

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN
AND FOR COLLIER COUNTY, FLORIDA

CASE NO: 11-2014-CA-002390-0001-XX

PHOENIX ASSOCIATES OF SOUTH
FLORIDA, INC.,

Plaintiff,

v.

GEORGIA HILLER; FLORIDA
HARDSCAPES & PAVER MAINTENANCE,
INC.; and RAYMOND BUILDING SUPPLY
CORPORATION,

Defendants.

**GEORGIA HILLER'S MOTION FOR RELEASE OF BOND, DISCHARGE OF LIS
PENDENS, AND DISMISSAL WITH PREJUDICE ON COUNT I OF PLAINTIFF'S
AMENDED COMPLAINT**

Defendant, Georgia Hiller ("Hiller"), by and through her undersigned counsel and pursuant to sections 713.22 and 713.24, Fla. Stat., moves for an order: a) directing the Clerk to release the lien transfer bond that secured the now-extinguished claim of lien recorded by Plaintiff, Phoenix Associates of South Florida, Inc. ("Phoenix"); b) discharging Phoenix's lis pendens against Hiller's property; and c) dismissing with Count I of Phoenix's Amended Complaint (Lien Foreclosure) with prejudice. In support, Hiller states:

1. This case was primarily based upon an action by Phoenix to foreclose a construction lien against Hiller's property.
2. The property is located at 153 North Street, Naples, FL 34108 (the "Property").

3. On or about September 22, 2014, Phoenix recorded a lien against the Property for \$98,050.23 (the "Lien"). A copy of the recorded Lien is attached as "Exhibit A."

4. On October 24, 2014, Phoenix filed this action seeking, among other things, foreclosure of the Lien. Phoenix also recorded a Notice of Lis Pendens against the Property, a copy of which is attached as Exhibit "B."

5. On November 24, 2014, during the course of this proceeding, Hiller transferred the Lien to security pursuant to section 713.24, Fla. Stat. A copy of the Lien Transfer Bond (the "Bond") is attached as Exhibit "C."

6. On December 2, 2014, the Clerk recorded a certificate (the "Certificate") reflecting the transfer of the Lien from the Property to the security. Upon the occurrence of that event, the Property was released from the Lien and the Lien was officially transferred to the security (i.e., the Bond). *See* §713.24(1), Fla. Stat. (Upon filing the certificate, the real property shall thereupon be released from the lien claimed, and such lien shall be transferred to said security).

7. The next day, December 3, 2015, the Clerk mailed a copy of the Certificate to Phoenix. A copy of the Certificate is attached as Exhibit "D."

8. On December 8, 2014, Hiller also filed and served an additional notice on Phoenix alerting Phoenix of the transfer of the Lien to security. A copy of that notice is attached as Exhibit "E."

9. On December 31, 2014, because Phoenix had not brought its claim against the Bond, Hiller decided to shorten the duration of Phoenix's claim against the Bond by serving a notice of contest on Phoenix. §713.24(4), Fla. Stat. *See* 8 Fla. Prac., Constr. Law Manual § 8:53 (2014-2015 ed.) (Since October 1, 2005, if an action is commenced in a court of competent

jurisdiction to enforce a lien, and thereafter the lien is transferred to bond, then an action must be brought within one year of the transfer (unless shortened by a notice of contest)).

10. In particular, section 713.24(4), Fla. Stat. provides

(4) If a proceeding to enforce a transferred lien is not commenced within the time specified in s. 713.22 or if it appears that the transferred lien has been satisfied of record, the clerk shall return said security upon request of the person depositing or filing the same, or the insurer. If a proceeding to enforce a lien is commenced in a court of competent jurisdiction within the time specified in s. 713.22 and, during such proceeding, the lien is transferred pursuant to this section or s. 713.13(1)(e), an action commenced within 1 year after the transfer, **unless otherwise shortened by operation of law**, in the same county or circuit court to recover against the security shall be deemed to have been brought as of the date of filing the action to enforce the lien, and the court shall have jurisdiction over the action.

11. In other words, the one-year limitations period for a claim against the Bond can be shortened by operation of law (i.e., by way of a 20-day show cause summons under section 713.21, Fla. Stat. or Notice of Contest under section 713.22, Fla. Stat.).

