

# MEMORANDUM



To: Cheri Coryea  
County Administrator

Thru: Chad Butzow, Director  
Public Works Department

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

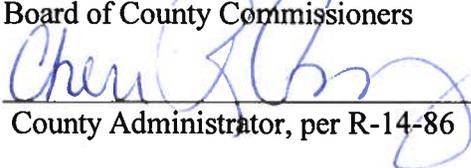
Date: November 19, 2019

Subject: **VILLAS OF HOLLY BROOK**  
**PDR-17-23/FSP-18-82/PLN1811-0014**  
**ACCEPT AGREEMENT FOR PERFORMANCE SECURITY**  
**ACCEPT SURETY BOND**

The Developer, Phillips Investments, LLC, is requesting that Manatee County accept private Tree Replacement improvements associated with this project. The developer has provided the *Required Improvements Agreement and Temporary Construction Easement for Private Improvements* which warrants these improvements for one (1) year from County Administrator acceptance. The developer has provided all necessary documentation required for private improvements in order for acceptance by Manatee County. A Bill of Sale is not required for this acceptance. We therefore, per Resolution R-14-86, respectively request the County Administrator to approve the following:

- **Accept & Execute** *Required Improvements Agreement and Temporary Construction Easement for Private Improvements* warranting the performance portion of this agreement securing Tree Replacement;
- **Surety Bond No.** 41416686 issued through Platte River Insurance Company;
- **Amount** of Performance Security \$148,492.50.

**MANATEE COUNTY, a political  
subdivision of the State of Florida**  
By: Board of County Commissioners

By:   
County Administrator, per R-14-86

cc:

Ken LaBarr, Infrastructure Inspections Division Manager  
Randy Porter, Unique Homes & Lumber, Inc.

Public Works Department  
Fiscal Division  
1022 26<sup>th</sup> Avenue East, Bradenton, FL 34208  
Phone number: (941) 708-7450

For: Villas of Holly Brook  
(Name of Project)  
Tree Replacement

**REQUIRED IMPROVEMENTS AGREEMENT AND TEMPORARY  
CONSTRUCTION EASEMENT FOR PRIVATE IMPROVEMENTS**

(Required with a Surety Bond (Attachment "B") as security guaranteeing completion of Required Improvements, Form No. 8417)

**WHEREAS**, Phillips Investments, LLC (Developer) has made application to Manatee County, Florida (County), for approval of a proposed subdivision or final site plan identified as Villas of Holly Brook (Project), the legal description for which is more particularly described in Exhibit "A", attached hereto and incorporated herein; and

**WHEREAS**, the Manatee County Land Development Code, Ordinance 90-01, requires that a final subdivision plat not be approved for recording, and that a Certificate of Occupancy not be issued in accordance with final site plan approval, until certain improvements required by the Land Development Code or required as a condition of approval of the plat or site plan (Required Improvements) have been duly constructed, completed, and approved, unless the Developer has provided performance security guaranteeing to the satisfaction of the County that such improvements will be duly constructed, completed, and approved; and

**WHEREAS**, in connection with the Project the Developer has submitted construction drawings for the Required Improvements which are on file with and have been approved by the County; and

**WHEREAS**, the Developer desires to obtain approval of the Project prior to installation of the Required Improvements.

**WHEREAS**, the developer has submitted a cost estimate certificate by the Engineer of Record to be an accurate reflection of the cost to complete the remaining Required Improvements, and the Surety Bond referred to below is in an amount which represents at least 130% of that estimated cost; and

**WHEREAS**, the Required Improvements shall be privately owned necessitating additional covenants and protections for the County and the public in the event that the Developer fails to complete the Required Improvements; and

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

1. That the Developer, in consideration of the County's approval of the proposed Project, and for other valuable consideration, hereby agrees to duly construct and complete the Required Improvements and to otherwise comply fully with the Land Development Code, any conditions of the Project's approval, and all other applicable regulations, requirements and agreements.

(Name of Project)

2. Developer and Platte River Insurance Company, a Surety Company duly authorized to transact business in the State of Florida (Surety) are held and firmly bound unto the County as obligee/owner in the amount of One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100 Dollars (words) \$148,492.50 (numbers), and the Developer herewith tenders to the County a Surety Bond, No. 41416686, dated September 26, 2019 with Platte River Insurance Company expiring September 26, 2020. Said Bond shall not expire until the Required Improvements guaranteed by this Bond has been accepted by the County.
  
