K. Aye Notary Public

CERTIFICATE

I, the undersigned, 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 Lombard, Illinois this 4th Day of December, 20 09



[Signature] Donald D. Buchanan 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.”



# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

10-102

DATE (MM/DD/YYYY)  
12/07/2009

<b>PRODUCER</b> The Wayne Agency Company, Inc. 2044 Second Street PO Box 308 Cuyahoga Falls, OH 44221	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC #</b>
<b>INSURED</b> LOCKHART DEVELOPMENT CORP; C/O THE WAYNE AGENCY PO BOX 308 CUYAHOGA FALLS, OH 44222-0308	INSURER A: Westfield Insurance	24112
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

**COVERAGES**


THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR   ADD'L LTR   INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	TRA 3 154 147	05-16-2009	05-16-2010	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPI/OP AGG \$ 2,000,000
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	TRA 3 154 147	05-16-2009	05-16-2010	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000  BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$
A	<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  DEDUCTIBLE RETENTION \$	TRA 3 154 147	05-16-2009	05-16-2010	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	TRA 3 154 147	05-16-2009	05-16-2010	WC STATU-TORY LIMITS   OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
	OTHER				

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 Summit County Engineer Planning Commission is listed as Additional Insured for the project known as: Meadows of Wintergreen Phase II Lot 6 Tract 8 in Springfield Township Summit County, Ohio.

**CERTIFICATE HOLDER**

**CANCELLATION**

Summit County Engineer Planning Commission 538 E South Street Akron, Ohio 44311	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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10-162

## IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

## DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

**REQUEST FOR MAINTENANCE AGREEMENT**

Whereas, Lockhart Development Co.

is the Title owner in fee simple of the Real Estate known as Meadows of Wintergreen  
Phase II consisting of  
approximately 14.75 acres of land in Tract 8 of Springfield Township, County of  
Summit, Ohio, and said Springfield Township shall become the owner of the areas therein  
to be dedicated to the public use, and

Whereas, said Meadows of Wintergreen  
Phase II Subdivision contains 42 unit parcels as set forth on the  
plat and amendments thereto as shall be recorded with the County of Summit Recorder, and

Whereas, said Meadows of Wintergreen  
Phase II Subdivision contains a number of ditches, storm  
sewers, culverts, retention area, retention basin and general drainage areas, all of said areas being  
set forth on the plans showing the same as being within the drainage easements as shown on the  
original plan and amendments thereto, and

Whereas, the plans have been approved by a Professional Engineer registered in the State  
of Ohio, and

Whereas, the County Engineer, as part of the subdivision review, shall approve all of the  
ditches, storm sewers, culverts, retention area, retention basin and general drainage areas as  
shown on the original plans and plat, and

Whereas, the improvements are to be constructed by the owner under the supervision and  
control of the County Engineer and shall meet the approval of the County Engineer as  
constructed, and

Whereas, the owner agrees that this agreement along with the plan and schedules of the  
improvement shall be filed with the Clerk of County Council of the County of Summit to locate  
and establish such as a public watercourse.

This Maintenance Agreement for drainage facilities is a part of the development plan and  
the obligation to pay the maintenance fees shall pass with the Title to the property. There shall be  
inserted in each deed passing Title to any of the land herein by the owner or developer the words:

"Title to the fee includes the obligation to pay the drainage maintenance fee assessed, or to be assessed, by the County, pursuant to the Ohio Revised Code 6137 and following."

NOW, THEREFORE, the above owner wishes to have established by the Council of the County of Summit, a Ditch Maintenance Fund pursuant to Section 6131.63 and Section 6137 of the Ohio Revised Code, and have the lots and public areas assessed for said maintenance.

IN WITNESS WHEREOF, we have hereunto set our hands this 4<sup>th</sup> day of December, 2009.

Denise Pennington

Witness

[Signature]  
Witness

Leekhart Development Co  
(Owner)

[Signature]  
(Owner)

WAIVER OF NOTICE OF PUBLIC MEETING

We, the undersigned, being all the owners affected by the Request for Maintenance Agreement which has been submitted by us on behalf of the Meadows of Wintergreen Subdivision, Phase II hereby waive the holding of said public meeting since there are not other owners to object to said assessment, and hereby request that the said Maintenance Fund be immediately enacted.

[Signature]  
(Owner)  
[Signature], Pres.  
(Owner)

STATE OF OHIO, SUMMIT COUNTY, SS

BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED A. R. LOCKHART WHO ACKNOWLEDGED THAT HE/SHE/THEY DID SIGN THE FOREGOING INSTRUMENT AND THAT SAME IS HIS/HER/THEIR FREE ACT AND DEED.

IN TESTIMONY WHEREOF, I HAVE HERETO SET MY HAND AND OFFICIAL SEAL, AT Akron, OH THIS 4th DAY OF December, 2009.



Patricia Coler  
Resident Summit County  
Notary Public, State of Ohio  
My Commission Expires: 10/27/2014

Patricia Coler  
NOTARY PUBLIC

This instrument was prepared by:

Lockhart Development Co.  
(Owner)

STATE OF OHIO, SUMMIT COUNTY, SS

BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED Robert Lockhart WHO ACKNOWLEDGED THAT HE/SHE/THEY DID SIGN THE FOREGOING INSTRUMENT AND THAT SAME IS HIS/HER/THEIR FREE ACT AND DEED.

IN TESTIMONY WHEREOF, I HAVE HERETO SET MY HAND AND OFFICIAL SEAL, AT THIS 4<sup>th</sup> DAY OF December, 2009.



Patricia Coler  
Resident Summit County  
Notary Public, State of Ohio  
My Commission Expires: 10/27/2014

Patricia Coler  
NOTARY PUBLIC

\_\_\_\_\_ SUBDIVISION RECORDED

IN CABINET \_\_\_\_\_ SLIDES \_\_\_\_\_