12. While the normal limitations period for a claim against a lien transfer bond is one year, the Florida Legislature has created an express ability to shorten the one-year limitation period in the same manner that the one-year duration of an original lien claim may be shortened. *See Cool Guys, LLC v. Jomar Properties, LLC*, 84 So. 3d 1076 (Fla. 4th DCA 2012) (It is clear from the statutory language that, if a lien foreclosure suit is pending and the lien is transferred to security during the pendency of that litigation, a claim to recover against the transferred security must be brought within one year of the transfer); §§713.24(4) and 713.22(2), Fla. Stat.

13. In this case, the shortening of the duration of Phoenix's claim against the Bond was accomplished through the Notice of Contest procedure identified in section 713.22, Fla. Stat., which provides:

(1) No lien provided by this part shall continue for a longer period than one year after the claim of lien has been recorded . . .

* * *

(2) An owner or the owner's agent or attorney may elect to shorten the time prescribed in subsection (1) within which to commence an action to enforce a claim of lien or **claim against a bond or other security under section 713.23 or section 713.24** by recording in the Clerk's office a notice in substantially the following form:

NOTICE OF CONTEST OF LIEN

To: (name and address of Lienor)

You are notified that the undersigned contests the claim of lien filed by you on , (year) , of the public records of County, Florida, and that the time within which you may file suit to enforce your lien is limited to 60 days from the date of service of this notice. This day of , (year) .

Signed: (Owner or attorney)

The lien of any lienor upon whom such notice is served and who fails to institute a suit to enforce his or her lien within 60 days after service of such notice shall be extinguished automatically. The Clerk shall mail a copy of the notice of contest to the lien claimant at the address shown in the claim of lien or most recent amendment there too and shall certify to such service on the face of such notice and record the notice. Service shall be deemed complete upon mailing.

§§713.22(1) & (2), Fla. Stat. (Emphases added).

9. The Notice of Contest of the claim against the Bond was provided in the statutory form and recorded in the Clerk's office on January 7, 2015. A copy of the Notice of Contest is attached as Exhibit "F."

10. The Notice of Contest of the claim against the Bond was certified as mailed by the Clerk on January 8, 2015. *See id.* According to the above quoted language in the statute, that service on Phoenix was complete upon mailing on January 8, 2015. §713.22(2), Fla. Stat.

11. Therefore, the 60-day deadline for Phoenix to institute a suit to enforce its claim against the Bond (i.e., 60 days after the Clerk served the recorded Notice of Contest on Phoenix) was **Monday, March 9, 2015**.

12. Because Phoenix failed to timely institute a suit to enforce its claim against the Bond (i.e., the security) on or by March 9, 2015, the Lien was automatically extinguished by operation of law. *Cool Guys, LLC*, 84 So. 3d at 1076 (there is no ambiguity in the statute; contractor was precluded from bringing a claim on a transfer bond after missing the limitations period); *see also* §713.22(1), Fla. Stat. (strict one year statute of limitation for lien claims); §713.22(2), Fla. Stat. (strict 60-day statute of limitation for lien claims upon service of a notice of contest); §713.21, Fla. Stat. (strict 20-day limitation period for lien claims upon service of a show cause summons); *Dracon Const., Inc. v. Facility Const. Mgmt., Inc.* 828 So.2d 1069, 1070 (Fla. 4th DCA 2002) (in special statutory proceedings like this, trial court does not have discretion to bend time requirements that might otherwise be allowed in other civil matters; enforcing strict time requirements and dismissing lien foreclosure action that was three days late).

13. There is no longer an *in rem* action pending against the Property; all remaining claims are *in personam* in nature. Also, Phoenix missed the limitations deadline to file the claim against the Bond. Therefore, Hiller is entitled to dismissal of Count I of the Amended Complaint (lien foreclosure) with prejudice.

14. Furthermore, pursuant to section 713.24(4), Fla. Stat., Hiller is entitled to have the Clerk release and return the Lien Transfer Bond. §713.24(4), Fla. Stat. (If a proceeding to enforce a transferred lien is not commenced within the time specified in s. 713.22 . . . the clerk shall return said security upon request of the person depositing or filing the same).

15. Also, because the Lien has been extinguished, Phoenix's lis pendens must be discharged because there is no longer an *in rem* action pending against the Property.

WHEREFORE, Defendant, Georgia Hiller, respectfully requests entry of an order:

- a. Dismissing Count I (Lien Foreclosure) of Phoenix's Amended Complaint with prejudice;
- b. Directing the Clerk to release and return the Lien Transfer Bond to Hiller;
- c. Discharging Phoenix's lis pendens recorded in Official Records Book 5089 at Page 2865 in the Public Records of Collier County, Florida; and
- d. Granting any other relief that the Court deems just and proper under the circumstances.

