

MEMORANDUM Manatee County Board of County Commissioners

3/20/18



To: Ed Hunzeker
County Administrator

Thru: Ron Schulhofer, Director
Public Works Department

From: Carmen Mosley, Sr. Fiscal Services Mgr./
Jane Oliver, Bond Coordinator
Public Works Department

[Handwritten signatures: Ron Schulhofer, Carmen Mosley, Jane Oliver]

Date: March 6, 2018

Subject: **DEL TIERRA, PHASE IV-A
PDR-13-24/16-S-56 (F)
ACCEPT PRIVATE FINAL LIFT OF ASPHALT
SURETY BOND**

On April 4, 2017, the Board of County Commissioners accepted an *Agreement for Private Subdivision Improvements* securing private infrastructure which will be privately maintained. These improvements passed inspections conducted by the Infrastructure Inspections Division of the Public Works Department per the Certificate of Completion issued on November 22, 2017. The Certificate of Completion required bonding of the private final lift of asphalt, the developer has provided all necessary documentation along with the required security in order meet this stipulation. We therefore, per Resolution R-14-86, respectively request the County Administrator to approve the following:

NOTE: NO new agreement is required, this bond will become part of the *Agreement for Private Subdivision Improvements* originally accepted by the Board of County Commissioners on April 4, 2017;

- **Accept and Execute** Surety Bond in conjunction with the above referenced agreement;
 - **Surety Bond No.** SNN4007876 issued through Nationwide Mutual Insurance Company;
 - **Amount of** *Per Resolution* \$111,845.50;

**MANATEE COUNTY, a political
subdivision of the State of Florida**

By: Board of County Commissioners

By: *[Signature]*
County Administrator, per R-14-86

RS/CM/jo

cc: Records Management
Sia Mollanazar, P.E., Deputy Director – Engineering Services
Ken LaBarr, Infrastructure Inspections Division Manager
Andrew Richardson, D.R. Horton, Inc.

Attachments

Public Works Department
Fiscal Division
10226 26th Avenue East Bradenton, FL 34203
Phone number (941) 708-7450

RESOLUTION NO.R-14-86

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, PROVIDING FOR THE DELEGATION OF CERTAIN AUTHORITY TO THE COUNTY ADMINISTRATOR AND COUNTY ATTORNEY REGARDING PERFORMAMCE SECURITIES AND DEFECT SECURITIES PURSUANT TO SECTION 910 OF THE MANATEE COUNTY LAND DEVELOPMENT CODE; REPEALING RESOLUTION NO. R-08-169; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Section 910 of the Manatee County Land Development Code (the "Code") sets forth the procedures for approval of subdivision plats, including requirements for the posting of performance securities and defect securities with the County to secure the completion of certain public and private improvements; and

WHEREAS, pursuant to Resolution No. R-08-169, the Board of County Commissioners of Manatee County, Florida, (the "Board") delegated certain authority to the County Administrator and County Attorney to exercise the County's rights against such securities in accordance with the Code; and

WHEREAS, it is in the best interest of the public health, safety and welfare of the County for the Board to repeal Resolution No. R-08-169 in its entirety and replace it with this Resolution, to further implement the provisions of Section 910 of the Code; and

WHEREAS, the Board finds that by delegating the authority in the specific circumstances set forth herein, the County is better able to protect the public interest.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Manatee County, Florida:

Section 1. Findings. The findings set forth above are hereby adopted as findings of the Board and incorporated herein by reference.

Section 2. Delegation of Authority. The Board hereby delegates to the County Administrator and the County Attorney, and their respective designees, the authority to accept, hold and draw upon performance securities and defect securities posted with the County pursuant to Section 910 of the Code. Such authority shall apply to any subdivision for which (a) the Board has approved the subdivision plat and a related improvements agreement in accordance with Section 910 of the Code. Such authority shall include, without limitation, the following:

- i. The authority to accept, hold, maintain and, upon completion of required improvements or expiration of the required defect guaranty period,

release performance securities and defect securities posted with the County pursuant to Section 910 of the Code;

- ii. The authority to administer and exercise the County's rights under any related improvements agreement, and to release such improvements agreement in accordance with the provisions thereof upon full performance by the developer;
- iii. The authority to sign and issue upon the County's behalf any notices of default when a developer defaults in its obligations under an improvements agreement (such notices of default to be issued to the obligor in default of its obligations and to any third-party guarantor, including any entity holding a letter of credit or surety bond in the County's favor);
- iv. The authority to call upon any such third-party guarantor to complete the required work or to provide the guaranteed monies to the County for the completion of same (in accordance with the performance security or defect security and the related agreement);
- v. The authority to draw upon a performance security or defect security whenever the County has the right to do so and it is necessary to do so in order to protect the public interest; and
- vi. The authority of the County Attorney to initiate judicial or administrative proceedings to enforce the County's rights under a performance security or defect security and related improvements agreement.