3. That in consideration of the foregoing, it is hereby mutually AGREED as follows:
  - (a) The Developer shall complete to the satisfaction of the County all Required Improvements on or before the 26 day of September, 2020 in accordance with the construction drawings or any amendments thereto approved by the County, and unless the County elects to proceed in accordance with Paragraph (b) below, the Surety, upon thirty (30) days written notice of the default from the County will cause to be completed the Required Improvements pay all costs, thereof, including without limitation all engineering, legal and contingent costs.
  
  - (b) In the event the Developer should fail or refuse to fulfill within the time specified its obligations under this Agreement, the County, at its option, shall have the right to enter upon that portion of the Project property, as determined necessary by the County and take all actions required to construct and complete, or cause to be constructed the Required Improvements. In the event the County should exercise such right, the County shall have the unqualified right to draw funds for the purpose of construction and completing the Required Improvements, or causing the same to be done, and for paying costs incidental to the exercise of its rights hereunder, in such amount as the County shall in its sole discretion determine, in accordance with the terms of the Surety Bond. The Developer shall indemnify and save harmless the County against or from all claims, costs, expenses, damages, injury, or loss, either direct or consequential, including without limitation all engineering, legal, and contingent costs which the county may sustain on account of the failure of the Developer to fulfill its obligations as described herein.
  
  - (c) The Developer, his successors and assigns, hereby grants a temporary easement over property in the Project as necessary to allow the County to complete the Required Improvements.
  
  - (d) Should it become necessary for the County to complete the Required Improvements, the Developer hereby appoints the County as its agent for the purposes of using the approvals granted for the required improvements.

(Pvt Impv Agreement)

For: Villas of Holly Brook  
(Name of Project)

4. The Developer agrees that it is liable to the County for all costs and damages, as described above, that the County may incur in connection with constructing and completing the Required Improvements for the life of the Project, without regard to the amount of the Surety Bond identified above. Should the Developer fail or refuse to complete the Required Improvements, as required, nothing herein shall be construed as affecting the County's right to resort to any and all legal and equitable remedies against the Developer, including specific performance, to which the Developer hereby agrees.
5. The Developer understands and agrees that in the event that the Required Improvements are not constructed or installed in the manner or time consistent with this Agreement, the County shall withhold further permits or approvals for the Project until the Required Improvements have been completed or adequate progress, as determined by the Board of County Commissioners, toward completion of the Required Improvements has been demonstrated.
6. Upon the County's completion of private improvements, the improvement shall be transferred to the Homeowner's Association or that entity set up in the deed restrictions to be responsible for ongoing maintenance of the improvements. In no event shall public funds be used for the maintenance of private improvements, unless they are dedicated to and accepted by the County.

(Pvt Imp./Surety- Developer is Corp.)

For: Villas of Holly Brook

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**WITNESSES:**

Hadley Phillips  
Witness

Hadley Phillips  
Type or Print Name

[Signature]  
Witness

Christopher Marbarger  
Type or Print Name

Phillips Investments, LLC  
Developer

BY: Reginald Phillips  
Signature

Reginald Phillips  
Type or Print Name

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

2402 18<sup>th</sup> St.  
Postal Address

Charleston IL 61920  
City State Zip

**NOTARY ACKNOWLEDGMENT**

STATE OF: Illinois

COUNTY OF: cdcs

The foregoing instrument was acknowledged before me this 30 day of September, 2019, by Reginald Phillips, as manager, (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:



[Signature]  
Notary Public

McKenzie B Nickelson  
Print Name of Notary

Approved and accepted for and on behalf of Manatee County, Florida, this 8 day of NOV, 2019.

**MANATEE COUNTY**  
A political subdivision of the State of Florida  
By: Cheri Coryea  
County Administrator

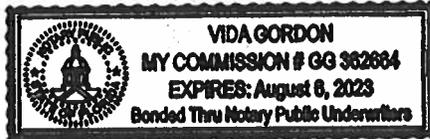
**NOTARY ACKNOWLEDGMENT**

STATE OF: Florida

COUNTY OF: Manatee

The foregoing instrument was acknowledged before me this 8 day of NOV, 2019, by Cheri Coryea, as County Administrator, (Title), for and on behalf of the Manatee County Board of County Commissioners and who is personally known to me or who has produced N/A (Type of Identification) as identification.