Respectfully submitted,

By: s/Daniel A. Thomas
DANIEL A. THOMAS, ESQ.
Florida Bar No. 168262
dthomas@mrachek-law.com
LAUREN S. FALLICK, ESQ.
Florida Bar No. 0028946
lfallick@mrachek-law.com
MRACHEK, FITZGERALD, ROSE,
KONOPKA, THOMAS & WEISS, P.A.
505 South Flagler, Suite 600
West Palm Beach, Florida 33401-5945
Telephone: 561-655-2250
Facsimile: 561-655-5537
Attorneys for Georgia Hiller

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed with the Clerk of the Court and was served on all counsel of record identified on the attached Service List via email on this 24th day of March, 2015.

By: s/Daniel A. Thomas
DANIEL A. THOMAS, ESQ.

SERVICE LIST

Thomas W. Franchino, Esq.

Thomas W. Franchino, P.A.

Attorney for Phoenix Associates of South Florida, Inc.

1250 North Tamiami Trail, Suite 106

Naples, FL 34102

Phone: (239) 263-8357

Fax: (239) 263-0445

Email Address: tom@franchinolaw.com; jen@franchinolaw.com

STATE OF FLORIDA

COUNTY OF COLLIER

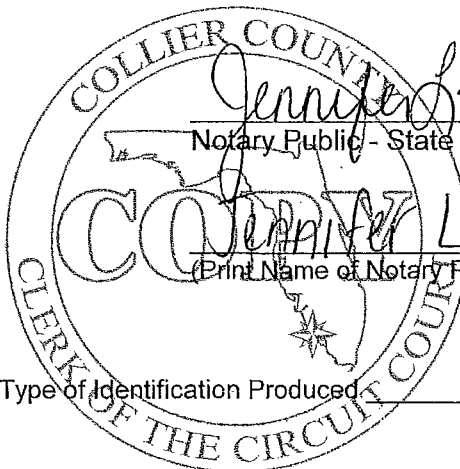
I HEREBY CERTIFY that on this day before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgements, personally appeared Randy Johns, as Vice President of Phoenix Associates of South Florida, Inc., known to me to be the person described in and who executed the foregoing Claim of Lien and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid this 22th day of September, 2014

(SEAL)



Jennifer L. Franchino
COMMISSION # FF031905
EXPIRES: AUG. 16, 2017
www.AARONNOTARY.com



Notary Public - State of Florida

(Print Name of Notary Public)

Personally Known ☒ or
Produced Identification ☐

Type of Identification Produced

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
IN AND FOR COLLIER COUNTY, FLORIDA
CIVIL ACTION

PHOENIX ASSOCIATES OF SOUTH
FLORIDA, INC.,

Plaintiff,

vs.

CASE NO. 14-CA-002390

GEORGIA HILLER, RAYMOND
BUILDING SUPPLY CORPORATION, and
FLORIDA HARDSCAPES & PAVER
MAINTENANCE, INC.,

Defendants.

NOTICE OF LIS PENDENS

TO: GEORGIA HILLER AND TO ALL OTHERS WHOM IT MAY CONCERN:

YOU ARE NOTIFIED of the institution of this action by Plaintiff **PHOENIX ASSOCIATES OF SOUTH FLORIDA, INC.** against you seeking to enforce and foreclose a Construction Claim of Lien upon the real property owned by GEORGIA HILLER and located and situated in Collier County, Florida, and described as follows:

Lot 6, Block F, PINE RIDGE SUBDIVISION, as per plat thereof recorded in Plat Book 4, Page 29, Public Records of Collier County, Naples, Florida, being a subdivision of that portion of Section 10, Township 49 South, Range 25 East, Collier County, Florida, lying westerly from Atlantic coast Line Railroad right of way.

The real property address is commonly known as: 153 North Street, Naples, Florida 34108.

DATED this 29th day of October, 2014.

THOMAS W. FRANCHINO, P.A.



