

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Supervisor John J. Benoit

**SUBMITTAL DATE:**  
October 20, 2010

**SUBJECT:** ADA Pavement Improvement Project Phase 4 – Riverside County Fairgrounds

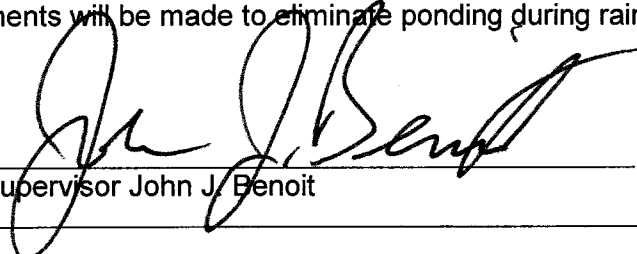
**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Accept and award the construction contract to the low bidder, Westcon Construction Group Inc., in the amount of \$1,551,311.50;
2. Authorize the Chairman to sign the contract documents on behalf of the Board;
3. Delegate change order authority to the Assistant County Executive Officer/EDA, or designee, of the Economic Development Agency in accordance with California Public Contract Code; and
4. Approve a project budget of \$2,173,956.00.

**BACKGROUND:** The ADA Transition Plan for the Riverside County Fair and National Date Festival (Plan) prepared by BOA Architecture in July 2008, documented physical barriers that limit the accessibility of the County's resources and programs to individuals with disabilities. The Plan established priorities and a schedule for improvements which would maximize accessibility at the fairgrounds.

The current Fiscal Year project is the fourth phase of construction improvements from this Plan. The project, "Phase 4 – 5.5 Acres Pavement Improvements," will address path of travel improvements at the entrances onto the fairgrounds and into facilities entrances. The project includes demolition of existing pathways and reconstruction in accordance with Hydrology and Engineering Plans developed for the entire fairgrounds. The improvements will benefit persons accessing the fairground at Dr. Carreon Drive/Gate 6 and will improve accessibility to the Taj Mahal Courtyard, Kiddie Carnival, and parking areas. In addition, infrastructure improvements will be made to eliminate ponding during rain events and increase sewage discharge capacity.

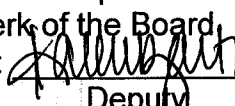
(Continued)

  
Supervisor John J. Benoit

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Benoit, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley  
Nays: None  
Absent: Tavaglione  
Date: November 2, 2010  
xc: Supvr. Benoit, EDA

Kecia Harper-Ihem  
Clerk of the Board  
By:   
Deputy

Prev. Agn. Ref.: September 28, 2010 item 3.30

District: 4

Agenda Number: **3 5**

**BACKGROUND:** (Continued)

The project will be funded with Community Development Block Grant Funds (2010/2011 Action Plan), Riverside County Palm Desert Finance Authority Funds (BOS September 14, 2010 Items 3.3 and 3.13), 4<sup>th</sup> District Community Improvement Designation Funds and Deferred Maintenance Funds. The project and will have no impact on the general fund.

On September 28, 2010 the Board of Supervisors approved the plans and specifications for the construction of the project. The Board also authorized the Clerk of the Board to advertise the Notice Inviting Bids. Five sealed bids were received on October 13, 2010. Upon agency and County Counsel review, it is determined that the low bid submitted by Westcon Construction Group Inc for \$1,551,311.50 is responsive and complete. I recommend that the Board of Supervisors approve all motions and approve the project budget as shown below:

Project Budget		
	Construction base bid	1,182,971.05
	Add alternate 1 (Maintenance Yard)	87,988.50
	Add alternate 2 (Hwy 111 Parking Lot)	129,712.95
	Add alternate 3 (Drainage Basins)	73,783.00
	Add alternate 4 (Sewer Installation)	76,856.00
	<b>Construction subtotal</b>	<b>1,551,311.50</b>
	Contingency 15%	326,093.00
	Geotechnical and Material Testing	28,000.00
	Utility Relocation	43,551.55
	Sewer Connection Fee	75,000.00
	Admission Structures	100,000.00
	RCIT Fiber Connections	50,000.00
	<b>TOTAL</b>	<b>\$ 2,173,956.00</b>

**AGREEMENT FORM**

THIS AGREEMENT entered into this 02 day of November, 2010, by and between Westcon Construction, hereinafter called the "Contractor" and the Economic Development Agency for the County of Riverside, hereinafter called the "Owner".