NOTARY SEAL:



[Signature]



Building and Development Services  
Environmental Review Section  
1112 Manatee Avenue West  
Bradenton, FL 34206  
Phone: (941) 748-4501  
www.mymanatee.org

September 18, 2019

George Eissler, RLA  
ZNS Engineering  
201 5<sup>th</sup> Avenue Drive East  
Bradenton, FL 34208

Via email only

RE: **Villas of Holly Brook**  
**PDR-17-23/FSP-18-82/PLN1811-0014**  
**Performance Cost Estimate**  
**Required Private Improvements**  
**Reason - Required Tree Replacement**

Dear Mr. Eissler:

The cost estimate for the above referenced bond, dated **September 17, 2019**, for the completion of tree replacement to serve the above referenced development, is approved for the appropriate surety.

A Private Improvement Performance Security in the amount of **\$148,492.50** which is 130% of your estimated costs, would be sufficient to assure the County completion of the required tree replacement for this or an alternative site.

If we can be of further assistance, please contact me at (941) 748-4501, ext. 6936.

Sincerely,

Gary Race  
Planner II  
Environmental Review Section

Cc: **Brandy Wilkins, Public Works Dept. – Fiscal Services**  
**Karla Ripley, Public Works Dept. – Infrastructure Engineering**  
**Stephanie Moreland, Case Manager**  
**Randy Porter, Unique Homes & Lumber, Inc.**

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# ZNS|ENGINEERING

Land Planning Engineering Surveying Landscape Architecture

September 17, 2019

Mr. Gary Race  
Manatee County Building & Development Services Dept.  
Environmental Planning Division  
1112 Manatee Avenue West  
Bradenton, FL 34205

RE: Villas of Holly Brook  
ZNS Project No: 44514

Dear Mr. Race,

The purpose of this letter is to request the approval of a private improvement bond estimate for Manatee County Land Development Code required tree replacement for the above referenced development.

The tree replacement bonding amounts, per the attached schedule contained in the approved Hollybrook at Bradenton Landscape Plans, sheet PL-01, are as follows:

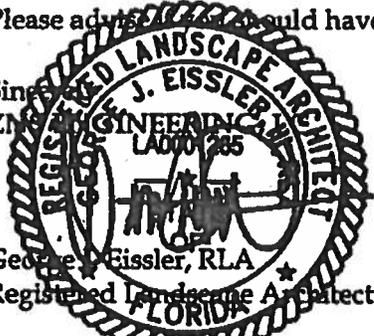
Tree Replacement - 3" Caliper	\$ 10,680.00
<u>Tree Replacement - 4" Caliper</u>	<u>\$103,545.00</u>
Total	\$114,225.00

I hereby certify that the tree replacement costs outlined herein (attachment) represents our estimate of the cost of the tree replacement required for the above project. Manatee County requires performance bonds to be calculated at 130% of cost. This bond cost estimate has been prepared utilizing the approved bond estimate calculations to obtain a private improvement surety guaranteeing completion of these improvements.

Upon completion of your review and approval of this bond estimate of \$148,492.50 (130% of cost), please notify our office so that the appropriate surety may be obtained.

Please advise if you should have any questions or require additional information.

Sincerely,  
ZNS|ENGINEERING



George J. Eissler, RLA  
Registered Landscape Architect No. LA 0001265  
FLORIDA

c: Brandy Wilkins, Manatee County

attachments

9/17/2018

HOLLYBROOK at BRADENTON PROPOSED TREE REPLACEMENT		
<b>PROPOSED TREE REPLACEMENT - PALM</b>		
SABAL PALM	12	
REPLACEMENT PALM TOTALS	12	12
TOTAL PROPOSED REPLACEMENT TREES - PALM		12
TOTAL REQUIRED REPLACEMENT TREES - PALM		3
OVERAGE / (SHORTAGE)		9
<b>PROPOSED TREE REPLACEMENT - 3" CALIPER</b>		
HIGH RISE LIVE OAK - 3" caliper	11	
3" REPLACEMENT TREE TOTALS	11	11
DAHOON HOLLY	20	
TONTO CRAPE MYRTLE	2	
UNDER STORY TREE SUB-TOTALS	22	
3" TREE REPLACEMENT EQUIVALENT (2.5:1)		
3" REPLACEMENT TREE EQUIVALENT PHASE TOTALS	9	9
SABAL PALM (OVERAGE)	9	
PALM TREE SUB-TOTALS	9	
3" TREE REPLACEMENT EQUIVALENT (2:1)		
3" REPLACEMENT TREE EQUIVALENT PHASE TOTALS	4.5	5
TOTAL PROPOSED REPLACEMENT TREES - 3" CALIPER		24
TOTAL REQUIRED REPLACEMENT TREES - 3" CALIPER		48
OVERAGE / (SHORTAGE)		(24)
<b>PROPOSED TREE REPLACEMENT - 4" CALIPER</b>		
SLASH PINES - 4" caliper	13	
4" REPLACEMENT TREE TOTALS	13	13
TOTAL PROPOSED REPLACEMENT TREES - 4" CALIPER		13
TOTAL REQUIRED REPLACEMENT TREES - 4" CALIPER		190
OVERAGE / (SHORTAGE)		(177)