1250 North Tamiami Trail, Suite 106
Naples, Florida 34102
Telephone: (239) 263-8357
tom@franchinolaw.com
Florida Bar No.: 0699276

NOTICE OF BOND

November 25, 2014

To Lienor: Phoenix Associates of South Florida, Inc.
Attn: Randy Johns
~~2590 Northbrook Plaza Drive, Suite 308~~ 13180 LIVINGSTON RD.
Naples, FL 34109 SUITE 204

Re: **Phoenix Associates of South Florida, Inc. v. Georgia Hiller**
Collier County Circuit Court Case No. 11-2014-CA-002390-0001-XX

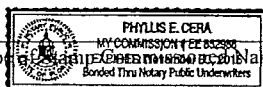
You are notified that the Claim of Lien recorded by you on September 22, 2014 in Official Records Book 5078 at Page 2458 in the Public Records of Collier County, Florida, has been transferred to surety bond, a copy of which is attached.

By: _____
Daniel A. Thomas, Esq.
Authorized Representative of Georgia Hiller

STATE OF FLORIDA)
COUNTY OF PALM BEACH) SS:

Sworn to or affirmed and subscribed before me this 25th day of November, 2014, by Daniel A. Thomas.

Phyllis E. Cera
Signature of Notary Public - State of Florida

Print, Type  PHYLIS E. CERA
MY COMMISSION EXPIRES 12/31/2016
Bonded thru Notary Public Underwriters

Personally known X OR Produced Identification _____
Type of Identification Produced N/A

State of Florida
County of Collier

I hereby certify that on this date, December 3rd, 2014 a true & correct copy of the Notice of Bond was sent by certified mail # 7007 0220 0000 3349 4597 to the address(s) stated above. Owner on lien stated as Georgia Hiller.

Dwight E. Brock
Collier County Clerk of Circuit Court
By: Dwight E. Brock, Deputy Clerk



LIEN TRANSFER BOND

Bond No. OFL446081

I, Georgia Hiller, as Principal, and Old Republic Surety Company, as a Surety, are firmly bound unto Phoenix Associates of South Florida, Inc. in the amount of \$98,050.23, plus interest at the legal rate for three years, plus \$500.00 for costs or 25% percent of the amount demanded on the claim of lien, whichever is greater, to apply to any attorneys' fees or court costs, pursuant to that certain Claim of Lien recorded on September 22, 2014 in Official Records Book 5078 at Page 2458 in the Public Records of Collier County, Florida against the following described real property:

Lot 6, Block F, PINE RIDGE SUBDIVISION, as per plat thereof recorded in Plat Book 4, Page 29, Public Records of Collier County, Florida, being a subdivision of that portion of Section 10, Township 49 South, Range 25 East, Collier County, Florida, lying westerly from Atlantic Coast Line Railroad right of way. Also known as 153 North Street, Naples, Florida 34108-2923 at Parcel ID# 67231040005.

The condition of this Bond is that Georgia Hiller, as Principal, shall pay any judgment or decree which may be rendered for the satisfaction of the lien for which the Claim of Lien was recorded, then this Bond shall be void. Otherwise, this Bond shall remain in full force and effect.

Dated this 24 day of November, 2014.

Georgia Hiller
As Principal

By: _____

Old Republic Surety Company
As Surety

By: _____

Print Name: D. Michael Stevens, Attorney-in-Fact

★ OLD REPUBLIC SURETY COMPANY

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

DONALD A. LAMBERT, JR., DEWEY MICHAEL STEVENS, OF JUPITER, FL

its true and lawful Attorney(s)-in-Fact, with full power and authority, not exceeding \$50,000,000, for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, asbestos abatement contract bonds, waste management bonds, hazardous waste remediation bonds or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED AN AGGREGATE OF FIVE MILLION DOLLARS(\$5,000,000) FOR ANY SINGLE OBLIGATION, REGARDLESS OF THE NUMBER OF INSTRUMENTS ISSUED FOR THE OBLIGATION.

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This document is not valid unless printed on colored background and is multi-colored. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982. This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president, or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER, 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, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 16TH day of SEPTEMBER, 2014.

Phyllis M. Johnson
Assistant Secretary



OLD REPUBLIC SURETY COMPANY

Alan Pavlic
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA-SS

On this 16TH day of SEPTEMBER, 2014, personally came before me, Alan Pavlic and Phyllis M. Johnson, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say; that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Kathryn R. Pearson
Notary Public
My commission expires: 9/28/2018

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

92-2339

Signed and sealed at the City of Brookfield, WI this 24th day of November, 2014.



Don E. Lambert
Assistant Secretary

COLLINS WORTHALTER LAMBERT, LLC

THIS DOCUMENT IS A COLORED BACKGROUND AND IS MULTI-COLORED ON THE FACE. THE COMPANY LOGO APPEARS ON THE FRONT OF THE DOCUMENT. IF A WATER MARK OF THESE PERIPHERIES ARE ABSENT, THIS DOCUMENT IS VOID.