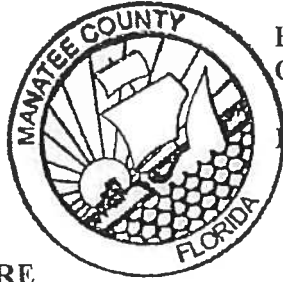
Such authority shall be vested concurrently in the County Administrator and the County Attorney. Should both such officials be unavailable, the authority shall rest with any Deputy County Administrator or any Assistant County Attorney designated in writing by the County Administrator or County Attorney, respectively.

Section 3. Repeal of Resolution No. R-08-169. Resolution No. R-08-169 is hereby repealed.

Section 4. Severability. If any section, sentence, clause, or other provision of this Resolution shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such section, sentence, clause, or other provision shall be deemed severable, and such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon adoption by the Board of County Commissioners.

PASSED AND DULY ADOPTED with a quorum present and voting this 9th day of September, 2014.



BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Larry Butts
Chairperson

ATTEST: R.B.SHORE
Clerk of the Circuit Court

By: Robin Liberty
Deputy Clerk

SURETY BOND
FOR PERFORMANCE OF REQUIRED PRIVATE IMPROVEMENTS
(Attachment "B") **BOND NO. SNN4007876**

KNOW ALL MEN BY THESE PRESENT:

That the Developer, D.R. Horton, Inc. as Principal, and Nationwide Mutual Insurance Company, a Surety Company, duly authorized to transact business in the State of Florida, are held and firmly bound unto the County of Manatee, State of Florida, as Obligee, in the sum of \$111,845.50 (Numbers) One Hundred Eleven Thousand Eight Hundred Forty Five and Fifty Cents (Words) for the payment of which we jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns, for the specific benefit of the County in accordance with the conditions set forth herein and in the "Agreement for Private Subdivision Improvements" which is hereby incorporated herein by reference.

THE CONDITION of the above obligation is such that, Whereas the Principal has entered into a contract, dated _____ (LEAVE BLANK Manatee County approval date) with the obligation to do and perform certain work relating to Del Tierra , Phase IV - A (Subdivision).

NOW THEREFORE, if the principal shall fully perform all the covenants and terms of said contract, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect, and Surety shall cause the contract to be fully performed or pay to obligee the cost of performing said contract in an amount not exceeding the said sum specified above. In the event such performance is not completed within the time specified in the attached "Agreement for Private Subdivision Improvements", the obligee shall be entitled to collection of this surety bond. Means of notification of intent to collect shall be by certified mail to the Surety at the address on page 2 {insert page number of surety's address}. Payment will be made to the County within 30 days by certified check drawn on behalf of the Board of County Commissioners at P. O. Box 1000, Bradenton, FL 34206.

The Surety does hereby consent to any and all alternations, extensions of time, or other modifications to the contract secured by this bond.

This Surety Bond shall be construed in accordance to the Laws of Florida, and any action of whatever nature, in connection with this Bond and the Agreement for Private Subdivision Improvements shall be filed in the Twelfth Judicial Circuit in and for Manatee County, Florida.

DEVELOPER SIGNATURE FORM

FOR: Del Tierra Phase IV-A

BOND NO. SNN4007876

WITNESSES OR CORPORATE SEAL:

[Signature]

Witness

ANDY RICHARDSON

Type or Print Name

[Signature]

Witness

DAVID DONOVAN

Type or Print Name

D.R. Horton, Inc.

Developer

BY: [Signature]

Signature

DARREN SALTZBERG

Type or Print Name

Division President

Title (If attorney-in-fact Attach Power of Attorney)

12602 Telecom Drive

Postal Address

Tampa FL 33637

City State Zip

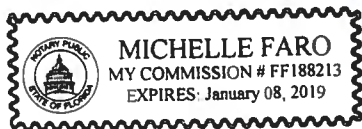
NOTARY ACKNOWLEDGMENT

STATE OF: Florida

COUNTY OF: Hillsborough

The foregoing instrument was acknowledged before me this 19th day of December, 2017, by Darren Saltzberg, as Division President (Title), on behalf of the corporation identified herein as Developer and who is personally known to me ~~or who has produced~~ (Type of Identification) as identification.

NOTARY SEAL:



Michelle Faro

Notary Public

Michelle Faro

Print Name of Notary

Approved and accepted for and on behalf of Manatee County, Florida, this 1st day of March, 2018.