**WITNESSETH**

That the parties hereto have mutually covenanted and agreed as follows:

**CONTRACT:** The complete Contract includes all of the Contract Documents, to wit: The Notice Inviting Bids, the Instructions to Bidders, the Contractor's Proposal, the Payment and Performance Bonds, the Plans and Specifications plus any Addenda thereto, the General Conditions, Specific Conditions, and this Agreement. All contract documents are intended to cooperate and be complementary so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all contract documents.

**STATEMENT OF WORK:** The Contractor hereby agrees to furnish all tools, equipment, services, apparatus, facilities, transportation, labor, and materials for the construction of and in strict accordance with the plans and specifications September 28, 2010, prepared by David Evans and Associates, Inc., hereinafter called the "Engineer", including Addenda thereto as listed in the Contractor's Proposal, all of which are made a part hereof.

**TIME FOR COMPLETION:** The work shall be commenced on a date to be specified in a written order of the Engineer and shall be completed within one hundred twenty (120) calendar days from and after said date. It is expressly agreed that except for extensions of time duly granted in the manner and for the reasons specified in the General Conditions, time shall be of the essence.

**COMPENSATION TO BE PAID TO CONTRACTOR:** The Owner agrees to pay and the Contractor agrees to accept in full consideration for the performance of the Contract, subject to additions and deductions as provided in the General Conditions, the sum of one million five hundred fifty one thousand three hundred eleven and fifty cents, Dollars (\$1,551,311.50), being the total of the Base Bid plus add alternates 1-4.

The sum is to be paid according to the schedule as provided in the General Conditions.

Pursuant to Labor Code Section 1861, the Contractor gives the following certifications: I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Contractor and Owner do hereby acknowledge that this project will be partially or fully funded with Community Development Block Grant (CDBG) funds [24 CFR 570] and is therefore subject to applicable Federal procurement, labor, environmental, equal opportunity, and other regulations

Contractor shall maintain and keep books and records on a current basis, recording all transactions pertaining to this agreement in a form in accordance with generally acceptable accounting principles. Said

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Riverside County Fair and National Date Festival Fairgrounds Paving and Drainage Improvements Phase 4

books and records shall be made available to the County, the State of California, the Federal government, and to any authorized representative thereof for the purposes of audit at all reasonable times and places. All such books and records shall be retained for such periods of time as required by law, provided, however, notwithstanding any shorter periods of retention, all books, records, and supporting detail shall be retained for a period of at least four (4) years after the expiration of the term of this Agreement.

Contractor shall comply with the Davis-Bacon Fair Labor Standards Act (40 USC a-276, a-5) and the implementation regulations thereof. Contractor shall comply with the U.S. Department of Housing and Urban Development's Federal Labor Standards Provisions (HUD 4010). Contractor acknowledges that the applicable Wage Determination for this project is:

**General Decision Number:** CA 100036  
**Modification Number:** 12  
**Date:** September 24, 2010

**Section 3 Compliance:** The Contractor hereby acknowledges that this federally-funded project is subject to Section 3 of the *Housing and Urban Development Act of 1968* [12 U.S.C. 1701u and 24 CFR Part 135] and agrees to the following:

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The contractor will not subcontract with any subcontractor where the

contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

IN WITNESS WHEREOF, the parties hereto on the day and year first above written have executed this agreement in \_\_\_\_\_ counterparts.

Type of Contractor's organization

If other than individual or corporation, list names of all members who have authority to bind firm.

\_\_\_\_\_  
\_\_\_\_\_

IF OTHER THAN CORPORATION EXECUTE HERE

Attest: Firm Name \_\_\_\_\_

\_\_\_\_\_  
Signature \_\_\_\_\_

\_\_\_\_\_  
Address \_\_\_\_\_

Contractor's License No. \_\_\_\_\_

IF CORPORATION, FILL OUT FOLLOWING AND EXECUTE

Name of President of Corporation ARTHUR F. KOTZ

Name of Secretary of Corporation CATHY J. COOKE

Corporation is organized under the laws of the state of CALIFORNIA

Firm Name WESTCON CONST. GROUP, INC.