* Lot 6, Block F, PINE RIDGE SUBDIVISION, as per plat thereof recorded in Plat Book 4, Page 29, Public Records of Collier County, Florida, being a subdivision of that portion of Section 10, Township 49 South, Range 25 East, Collier County, Florida, lying westerly from Atlantic Coast Line Railroad right of way. Also known as 153 North Street, Naples, Florida 34108-2923 at Parcel ID# 67231040005.

CLERKS CERTIFICATE

Re: Transfer of Lien to Surety Bond

I, DWIGHT E BROCK, Clerk of the Circuit Court for the Twentieth Judicial Circuit in and for Collier County, Florida, do hereby certify that the certain Claim of Lien dated the **22nd day of September, 2014**, was recorded on the **22nd day of September, 2014**, in the Official Record Book **5078** Page **2458**, of the Public Records of Collier County, Florida is hereby transferred from real property,*and said property situated in Collier County, Florida and hereby relieved of and from any claim or demand pursuant to the above identified Claim of Lien and said Claim of Lien is hereby transferred to the security of a Surety Bond deposited by:

**GEORGIA HILLER
C/O DANIEL A. THOMAS, ESQ
505 S. FLAGLER DR, STE 600
WEST PALM BEACH, FL 33401
AND
OLD REPUBLIC SURETY COMPANY**

OWNER AS STATED ON CLAIM OF LIEN: GEORGIA A HILLER

AMOUNT OF LIEN **\$98,050.23**

INTEREST AT **4.75%** PER YEAR **\$13,972.16**
FOR 3 YEARS

COURT COST **\$24,512.56**

TOTAL AMOUNT DEPOSITED **\$136,534.95**

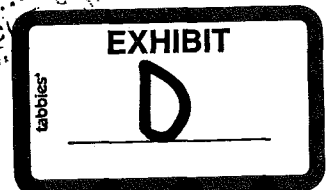
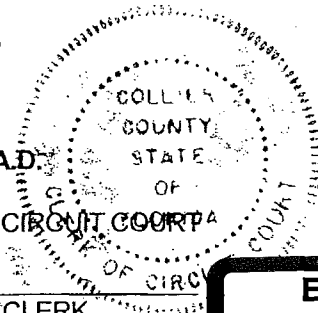
I further certify that a copy of this certificate was mailed this **3rd day of December, 2014** by certified mail # **7007 0220 0000 3350 2216**

TO: **PHOENIX ASSOCIATES OF SOUTH FLORIDA, INC.
13180 LIVINGSTON RD, STE 204
NAPLES, FL 34109**

Witness my hand and official seal this **2nd day of December, 2014 A.D.**

DWIGHT E BROCK, CLERK OF CIRCUIT COURT

BY: *Katrish Pugh*
Katrish Pugh DEPUTY CLERK



LIEN TRANSFER BOND

Bond No. OFL446081

I, Georgia Hiller, as Principal, and Old Republic Surety Company, as a Surety, are firmly bound unto Phoenix Associates of South Florida, Inc. in the amount of \$98,050.23, plus interest at the legal rate for three years, plus \$500.00 for costs or 25% percent of the amount demanded on the claim of lien, whichever is greater, to apply to any attorneys' fees or court costs, pursuant to that certain Claim of Lien recorded on September 22, 2014 in Official Records Book 5078 at Page 2458 in the Public Records of Collier County, Florida against the following described real property:

Lot 6, Block F, PINE RIDGE SUBDIVISION, as per plat thereof recorded in Plat Book 4, Page 29, Public Records of Collier County, Florida, being a subdivision of that portion of Section 10, Township 49 South, Range 25 East, Collier County, Florida, lying westerly from Atlantic Coast Line Railroad right of way. Also known as 153 North Street, Naples, Florida 34108-2923 at Parcel ID# 67231040005.

The condition of this Bond is that Georgia Hiller, as Principal, shall pay any judgment or decree which may be rendered for the satisfaction of the lien for which the Claim of Lien was recorded, then this Bond shall be void. Otherwise, this Bond shall remain in full force and effect.

Dated this 24 day of November, 2014.

