

MEMORANDUM

To: Carmen Mosley, Sr. Fiscal Services Mgr.
Public Works Department



From: Jane Oliver, Bond Coordinator
Public Works Department



Date: March 6, 2018

Subject: **POLO RUN, PHASE I-A & I-B
PHASE I-B ONLY
PDR-15-02/16-S-49 (F)
ACCEPT LETTER OF CREDIT AMENDMENT
FOR PUBLIC PORTION OF AGREEMENT**

For your information: On February 7, 2017, the Board of County Commissioners accepted the *Agreement for Private Subdivision Improvements with Public Improvements*. The developer has requested an extension on the public infrastructure for Phase I-B, which will be County maintained. The developer has started building infrastructure improvements in the development and is requesting the extension in order to complete the project. The Public Works Department has reviewed the request and is in agreement with the Developer. This action is to extend the agreement and security to ensure the developer is not in default with the agreement previously provided. We therefore, per Resolution R-14-86, respectively request approval of the following

LETTER OF CREDIT NO. FGAC-17009 WILL REMAIN IN PLACE. This Letter will be used to secure the one (1) year extension for the required public infrastructure improvements agreement. Note: No extension agreement is required with the new County format.

- **Acceptance of**, the Letter of Credit Amendment in conjunction with the agreement previously approved;
 - **Letter of Credit No FGAC-17009**, Amendment No. 1 dated November 21, 2017 issued through Fidelity Guaranty and Acceptance Corp.;
 - **Expiration Date** –January 4, 2019;
 - **Amount of Performance Bond** \$817,083.07.

Instructions to Board Records

1. Copies of release request to: Claudia Campos (Claudia.campos@ManateeClerk.com), Julie Jensvold (Julie.jensvold@ManateeClerk.com), Abby Lindecamp (abby.lindecamp@ManateeClerk.com), Terry Kirschner (Terry.Kirschner@Lennar.com), and Jane Oliver (jane.oliver@mymanatee.org).

cc: Records Management
Kenneth LaBarr, Infrastructure Inspections Div. Mgr., Public Works
Terry Kirschner, Lennar Homes, LLC
Attachments

Public Works Department
Fiscal Division
1022 26th Avenue East, Bradenton, FL 34208
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.

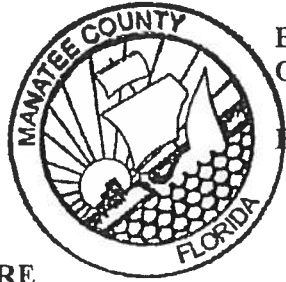
Such authority shall be vested concurrently in the County Administrator and the County Attorney. Should both such officials be unavailable, the authority shall rest with any Deputy County Administrator or any Assistant County Attorney designated in writing by the County Administrator or County Attorney,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

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

By: Robin Lubette
Deputy Clerk

FIDELITY GUARANTY AND ACCEPTANCE CORP.

700 NW 107 AVENUE - SUITE 204

MIAMI, FLORIDA 33172

PHONE (305) 563-9724

COPI

NOVEMBER 21, 2017

CLEAN IRREVOCABLE STANDBY LETTER OF CREDIT NO. FGAC-17009

BENEFICIARY: BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA
C/O PUBLIC WORKS DEPARTMENT/FISCAL SERVICES DIVISION
1022 26TH AVENUE EAST
BRADENTON, FL 34208

APPLICANT: LENNAR HOMES, LLC
10481 BEN C PRATT, SIX MILE CYPRESS PARKWAY
FT. MYERS, FL 33966

LC AMOUNT: USD \$817,083.07 (EIGHT HUNDRED SEVENTEEN THOUSAND EIGHTY THREE AND 07/00 US DOLLARS)

GENTLEMEN:

TO AMEND LETTER OF CREDIT NO. FGAC-17009 AS ISSUED IN YOUR FAVOR.

THIS AMENDMENT IS AN INTEGRAL PART OF THE ORIGINAL CREDIT. ALL OTHER TERMS AND CONDITIONS OF THE LETTER OF CREDIT INCLUDING PREVIOUS AMENDMENTS REMAIN UNCHANGED.

AMENDED TERMS:

EXTEND EXPIRATION DATE TO: JANUARY 4, 2019.

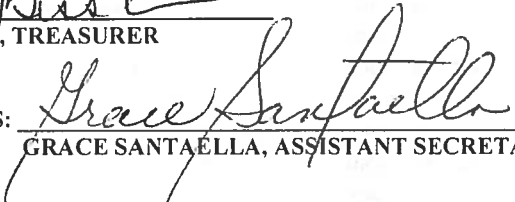
IMMEDIATE NOTIFICATION MUST BE GIVEN TO US IF THIS AMENDMENT IS NOT ACCEPTED.

THIS IS AMENDMENT NO. 1.

VERY TRULY YOURS,

FIDELITY GUARANTY AND ACCEPTANCE CORP.


DIANE BESSETTE, TREASURER

ATTEST/WITNESS: 
GRACE SANTAELLA, ASSISTANT SECRETARY

*Polo Run 1-B
P.B. 97*