\* MANATEE COUNTY TO ALLOW UNDER STORY TREES TO COUNT AS REPLACEMENT TREES AT A RATIO OF 2.5 PROPOSED UNDER STORY TREES PER 1 REQUIRED REPLACEMENT CANOPY TREE.

\*\* SHORTAGES IN REQUIRED TREE REPLACEMENTS SHALL BE ADDRESSED IN ACCORDANCE WITH SECTION 700 OF THE LAND DEVELOPMENT CODE. PAYMENTS INTO THE TREE FUND SHALL BE CALCULATED BY COUNTY STAFF.

	QTY SHORT	FUND \$	TOTAL
Manatee County Tree Fund Payment = 3" caliper tree**	24	445 \$	10,680.00
Manatee County Tree Fund Payment = 4" caliper tree**	177	585 \$	103,545.00
Manatee County Tree Fund Payment = Palm	-	222.5 \$	-
			\$ 114,225.00
Performance Bond Required Multiplier (130%)			\$ 148,492.50

-- Manatee County Tree Fund Cash in Lieu Payment amount per Manatee County Fee Schedule effective 12/1/2016

# PLATTE RIVER INSURANCE COMPANY

BOND#41416686

## SITE IMPROVEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, Phillips Investments, LLC, 2402 18<sup>th</sup> St, Charleston, IL 61920 as Principal, and Platte River Insurance Company, a corporation organized under the laws of the State of Nebraska, and duly authorized to transact business in the State of Florida, as Surety, are held and firmly bound unto Manatee County, 1022 26<sup>th</sup> Ave E, Bradenton, FL 34208 in the penal sum of One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100 Dollars (\$148,492.50), lawful money of the United States, to the payment of which well and truly to be made we hereby bind ourselves and our heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted to the Manatee County for its approval, a plan entitled Villas of Holly Brook/PLN1811-0014 whose terms and conditions are hereby incorporated by reference in this bond and is hereinafter referred to as the Villas of Holly Brook -Private Improvements, Tree Replacement Project, Bradenton, FL.

WHEREAS, Manatee County, has approved said plan on condition that said Principals file with the Manatee County a surety bond in the amount of One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100 Dollars (\$148,492.50) and in form approved by the Manatee County, securing actual completion of the work required by the Manatee County.

NOW, THEREFORE, the condition of this obligation is such that, if the above named Principal shall promptly and faithfully complete such tree replacement project, then this obligation shall be void, otherwise to remain in full force and effect. In no event shall the liability of the Surety exceed One Hundred Forty Eight Thousand Four Hundred Ninety Two & 50/100 Dollars (\$148,492.50).

The term of this bond shall commence on September 26, 2019 and expire September 26, 2020. This bond may be extended by the Surety, at its sole discretion, by its Continuation Certificate. However, neither nonrenewal by the Surety, nor the failure or inability of the Principal to file a replacement bond in the event of non-renewal, shall constitute a loss to the Obligee recoverable under this bond or any renewal or continuation thereof. The liability of the Surety under this bond and all Continuations Certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by Surety as supplements therein.

IN WITNESS WHEREOF, the Principal and Surety have hereunto set their hands and seals this 26th day of September, 2019, 2013.

Phillips Investments, LLC  
(principal)

Witness \_\_\_\_\_

By

Reginald Phillip  
Reginald Phillip, Manager  
Print Name & Title

Witness

Brad Koosmann

Brad Koosmann  
Account Specialist

PLATTE RIVER INSURANCE COMPANY

By

Ronald Kaihoi

Ronald Kaihoi, Attorney-in-Fact



Agent:  
ACORA Surety & Insurance Services, LLC  
PO Box 506  
Montevideo, MN 56265  
Ph: 320-269-8546

**ACKNOWLEDGMENT OF PRINCIPAL (Individual)**

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally comes \_\_\_\_\_, to me known and known to me to be the person who is described in and executed the foregoing instrument, and acknowledges to me that he/she executed the same.