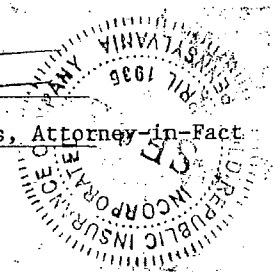
Georgia Hiller
As Principal

By: _____

Old Republic Surety Company
As Surety

By: _____

Print Name: D. Michael Stevens, Attorney-in-Fact



State of FLORIDA
County of Collier

I HEREBY CERTIFY THAT this is a true and correct copy of a document recorded in the OFFICIAL RECORDS of Collier County WITNESS my hand and official seal date, 12/2/2014
DWIGHT E. BROCK, CLERK OF CIRCUIT COURT



BY: [Signature] D.C.
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

DONALD A. LAMBERT, JR., DEWEY MICHAEL STEVENS, OF JUPITER, FL

its true and lawful Attorney(s)-in-Fact, with full power and authority, not exceeding \$50,000,000, for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, asbestos abatement contract bonds, waste management bonds, hazardous waste remediation bonds or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED AN AGGREGATE OF FIVE MILLION DOLLARS(\$5,000,000)----- FOR ANY SINGLE OBLIGATION, REGARDLESS OF THE NUMBER OF INSTRUMENTS ISSUED FOR THE OBLIGATION

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This document is not valid unless printed on colored background and is multi-colored. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982. This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president, or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER, 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, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 16TH day of SEPTEMBER, 2014.

Phyllis M. Johnson
Assistant Secretary



OLD REPUBLIC SURETY COMPANY
Alan Pavlic
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA-SS

On this 16TH day of SEPTEMBER, 2014, personally came before me, Alan Pavlic and Phyllis M. Johnson, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



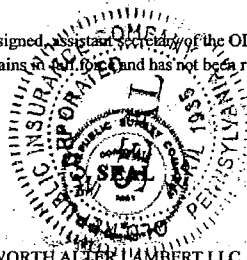
Kathryn R. Pearson
Notary Public
My commission expires: 9/28/2018

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

92-2339

Signed and sealed at the City of Brookfield, WI this 24th day of November, 2014



[Signature]
Assistant Secretary

COLLINSWORTH ALTER LAMBERT, LLC

THIS DOCUMENT HAS A COLORED BACKGROUND AND IS MULTI-COLORED ON THE FACE. THE COMPANY LOGO APPEARS ON THE BACK OF THIS DOCUMENT AS A WATERMARK. IF THESE FEATURES ARE ABSENT, THIS DOCUMENT IS VOID.

IN THE CIRCUIT COURT OF THE
TWENTIETH JUDICIAL CIRCUIT IN
AND FOR COLLIER COUNTY, FLORIDA

CASE NO: 11-2014-CA-002390-0001-XX

PHOENIX ASSOCIATES OF SOUTH
FLORIDA, INC.,

Plaintiff,

v.

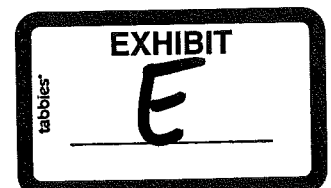
GEORGIA HILLER; FLORIDA
HARDSCAPES & PAVER MAINTENANCE,
INC.; and RAYMOND BUILDING SUPPLY
CORPORATION,

Defendants.

NOTICE OF FILING NOTICE OF BOND

Defendant, Georgia Hiller, through her undersigned counsel, files the attached Notice of Bond, which was recorded in the Official Records of Collier County, Florida, and transferred the alleged Claim of Lien to security in this action.

By: /s/ Daniel A. Thomas
DANIEL A. THOMAS, ESQ.
Florida Bar No. 168262
dthomas@mrachek-law.com
LAUREN S. FALLICK, ESQ.
Florida Bar No. 0028946
lfallick@mrachek-law.com
MRACHEK, FITZGERALD, ROSE,
KONOPKA, THOMAS & WEISS, P.A.
505 South Flagler, Suite 600
West Palm Beach, Florida 33401-5945
Telephone: 561-655-2250
Facsimile: 561-655-5537
Attorneys for Georgia Hiller



CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed with the Clerk of the Court and was served on all counsel of record identified on the attached Service List via email on this 8th day of December, 2014.

By: /s/ Daniel A. Thomas
DANIEL A. THOMAS, ESQ.

