

Meeting Date
March 6, 2018



AGENDA	
Section	Consent
Item No.	II.A.3

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	FINAL PLAT AND CONTRACT APPROVAL RE: ADELAIDE PHASE 4 <i>PR</i> DEVELOPER: THE VIERA COMPANY DISTRICT 4 FISCAL IMPACT: NONE
DEPT/OFFICE:	PLANNING & DEVELOPMENT DEPARTMENT

Requested Action:

In accordance with Section 62-2841(i) and Section 62-2844, it is requested that the Board of County Commissioners grant final plat approval and authorize the Chair to sign the final plat and contract for Adelaide Phase 4.

Summary Explanation & Background:

There are three stages of review for subdivision plan approval: the pre-application conference, the preliminary plat/final engineering plan review, and the final plat review. The pre-application conference for the above project was held on May 29, 2014. The preliminary plat and final engineering plans, which is the second stage of approval, was approved on July 21, 2015. The third stage of review is the final plat approval for recordation. The applicant is posting a cash performance bond and contract for guarantee of the completion of the infrastructure improvements.

Staff has reviewed the final plat and contract for the Adelaide Phase 4 subdivision, and has determined that it is in compliance with the applicable ordinances.

Adelaide Phase 4 is located within the Viera DRI, on the west side of Stadium Parkway approximately 1/2 mile south of the Fiske Boulevard interchange at Interstate 95. The proposed subdivision consists of 10 single family units on 14.62 acres.

This approval is subject to minor engineering changes as applicable. Board approval of this project does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 14SD-00425, 17SD00026

Contact: Rebecca Ragain, Assistant Director

Ext. 5-2362

Clerk to the Board Instructions: Please have the contract signed and return the original and a certified copy to Planning and Development.

Exhibits Attached: location maps, contract

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager	Assistant County Manager	John Denninghoff		Department Director / Extension			
Frank Abbate <i>[Signature]</i>	Interim Assistant County Manager	Jim Liesenfelt		Tad Calkins Planning & Development Department Ext. 5-2069 <i>[Signature]</i>			



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

March 7, 2018

**M E M O R A N D U M**

**TO:** Tad Calkins, Planning and Development Director    Attn: Rebecca Ragain

**RE:** Item II.A.3., Final Plat and Contract Approval for Adelaide Phase 4 – The Viera Company

The Board of County Commissioners, in regular session on March 6, 2018, granted final plat and Contract approval with The Viera Company, subject to minor engineering changes, as applicable, and developer responsible for obtaining all necessary jurisdictional permits; and authorized the Chair to sign the final plat and Contract. Enclosed is a fully-executed Contract.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encl. (1)

cc:     Contracts Administration

**Subdivision No.** 14SD00425/16ER00008

**Project Name** Adelaide Subdivision Phase 4

**Subdivision Infrastructure  
Contract**

THIS CONTRACT entered into this 6 day of March 20 18, by and between the Board of County Commissioners of Brevard County, Florida, hereinafter referred to as "COUNTY," and THE VIERA COMPANY, hereinafter referred to as "PRINCIPAL."

**WITNESSETH:**

IN CONSIDERATION of the mutual covenants and promises herein contained, the parties hereto agree as follows:

1. The PRINCIPAL agrees to construct the improvements described below:  
ADELAIDE SUBDIVISION PHASE 4 INFRASTRUCTURE IMPROVEMENTS

and all other improvements depicted in subdivision number 14SD-00425/16ER00008. A copy of said plat to be recorded in the Plat Books of the Public Records of Brevard County.

2. Principal agrees to construct the improvements strictly in accordance with the plans and specifications on file in the Land Development Division (which construction is hereinafter referred to as the "Work"). Such plans and specifications (hereinafter referred to as the "Plans") are hereby incorporated into this Agreement by reference and made a part hereof. Principal warrants to County that the Work will conform to the requirements of the Plans and other requirements specified in the County's approval of the Work. Principal also warrants to County that the Work will be free from faults and defects. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered to be defective. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this paragraph 2.

If within two (2) years after approval and acceptance of the improvements by County, any Work is found to be defective, Principal shall promptly, without cost to County, either correct such defective Work, or, if it has been rejected by County, remove it from the site and replace it with nondefective Work. If Principal does not promptly comply with the terms of such instructions, County may elect any of the remedies provided for in paragraph 6 herein below. Corrective Work shall be warranted to be free from defects for a period of six (6) months. Any defect in such Work shall be corrected again by Principal promptly upon notice of the defect from County. In the event the maintenance bond given by Principal in connection with County's acceptance of the improvements is extended, the two (2) year warranty period provided for herein shall be extended for a like period.