\_\_\_\_\_  
Notary Public

**ACKNOWLEDGMENT OF PRINCIPAL (Partnership)**

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally come(s) \_\_\_\_\_, a member of the co-partnership of \_\_\_\_\_, to me known and known to me to be the person who is described in and executed the foregoing instrument, and acknowledges to me that he/she executed the same as the act and deed of the said co-partnership.

\_\_\_\_\_  
Notary Public

**ACKNOWLEDGMENT OF PRINCIPAL (Corporation/LLC)**

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ }

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me personally come(s) \_\_\_\_\_, to me known, who being duly sworn, deposes and says that he/she resides in the City of \_\_\_\_\_ that he/she is the \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the foregoing instrument, and that he/she signed his/her name thereto by like order.

\_\_\_\_\_  
Notary Public

PLATTE RIVER INSURANCE COMPANY  
POWER OF ATTORNEY

41416686

KNOW ALL MEN BY THESE PRESENTS, That the PLATTE RIVER INSURANCE COMPANY, a corporation of the State of Nebraska, having its principal offices in the City of Middleton, Wisconsin, does make, constitute and appoint

JACK ANDERSON; RONALD KAIHOI; RITA JORGENSON

its true and lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf, as surety, and as its act and deed, any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED: \$20,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PLATTE RIVER INSURANCE COMPANY at a meeting duly called and held on the 8th day of January, 2002.

"RESOLVED, that the President, Executive Vice President, Vice President, Secretary or Treasurer, acting individually or otherwise, be and they hereby are granted the power and authorization to appoint by a Power of Attorney for the purposes only of executing and attesting bonds and undertakings, and other writings obligatory in the nature thereof, one or more resident vice-presidents, assistant secretaries and attorney(s)-in-fact, each appointee to have the powers and duties usual to such offices to the business of this company; the signature of such officers and seal of the Company may be affixed to any such power of attorney or to any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking or other writing obligatory in the nature thereof to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any of said officers, at any time."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner - Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

IN WITNESS WHEREOF, the PLATTE RIVER INSURANCE COMPANY has caused these presents to be signed by its officer undersigned and its corporate seal to be hereto affixed duly attested, this 3rd day of May, 2017.

Attest:

*John E. Rzepinski*

John E. Rzepinski  
Vice President, Treasurer & CFO

*Suzanne M. Broadbent*

Suzanne M. Broadbent  
Assistant Secretary

STATE OF WISCONSIN } S.S.:  
COUNTY OF DANE



PLATTE RIVER INSURANCE COMPANY

*Stephen J. Sills*

Stephen J. Sills  
CEO & President

On the 3<sup>rd</sup> day of May, 2017 before me personally came Stephen J. Sills, to me known, who being by me duly sworn, did depose and say: that he resides in the County of New York, State of New York; that he is President of PLATTE RIVER INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.



*David J. Regele*

David J. Regele  
Notary Public, Dane Co., WI  
My Commission Is Permanent

STATE OF WISCONSIN } S.S.:  
COUNTY OF DANE

I, the undersigned, duly elected to the office stated below, now the incumbent in PLATTE RIVER INSURANCE COMPANY, a Nebraska Corporation, authorized to make this certificate, DO HEREBY CERTIFY that the foregoing attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at the City of Middleton, State of Wisconsin this 26th day of September, 2019.



*Antonio Celii*

Antonio Celii  
General Counsel, Vice President & Secretary

# ACKNOWLEDGEMENT OF SURETY

STATE OF MINNESOTA

COUNTY OF CHIPPEWA



On this 26th day of September, 2019, before me, a Notary Public within and for said County, personally appeared **Ronald Kaihoi** to me personally known, who being by me duly sworn he/she did say that he/she is the attorney-in-fact of **Platte River Insurance Company**, the corporation named in the foregoing instrument, and the seal affixed to said instrument is the corporation seal of said corporation, and sealed on behalf of said corporation by authority of its Board of Directors and said **Ronald Kaihoi** acknowledged said instrument to be the free act and deed of said corporation.

\_\_\_\_\_  
**NOTARY PUBLIC**

My Commission Expires 1/31/2020