SERVICE LIST

Thomas W. Franchino, Esq.
Thomas W. Franchino, P.A.
Attorney For: Phoenix
1250 North Tamiami Trail, Suite 106
Naples, FL 34102
Phone: (239) 263-8357
Fax: (239) 263-0445
Email Address: tom@franchinolaw.com; jen@franchinolaw.com

NOTICE OF BOND

November 25, 2014

To Lienor: Phoenix Associates of South Florida, Inc.
Attn: Randy Johns
~~2590 Northbrook Plaza Drive, Suite 308~~ 13180 LIVINGSTON RD.
Naples, FL 34109 SUITE 204

Re: **Phoenix Associates of South Florida, Inc. v. Georgia Hiller**
Collier County Circuit Court Case No. 11-2014-CA-002390-0001-XX

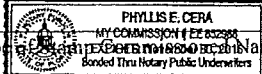
You are notified that the Claim of Lien recorded by you on September 22, 2014 in Official Records Book 5078 at Page 2458 in the Public Records of Collier County, Florida, has been transferred to surety bond, a copy of which is attached.

By: _____
Daniel A. Thomas, Esq.
Authorized Representative of Georgia Hiller

STATE OF FLORIDA)
) SS:
COUNTY OF PALM BEACH)

Sworn to or affirmed and subscribed before me this 25th day of November, 2014, by Daniel A. Thomas.

Phyllis E. Cera
Signature of Notary Public -- State of Florida

Print, Type  PHYLIS E. CERA
MY COMMISSION EXPIRES 12/31/2016
Bonds Thru Notary Public Underwriters

Personally known X OR Produced Identification _____
Type of Identification Produced N/A

State of Florida
County of Collier

I hereby certify that on this date, December 3rd, 2014 a true & correct copy of the Notice of Bond was sent by certified mail # 7007 0220 0000 3349 4597 to the address(s) stated above. Owner on lien stated as Georgia Hiller.

Dwight E. Brock
Collier County Clerk of Circuit Court

Dwight E. Brock
By: _____, Deputy Clerk

LIEN TRANSFER BOND

Bond No. OFL446081

I, Georgia Hiller, as Principal, and Old Republic Surety Company, as a Surety, are firmly bound unto Phoenix Associates of South Florida, Inc. in the amount of \$98,050.23, plus interest at the legal rate for three years, plus \$500.00 for costs or 25% percent of the amount demanded on the claim of lien, whichever is greater, to apply to any attorneys' fees or court costs, pursuant to that certain Claim of Lien recorded on September 22, 2014 in Official Records Book 5078 at Page 2458 in the Public Records of Collier County, Florida against the following described real property:

Lot 6, Block F, PINE RIDGE SUBDIVISION, as per plat thereof recorded in Plat Book 4, Page 29, Public Records of Collier County, Florida, being a subdivision of that portion of Section 10, Township 49 South, Range 25 East, Collier County, Florida, lying westerly from Atlantic Coast Line Railroad right of way. Also known as 153 North Street, Naples, Florida 34108-2923 at Parcel ID# 67231040005.

The condition of this Bond is that Georgia Hiller, as Principal, shall pay any judgment or decree which may be rendered for the satisfaction of the lien for which the Claim of Lien was recorded, then this Bond shall be void. Otherwise, this Bond shall remain in full force and effect.

Dated this 24 day of November, 2014.

Georgia Hiller
As Principal

By: _____

Old Republic Surety Company
As Surety

By: _____

Print Name: D. Michael Stevens, Attorney-in-Fact

★ ★ ★ ★ ★ **OLD REPUBLIC SURETY COMPANY**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

DONALD A. LAMBERT, JR., DEWEY MICHAEL STEVENS, OF JUPITER, FL

its true and lawful Attorney(s)-in-Fact, with full power and authority, not exceeding \$50,000,000, for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, asbestos abatement contract bonds, waste management bonds, hazardous waste remediation bonds or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED AN AGGREGATE OF
 FIVE MILLION DOLLARS(\$5,000,000)----- FOR ANY SINGLE
 OBLIGATION, REGARDLESS OF THE NUMBER OF INSTRUMENTS ISSUED FOR THE OBLIGATION.

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This document is not valid unless printed on colored background and is multi-colored. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982. This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president, or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company
 (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
 (ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
 (iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER, 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, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 16TH day of SEPTEMBER, 2014.

OLD REPUBLIC SURETY COMPANY

Phyllis M. Johnson
 Assistant Secretary



Alan Pavlic
 President

STATE OF WISCONSIN, COUNTY OF WAUKESHA-SS

On this 16TH day of SEPTEMBER, 2014, personally came before me, Alan Pavlic and Phyllis M. Johnson, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Kathryn R. Pearson
 Notary Public
 My commission expires: 9/28/2018

CERTIFICATE

(Expiration of notary commission does not invalidate this instrument)

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

92-2339

Signed and sealed at the City of Brookfield, WI this 24th day of November, 2014.