To the extent assignable, Principal assigns to County all of Principal's warranty rights under its construction contract with the contractor constructing the improvements (including all warranties provided by law of in equity with respect to such construction contract), which warranties may be asserted by County on behalf of Principal in the event Principal fails to perform its warranty obligations hereunder. Where warranties granted hereunder overlap, the more stringent requirement shall control."

3. The PRINCIPAL agrees to complete said construction on or before the 15th day of FEBRUARY, 2019.

4. In order to guarantee performance of PRINCIPAL'S obligations herein contained, PRINCIPAL shall furnish cash, letter of credit, certificate of deposit or surety bond in a form approved by the COUNTY, in the amount of \$833,447.81. If such bond is a cash bond or a certificate of deposit, said amount shall be deposited with the Board of County Commissioners. Said bond shall be 125% of the estimated cost of construction, as determined by the Land Development Division. PRINCIPAL shall maintain such records and accounts, including property, personnel, financial records, as are deemed necessary by the COUNTY to ensure proper accounting for all funds expended under the agreement. Said records shall be made available upon request for audit purposes to Brevard County and its auditors.
5. The COUNTY agrees to accept said plat above described for recording in the public records of Brevard County, Florida and to accept the areas depicted thereon as dedicated for public use, including but not limited to streets and parks, at such time as said improvements are satisfactorily completed. Satisfactory completion in accordance with the plans and specifications shall be determined by written approval of the County Development Engineer or designated assistant.
6. In the event, PRINCIPAL fails to complete said improvements within the time prescribed, the COUNTY may elect to take all or any of the following actions:
  - A. Vacate all or part of such recorded plat where improvements have not been completed in accordance with the plans and specifications,
  - B. Complete the improvements utilizing COUNTY employees and materials and request payment from the bond or the PRINCIPAL,
  - C. Request the surety on said performance bond to complete such improvements, or
  - D. Contract for completion of said improvements.
7. The PRINCIPAL and Surety on said performance bond shall be liable for all costs, expenses, and damages incurred by the COUNTY, including attorney's fees, in the event the PRINCIPAL defaults on this contract.
8. In the performance of this Agreement, the PRINCIPAL shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of the Office and shall be retained by the PRINCIPAL for a period of three years after termination of this agreement. All records, books and accounts related to the performance of this agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119 of the Florida Statutes.
9. No reports, data, programs or other materials produced, in whole or in part for the benefit and use of the County, under this agreement shall be subject to copyright by PRINCIPAL in the United States or any other country.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

*Scott Ellis*

*Rita Pritchett*

Scott Ellis, Clerk

Rita Pritchett, Chair

As approved by the Board on: March 6, 2018.

WITNESSES:

PRINCIPAL:

*Walter Esposito*

*Todd J. Pokrywka, Sr. Vice President*



*Mary Ellen McKibben*

2-8-18  
DATE

State of: Florida  
County of: Brevard

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of Feb 2018, by Todd J. Pokrywka, Sr. Vice Pres who is personally known to me or who has produced as identification and who ~~did~~ (did not) take an oath.

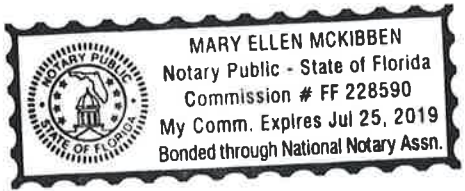
My commission expires:

*Mary Ellen McKibben*  
Notary Public

S E A L

Commission Number:

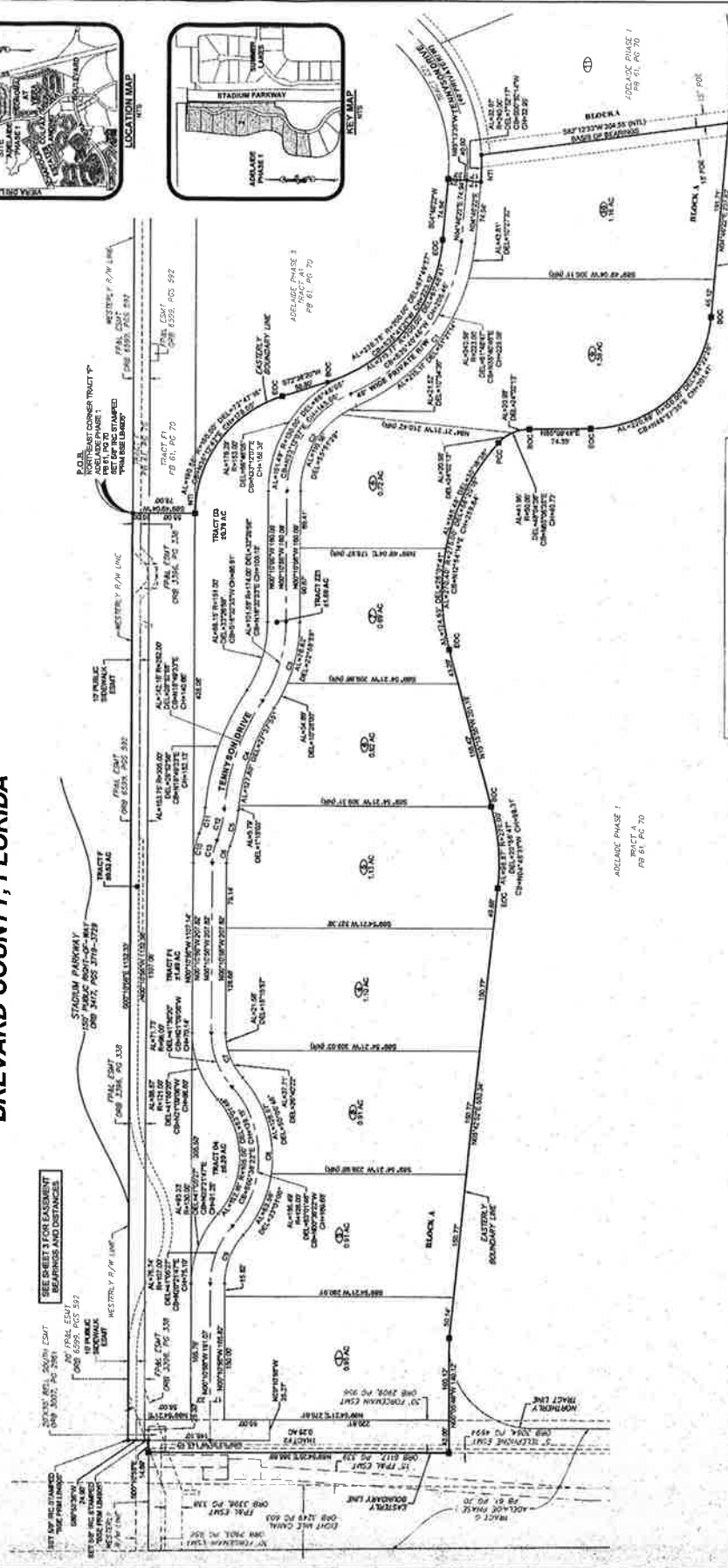
*Mary Ellen McKibben*  
Notary Name, printed, typed or stamped



# ADELAIDE PHASE 4

## SECTION 29, TOWNSHIP 25 SOUTH, RANGE 36 EAST

### BREVARD COUNTY, FLORIDA



CURVE #	ARC LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	285.17	240.02	107°21'14"	S69°43'20"	277.55
C2	183.92	113.00	90°00'00"	N07°44'42"	186.94
C3	74.82	127.00	102°03'52"	S11°03'31"	78.10
C4	127.89	144.00	107°32'36"	N17°20'02"	128.51
C5	44.23	100.00	106°28'21"	S12°23'29"	44.21
C6	22.57	60.00	101°20'50"	N10°34'36"	22.40
C7	37.71	81.00	107°02'22"	N22°18'56"	37.77
C8	64.59	94.00	107°02'48"	S17°04'16"	62.89
C9	37.28	100.00	101°20'50"	N10°34'36"	37.23
C10	32.45	110.00	107°02'22"	S12°23'29"	32.42

CURVE #	ARC LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C11	133.07	133.00	180°00'00"	N18°15'36"	39.27
C12	28.97	77.00	107°32'36"	N17°20'02"	28.72

- ABBREVIATIONS**
- LS UNIMPROVED BUSINESS
  - N NORTH
  - NTI NON-TANGENT INTERSECTION
  - NTL NON-TANGENT LINE
  - NTS NON-TANGENT SURFACE
  - ORCS OFFICIAL RECORDS BOOK
  - PS PLAT BOOK
  - PSI PLAT SURVEY INTERSECTION
  - PCD POINT OF COMMENCEMENT
  - PCD POINT OF CURVATURE
  - PCD POINT OF BEGINNING CURVE
  - PCD POINT OF REVERSE CURVE
  - PCD POINT OF TANGENCY
  - PCD PUBLIC UTILITY EASMENT
  - RM RIGHT-OF-WAY
  - W WEST