Signature [Signature]

Title of Office PRESIDENT

Address 81770 TRADER PL. INDIO, CA 92201

Contractor's License No. 858370

AFFIX  
SEAL

Owner

[Signature]

Seal

By [Signature]  
Chairman of the Board

NOV 02 2010

Riverside County Fair and National Date Festival Fairgrounds Paving and Drainage Improvements Phase 4

BD-49

NOV 02 2010 3.5

**THE FINAL PREMIUM IS  
PREDICATED ON THE  
FINAL CONTRACT PRICE**

This bond was issued in two(2)  
identical counterparts.

Bond No. 0535605  
Premium: \$19,013.00

**PERFORMANCE BOND**

The makers of this bond, Westcon Construction Group, Inc., as Principal, and International Fidelity Insurance Company, as Surety, are held and firmly bound unto the **ECONOMIC DEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE**, hereinafter called the Owner, in the sum of \$<sup>1,551,311.50</sup> dollars for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

The condition of this obligation is such, that whereas the principal entered into a certain contract, hereto attached, with the Owner, dated November 2nd, 2010, for the construction of **RIVERSIDE COUNTY FAIR AND NATIONAL DATE FESTIVAL FAIRGROUNDS PAVING AND DRAINAGE IMPROVEMENTS, PHASE 4**, in accordance with plans and specifications, dated September<sup>28th</sup>, 2010.

Now, therefore, if the principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said contract during the original term of said contract and any extension thereof that may be granted by the Owner, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, then this obligation to be void, otherwise to remain in full force and virtue. Without notice, Surety consents to extension of time for performance, change in requirements, change in compensation, or prepayment under said contract.

DATED:

November 2nd, 2010

International Fidelity Insurance Company

SURETY

By

Its' Attorney in Fact Arturo Ayala

PRINCIPAL

Westcon Construction Group, Inc.

By

ARTHUR F. KOTZ

Title

PRESIDENT

(If corporation, affix seal)

(NOTE: This bond must be executed by both parties, with corporate seals affixed. All signatures must be acknowledged. Attach acknowledgments.)

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange }

On 11/2/10 before me, Daniel Huckabay, Notary Public,  
Date Here Insert Name and Title of the Officer

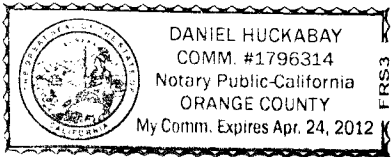
personally appeared Arturo Ayala  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature \_\_\_\_\_  
Signature of Notary Public



Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Performance Bond

Document Date: 11/2/10 Number of Pages: One

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: Arturo Ayala

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_



**THE FINAL PREMIUM IS  
PREDICATED ON THE  
FINAL CONTRACT PRICE**

This bond was issued in two(2)  
identical counterparts.

**PAYMENT BOND**  
(Public Work - Civil code Section 3247 et seq.)

Bond No. 0535605

The makers of this bond are Westcon Construction Group, Inc., as Principal and Original Contractor, and International Fidelity Insurance Company, a corporation, authorized to issue Surety Bonds in California, as Surety, and this bond is issued in conjunction with that certain public works contract dated November 2nd, between Principal and the ECONOMIC DEVELOPMENT AGENCY FOR THE COUNTY OF RIVERSIDE, a public entity, as Owner, for \$1,551,311.50, the total amount payable. THE AMOUNT OF THIS BOND IS 100% OF SAID SUM. Said contract is for public work generally consisting of Riverside County Fair and National Date Festival Fairgrounds Paving and Drainage Improvements, Phase 4

The beneficiaries of this Bond are as is stated in 3248 of the Civil Code and the requirements and conditions of this Bond are as is set forth in Sections 3248, 3249, 4250 and 3252 of said Code. Without notice, Surety consents to extension of time or performance, change in requirements, amount of compensation, or repayment under said contract.

DATED: November 2nd, 2010

International Fidelity Insurance Company

By [Signature]  
Its' Attorney in Fact Arturo Ayala

(Corporate Seal)

Westcon Construction Group, Inc.