Don E. Pearson
 Assistant Secretary

COLLINS WORTHALTER LAMBERT, LLC

THIS DOCUMENT IS NOT VALID UNLESS PRINTED ON COLORED BACKGROUND AND IS MULTI-COLORED ON THE FACE. THE COMPANY LOGO APPEARS ON THE BACK. IF THIS DOCUMENT IS A WATER MARK OR IF THESE ENDORSEMENTS ARE ABSENT, THIS DOCUMENT IS VOID.

Prepared by and Return to:
Daniel A. Thomas, Esq.
Mrachek Fitzgerald et al.
505 South Flagler Drive
Suite 600
West Palm Beach, FL 33401

INSTR 5070817 OR 5110 PG 885
RECORDED 1/7/2015 11:59 AM PAGES 1
DWIGHT E. BROCK, CLERK OF THE CIRCUIT COURT
COLLIER COUNTY FLORIDA
REC \$10.00

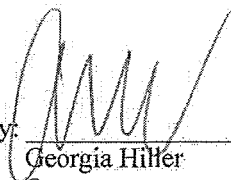
NOTICE OF CONTEST OF LIEN

To: Randy Johns, Vice President
Phoenix Associates of South Florida, Inc.
13180 Livingston Road, Suite 204
Naples, FL 34109

You are notified that Georgia Hiller contests the claim of lien filed by Phoenix Associates of South Florida, Inc. on September 22, 2014, and recorded in Book 5078, Page 2458, of the Public Records of Collier County, Florida, and that the time within which it may file suit to enforce its lien is limited to 60 days from the date of service of this notice.

This 31st day of December, 2014.
Owner as stated on claim of lien:
Georgia A. Hiller

By:

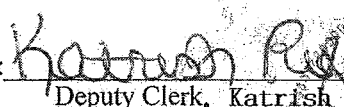

Georgia Hiller
Owner

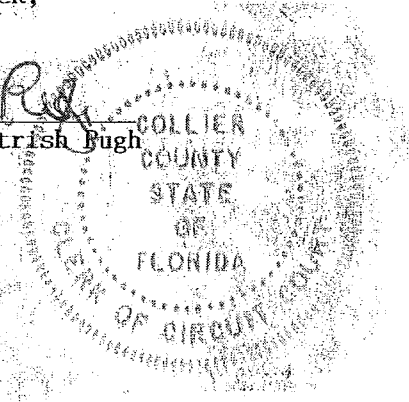
CLERK'S CERTIFICATION OF MAILING

I, Clerk of the Circuit Court of the Twentieth Judicial Circuit, Collier County, Florida, certify that a copy of the foregoing Notice of Contest of Lien has been sent by certified mail to Randy Johns, Vice President, Phoenix Associates of South Florida, Inc., 13180 Livingston Road, Suite 204, Naples, FL 34109, which is the address contained on the face of the Claim of Lien.
Mailed on January 8, 2015 by Certified Mail #7007 0220 0000 3350 2285.

Dwight E. Brock,
Clerk of the Court

By:


Deputy Clerk, Katrish Bugh
(Court Seal)



EXHIBIT

F

tabbles



Dwight E. Brock
Clerk of the Circuit Court

Official Receipt

Customer	Deputy Clerk	Clerk Office Location
MRACHEK FITZGERALD ET AL 505 S FLAGLER DR STE 600 WEST PALM BEACH, FL 33401-5945	Gloria E Garcia Gloria.Garcia@CollierClerk.com (239) 252-7194	Collier County Govt. Center Building LA, 2nd Floor 3315 Tamiami Trl E Ste 102 Naples, Florida 34112-4901

1 Document Recorded

DOC TYPE	INSTRUMENT	BOOK	PAGE	AMOUNT
Contest of Lien	5070817	5110	885	\$10.00
1 Copy(s) - OR				\$1.00
1 Certified Mailing Fee				\$6.50
1 Preparation of Clerks Certificate - Transfer CL				\$20.00
55 Postage/Mailing Costs				\$0.55
TOTAL AMOUNT DUE				\$38.05
Cash Tendered				(\$40.00)
Cash Returned				\$1.95
BALANCE DUE				\$0.00

Note:

Disclaimer: All transactions are subject to review/verification. The Clerk reserves the right to correct for clerical errors and to assess or refund charges as needed.