

629

**AGENDA ITEM REQUEST FORM**

**Hays County Commissioners Court**

Tuesdays at 9:00 AM

Request forms are due in Microsoft Word Format via email by 2:00 p.m. on Wednesday.

**AGENDA ITEM**

Discussion and possible action to consider replacing Irrevocable Standby Letter of Credit No. SBP702329 with Bond No. 76089439 for surety of the construction of street and drainage improvements within Belterra Subdivision, Phase 4, Section 19A.

ITEM TYPE	MEETING DATE	AMOUNT REQUIRED
ACTION-ROADS	October 15, 2013	

**LINE ITEM NUMBER**

**AUDITOR USE ONLY**

**AUDITOR COMMENTS:**

PURCHASING GUIDELINES FOLLOWED: N/A

AUDITOR REVIEW: N/A

REQUESTED BY	SPONSOR	CO-SPONSOR
Garza	WHISENANT	N/A

**SUMMARY**

The developer responsible for this section of Belterra has changed. Action to replace the surety simply transfers the financial responsibility

FILED: 10 15 2013  
HAYS COUNTY COMMISSIONERS' COURT  
Resolution # 28409 VOL V PG 241

Hays County  
Liz Q. Gonzalez  
County Clerk  
San Marcos, Texas 78666



70 2013 13035162

Instrument Number: 2013-13035162

As

Recorded On: October 17, 2013

NO Fee-Recording #/Misc

Parties: CRESCENT BELTERRA TX LLC

To

Number of Pages: 4

Comment:

( Parties listed above are for Clerks reference only )

**\*\* Examined and Charged as Follows: \*\***

NO Fee-Recording #/Misc	0.00
<b>Total Recording:</b>	<b>0.00</b>

\*\*\*\*\* DO NOT REMOVE. THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 2013-13035162  
Receipt Number: 351311  
Recorded Date/Time: October 17, 2013 02:55:49P  
Book-Vol/Pg: BK-OPR VL-4777 PG-545  
User / Station: O Martinez - Cashiering #8

**Record and Return To:**

CO CLERK  
RETURN T ROSE  
SAN MARCOS TX 78666



State of Texas |  
County of Hays

I hereby certify that this instrument was filed for record in my office on the date and time stamped hereon and was recorded on the volume and page of the named records of Hays County, Texas

*Liz Q. Gonzalez*

Liz Q. Gonzalez, County Clerk

Bond No. 76089439



### SITE IMPROVEMENT PERFORMANCE BOND

**KNOW ALL MEN BY THESE PRESENTS:**

That we, **Crescent Belterra TX, LLC** as Principal with our address being **227 W. Trade St., Suite 1000, Charlotte, NC 28202**, and the **Guarantee Company of North America USA**, as Surety a corporation duly licensed to conduct business in the State of Texas, with its' corporate headquarters and main mailing address at **One Towne Square, Suite 1470 Southfield, Michigan 48076** are held and firmly bound unto **The County of Hays, Texas, with an address of Hays County Judge, 111 East San Antonio Street, Suite 300, San Marcos, TX 78666**, as Obligee, in the sum of **One Hundred Eighty Seven Thousand Six Hundred Three and 29/100 (\$187,603.29) Dollars**, for which payment, well and truly to be made, we bind ourselves, our heirs, executors and successors, jointly and severally firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH THAT:**

WHEREAS, the above named Principal, has agreed to construct in the **County of Hays, Texas** the following improvements: **Construction of Streets, Drainage – Phase 4, Section 19A**

**NOW, THEREFORE**, the condition of this obligation is such, that if the above Principal shall well and truly perform said construction in accordance with agreement(s) between Principal and Obligee during the original term thereof or of any extension of said term that may be granted by the Obligee with or without notice to the Surety, this obligation shall be void, otherwise it shall remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact, this 19th day of September, 2013.



**The Guarantee Company of North America USA**

By: Cynthia Farrell  
(Name) Cynthia Farrell, Attorney-in-Fact

**Crescent Belterra TX, LLC**

By: Heather Kels  
Heather Kels, Vice President

Heather Kels, Vice President  
Print Name & Title

Bk Vol Pg  
13035162 DPR 4777. 547



# THE GUARANTEE COMPANY OF NORTH AMERICA USA

Southfield, Michigan

## POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS: That THE GUARANTEE COMPANY OF NORTH AMERICA USA, a corporation organized and existing under the laws of the State of Michigan, having its principal office in Southfield, Michigan, does hereby constitute and appoint

*Annette Leuschner, Jessica Iannotta, Sonia Rogers, Cynthia Farrell, Vivian Carti*  
*Aon Risk Services Northeast, Inc - New York*

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise.

The execution of such instrument(s) in pursuance of these presents, shall be as binding upon THE GUARANTEE COMPANY OF NORTH AMERICA USA as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at the principal office.