MANATEE COUNTY

A political subdivision of the State of Florida

By: Board of County Commissioners

By: [Signature]

County Administrator

NOTARY ACKNOWLEDGMENT

STATE OF: FLORIDA

COUNTY OF: MANATEE

The foregoing instrument was acknowledged before me this 1st day of March, 2018, by Ed Hunzeker (County Administrator) for and on behalf of Manatee County Board Of County Commissioners, who is personally known to me or has produced — as identification

NOTARY SEAL:



Kathleen C. Ellis

Notary Public

KATHLEEN C. ELLIS

Print Name of Notary



Nationwide
is on your side

7 World Trade Center
250 Greenwich Street
37th Floor
New York, NY 10007

Power of Attorney

KNOW ALL MEN BY THESE PRESENTS THAT:

Nationwide Mutual Insurance Company, an Ohio corporation hereinafter referred to as the "Company" and does hereby make, constitute and appoint:

James Moore, Stephen T. Kazmer, Dawn L. Morgan, Melissa Schmidt

each in their individual capacity, its true and lawful attorney-in-fact, with full power and authority to sign, seal, and execute on its behalf any and all bonds and undertakings, and other obligatory instruments of similar nature, in penalties not exceeding the sum of

UNLIMITED

and to bind the Company thereby, as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Company; and all acts of said Attorney pursuant to the authority given are hereby ratified and confirmed.

This power of attorney is made and executed pursuant to and by authority of the following resolution duly adopted by the board of directors of the Company:

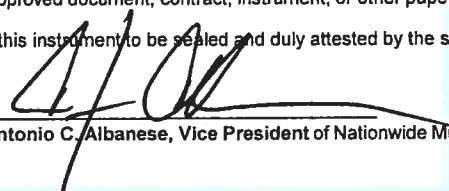
"RESOLVED, that the president, or any vice president be, and each hereby is, authorized and empowered to appoint attorneys-in-fact of the Company, and to authorize them to execute and deliver on behalf of the Company any and all bonds, forms, applications, memorandums, undertakings, recognizances, transfers, contracts of indemnity, policies, contracts guaranteeing the fidelity of persons holding positions of public or private trust, and other writings obligatory in nature that the business of the Company may require; and to modify or revoke, with or without cause, any such appointment or authority; provided, however, that the authority granted hereby shall in no way limit the authority of other duly authorized agents to sign and countersign any of said documents on behalf of the Company."

"RESOLVED FURTHER, that such attorneys-in-fact shall have full power and authority to execute and deliver any and all such documents and to bind the Company subject to the terms and limitations of the power of attorney issued to them, and to affix the seal of the Company thereto; provided, however, that said seal shall not be necessary for the validity of any such documents."

This power of attorney is signed and sealed under and by the following bylaws duly adopted by the board of directors of the Company.

Execution of Instruments. Any vice president, any assistant secretary or any assistant treasurer shall have the power and authority to sign or attest all approved documents, instruments, contracts, or other papers in connection with the operation of the business of the company in addition to the chairman of the board, the chief executive officer, president, treasurer or secretary; provided, however, the signature of any of them may be printed, engraved, or stamped on any approved document, contract, instrument, or other papers of the Company.

IN WITNESS WHEREOF, the Company has caused this instrument to be sealed and duly attested by the signature of its officer the 30th day of Sept. 2015


Antonio C. Albanese, Vice President of Nationwide Mutual Insurance Company



ACKNOWLEDGMENT

STATE OF NEW YORK, COUNTY OF NEW YORK: ss
On this 30th day of Sept. 2015, before me came the above-named officer for the Company aforesaid, to me personally known to be the officer described in and who executed the preceding instrument, and he acknowledged the execution of the same, and being by me duly sworn, deposes and says, that he is the officer of the Company aforesaid, that the seal affixed hereto is the corporate seal of said Company, and the said corporate seal and his signature were duly affixed and subscribed to said instrument by the authority and direction of said Company.

FAYE V. STORCH
Notary Public - State of New York
No. 01ST6286622
Qualified in Nassau County
My Commission Expires July 29, 2017


Notary Public
My Commission Expires

CERTIFICATE

I, Parag H. Shah, Assistant Secretary of the Company, do hereby certify that the foregoing is a full, true and correct copy of the original power of attorney issued by the Company; that the resolution included therein is a true and correct transcript from the minutes of the meetings of the boards of directors and the same has not been revoked or amended in any manner; that said Antonio C. Albanese was on the date of the execution of the foregoing power of attorney the duly elected officer of the Company, and the corporate seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority of said board of directors; and the foregoing power of attorney is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto subscribed my name as Assistant Secretary, and affixed the corporate seal of said Company this 15th day of December, 2017.


Assistant Secretary