Original Contractor - Principal

By [Signature]  
Title ARTHUR F. KOTZ  
PRESIDENT  
(If corporation, affix seal)

STATE OF CALIFORNIA )  
COUNTY OF \_\_\_\_\_ ) SURETYS ACKNOWLEDGMENT

On \_\_\_\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as attorney in fact of \_\_\_\_\_, a corporation, and acknowledged that he subscribed the name of said corporation thereto, and his own as its attorney in fact.

\_\_\_\_\_  
Notary Public (Seal)

Approved as to form:

Agency Counsel

Riverside County Fair and National Date Festival Fairgrounds Paving and Drainage Improvements Phase 4

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Orange }

On 11/2/10 before me, Daniel Huckabay, Notary Public,  
Date Here Insert Name and Title of the Officer

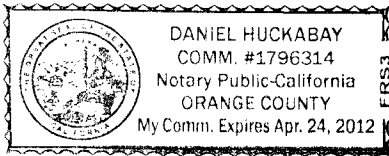
personally appeared Arturo Ayala  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

Signature \_\_\_\_\_  
Signature of Notary Public



Place Notary Seal Above

## OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

### Description of Attached Document

Title or Type of Document: Payment Bond

Document Date: 11/2/10 Number of Pages: One

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: Arturo Ayala

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tel (973) 624-7200

# POWER OF ATTORNEY

## INTERNATIONAL FIDELITY INSURANCE COMPANY

HOME OFFICE: ONE NEWARK CENTER, 20TH FLOOR  
NEWARK, NEW JERSEY 07102-5207

**KNOW ALL MEN BY THESE PRESENTS:** That **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing laws of the State of New Jersey, and having its principal office in the City of Newark, New Jersey, does hereby constitute and appoint

**DWIGHT REILLY, RALPH EIDEM, JR., ARTURO AYALA, DANIEL HUCKABAY**

Orange, CA.

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, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **INTERNATIONAL FIDELITY INSURANCE COMPANY**, 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 its principal office.

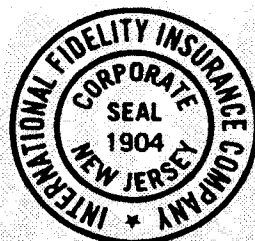
This Power of Attorney is executed, and may be revoked, pursuant to and by authority of Article 3-Section 3, of the By-Laws adopted by the Board of Directors of **INTERNATIONAL FIDELITY INSURANCE COMPANY** at a meeting called and held on the 7th day of February, 1974.

The President or any Vice President, Executive Vice President, Secretary or Assistant Secretary, shall have power and authority

- (1) To appoint Attorneys-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 remove, at any time, any such attorney-in-fact and revoke the authority given.

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of said Company adopted at a meeting duly called and held on the 29th day of April, 1982 of which the following is a true excerpt:

Now therefore the signatures of such officers and the seal of the Company may be affixed to any such power of attorney or 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 to which it is attached.



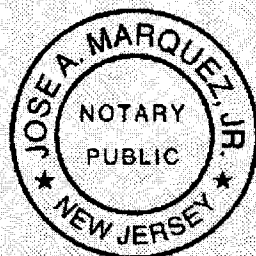
IN TESTIMONY WHEREOF, **INTERNATIONAL FIDELITY INSURANCE COMPANY** has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 16th day of October, A.D. 2007.

**INTERNATIONAL FIDELITY INSURANCE COMPANY**

STATE OF NEW JERSEY  
County of Essex

Secretary

On this 16th day of October 2007, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of the **INTERNATIONAL FIDELITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate Seal of said Company; that the said Corporate Seal and his signature were duly affixed by order of the Board of Directors of said Company.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

A NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Nov. 21, 2010

### CERTIFICATION

I, the undersigned officer of **INTERNATIONAL FIDELITY INSURANCE COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the By-Laws of said Company as set forth in said Power of Attorney, with the ORIGINALS ON IN THE HOME OFFICE OF SAID COMPANY, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect

IN TESTIMONY WHEREOF, I have hereunto set my hand this 2nd day of November, 2010

Assistant Secretary