The Power of Attorney is executed and may be certified so, and may be revoked, pursuant to and by authority of Article IX, Section 9.03 of the By-Laws adopted by the Board of Directors of THE GUARANTEE COMPANY OF NORTH AMERICA USA at a meeting held on the 31<sup>st</sup> day of December, 2003. The President, or any Vice President, acting with any Secretary or Assistant Secretary, shall have power and authority:

1. To appoint Attorney(s)-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof; and
2. To revoke, at any time, any such Attorney-in-fact and revoke the authority given, except as provided below
3. 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.
4. 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.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of the Company adopted at a meeting duly called and held on the 6th day of December 2011, of which the following is a true excerpt:

RESOLVED that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, contracts of indemnity and other writings obligatory in the nature thereof, and such signature and seal when so used shall have the same force and effect as though manually affixed.



IN WITNESS WHEREOF, THE GUARANTEE COMPANY OF NORTH AMERICA USA has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 23rd day of February, 2012.

THE GUARANTEE COMPANY OF NORTH AMERICA USA

Stephen C. Ruschak, Vice President

Randall Musselman, Secretary

STATE OF MICHIGAN  
County of Oakland

On this 23rd day of February, 2012 before me came the individuals who executed the preceding instrument, to me personally known, and being by me duly sworn, said that each is the herein described and authorized officer of The Guarantee Company of North America USA; that the seal affixed to said instrument is the Corporate Seal of said Company; that the Corporate Seal and each signature were duly affixed by order of the Board of Directors of

*Cynthia A. Takai*  
Notary Public, State of Michigan  
County of Oakland

My Commission Expires February 27, 2018  
Acting in Oakland County

IN WITNESS WHEREOF, I have hereunto set my hand at The Guarantee Company of North America USA offices the day and year above written.

I, Randall Musselman, Secretary of THE GUARANTEE COMPANY OF NORTH AMERICA USA, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by THE GUARANTEE COMPANY OF NORTH AMERICA USA, which is still in full force and effect.

IN WITNESS WHEREOF, I have thereunto set my hand and attached the seal of said Company this 19<sup>th</sup> day of September, 2013

Randall Musselman, Secretary



**THE GUARANTEE COMPANY OF NORTH AMERICA USA**  
*Home Office, Southfield, Michigan*  
**STATUTORY BALANCE SHEET**  
 December 31, 2012

ASSETS

Cash and Short-Term Investments	\$ 58,393,115
Marketable Securities	147,798,940
Premium and Agents Balances (under 90 days)	2,429,925
Reinsurance Receivable on paid losses	1,271,700
Accrued Interest and Dividends	843,526
Net Deferred Tax Asset	3,464,813
Other Assets	70,116
Total Admitted Assets	<u>\$214,272,135</u>

LIABILITIES

Reserve for Losses and Loss Adjustment Expenses	\$ 7,952,097
Unearned Premium Reserve	8,952,183
Note Payable to Parent	50,617,656
Accrued Expenses	1,080,040
Ceded Reinsurance Premiums Payable	1,330,254
Taxes, Licenses and Fees Payable	172,837
Other Liabilities	2,443,631
Total Liabilities	<u>\$ 72,548,698</u>

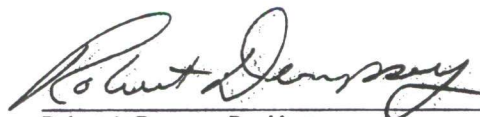
CAPITAL AND SUPPLUS

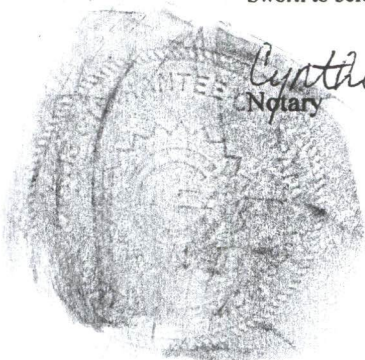
Common Stock and Paid-In Capital	\$144,020,970
Surplus	<u>(2,297,533)</u>
Total Policyholders' Surplus	<u>\$141,723,437</u>
Total Liabilities, Capital and Surplus	<u>\$214,272,135</u>

State of Michigan  
 County of Oakland

Robert A. Dempsey being duly sworn, says: That he is the President of The Guarantee Company of North America USA; that said company is a corporation duly organized, existing, and engaged in business as a surety by virtue of the laws of the State of Michigan, and has duly complied with all the requirements of the laws of said state applicable to said company and is duly qualified to act as surety under such laws; that said company has also complied with and is duly qualified to act as surety under the Act of Congress of July 30, 1947, as amended (6 U.S.C. 6-13); that the foregoing is a full, true and correct statement of the financial condition of said company on the 31<sup>st</sup> day of December 2012.

Sworn to before me this 8<sup>th</sup> day of March 2013.

  
 Robert A. Dempsey, President



  
 Cynthia A. Takai  
 Notary

Cynthia A. Takai  
 Notary Public, State of Michigan  
 County of Oakland  
 My Commission Expires February 27, 2018  
 Acting in Oakland County