- ABBREVIATIONS**
- MB METERS
  - SEC SECONDS
  - MIN MINUTES
  - AL ALIQUOT
  - ACRES
  - AL ALIQUOT
  - ARC LENGTH
  - BE BEGINNING OF CURVE
  - CH CHORD
  - CHORD LENGTH
  - CM CONCRETE MONUMENT
  - END OF CURVE
  - E EAST
  - ELEVATION
  - EL ELEVATION
  - EMT EMBANKMENT
  - FD FLORIDA DEPARTMENT OF TRANSPORTATION
  - ENV ENVIRONMENTAL PROTECTION AGENCY
  - FL FLORIDA
  - FT FEET
  - FTL FUTURE TRAIL
  - MC MONUMENT
  - RD ROAD AND GAP

- SURVEY AND PLAT LEGEND**
- SECTION CORNER, MARKED AS NOTED
  - SECTION CORNER, UNMARKED AS NOTED
  - CONCRETE MONUMENT WITH CROSS-STAMPED (FORM CONCRETE MONUMENT WITH CROSS-STAMPED FORM LEGENDS), UNLESS OTHERWISE NOTED
  - SET 5/6" (FROM ROAD AND GAP, STAMPED "PHILLS 4800")
  - PERMANENT CONTROL POINT (TAGS, NAILS AND DISKS)
  - STAMPED PCP LEGEND, UNLESS OTHERWISE NOTED



SCALE: 1" = 80' FEET  
 PREPARED BY: J.E. CONSULTANTS, INC.  
 PROJECT NO. 2014-001  
 DATE: 08/14/14

# LOCATION MAP

ADELAIDE PHASE 4

17SD00026



1:24,000 or 1 inch = 2,000 feet

 Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 1/24/2018

**SURETY PERFORMANCE BOND**

**KNOW ALL MEN BY THESE PRESENTS:**

That we, **THE VIERA COMPANY**, hereinafter referred to as "Owner" and, **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**, hereinafter referred to as "Surety", are held and firmly bound unto the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, hereinafter referred to as "County", in the sum of **\$833,447.81** for the payment of which we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents:

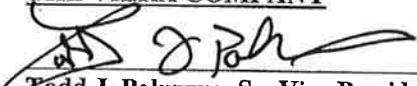
WHEREAS, Owner has entered into a contract with the County dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, which contract is made a part hereof by reference.

NOW THEREFORE, the condition of this obligation is such that if Owner shall promptly and faithfully perform said contract and complete the work contemplated therein by **February 15, 2019** then this obligation shall be null and void, otherwise it shall remain in full force and effect.

If the Owner shall be declared in default of said contract by the County, the Surety shall have sixty (60) days from the date of said default within which to take whatever action it deems necessary in order to insure performance. If, at the expiration of sixty (60) days from the date of said default, no arrangements have been made by the Owner or surety satisfactory to the County for the completion of said contract, then the County shall have the right to complete said contract and the Owner and Surety jointly and severally, shall pay all costs of completing said contract to the County, including but not limited to engineering, legal and other costs, together with any damages, either direct or consequential, which the County may sustain on account of the Owner's default of said contract. After the expiration of the aforesaid grace period, the County shall have the additional right to contract for the completion of said contract upon which the Owner has defaulted and upon the County's acceptance of the lowest responsible bid for the completion of said contract, the Owner and Surety shall become immediately liable for the amount of said bid and in the event the County is required to commence legal proceedings for the collection thereof, interest shall accrue at the rate of six percent (6%) per annum beginning with the commencement of such legal proceedings. The County, in its discretion, may permit the Surety to complete said contract, in the event of Owner's default.

In the event that the County commences suit for the collection of any sums due hereunder, the obligors and each of them agree to pay all costs incurred by the County, including attorney's fees.

EXECUTED this 8<sup>th</sup> day of Feb, 2018.

OWNER: THE VIERA COMPANY  
  
Todd J. Pokrywa, Sr. Vice President

SURETY: Travelers Casualty and Surety Company of America

By:   
Betty D. Suttle, Attorney-in-Fact







POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 232419

Certificate No. 007314220

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Thomas M. Cotton, Christine St. John, and Betty R. Suttle

of the City of Orlando, State of Florida, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 31st day of July, 2017.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 31st day of July, 2017, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2021.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 7<sup>th</sup> day of February, 20 18.

  
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.travelersbond.com](http://www.travelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.