

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Authorize Release of the Right of Way Utilization Permit Maintenance Bond for Lake Harriett Drive ROW-Wekiva Square

**DEPARTMENT:** Planning and Development      **DIVISION:** Development Review

**AUTHORIZED BY:** Dori DeBord                      **CONTACT:** Larry Poliner                      **EXT:** 7318

**MOTION/RECOMMENDATION:**

Authorize the release of the Lake Harriett Drive (ROW)-Wekiva Square Right of Way Utilization Permit Maintenance Bond #929361868 in the amount of \$27,530.00 for the Lake Harriet Drive ROW-Wekiva Square road improvements.

District 3 Dick Van Der Weide

Larry Poliner

**BACKGROUND:**

Maintenance Bond #929361868 for \$27,530.00 (Western Surety Company) was required by Section 35.44 (e) Additional Required Legal Submittals (1) Bonds of the Seminole County Land Development Code to insure operating conditions have not significantly degraded as a result of the work covered by the Lake Harriet Drive ROW-Wekiva Square Right of Way Utilization Permit. A two year maintenance inspection was conducted by staff for the Lake Harriet Drive ROW-Wekiva Square project located at 957 W. SR 434 and it was determined to be satisfactory.

**STAFF RECOMMENDATION:**

Staff recommends the Board authorize the release of the Lake Harriet Drive Right-of-Way (ROW)-Wekiva Square Right of Way Utilization Permit Maintenance Bond #929361868 in the amount of \$27,530.00 for the Lake Harriet Drive ROW – Wekiva Square road improvements

**ATTACHMENTS:**

- 1. Maintenance Bond
- 2. Power of Attorney
- 3. General Purpose Rider-Updated Power of Attorney

<p><b>Additionally Reviewed By:</b></p> <p><input checked="" type="checkbox"/> County Attorney Review ( Kathleen Furey-Tran )</p>
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**RIGHT-OF-WAY UTILIZATION PERMIT MAINTENANCE BOND**  
(Streets, Curbs, Storm Drains)

**KNOW ALL MEN BY THESE PRESENTS:**

JH HOLDINGS, LTD., A GEORGIA LIMITED PARTNERSHIP  
That we AUTHORIZED TO DO BUSINESS IN FLORIDA, whose address is 3312 PIEDMONT RD SUITE 400, ATLANTA, GA 30305 hereinafter referred to as "PRINCIPAL" and WESTERN SURETY COMPANY, SIOUX FALLS, SD, hereinafter referred to as "SURETY" are held and firmly bound unto Seminole County, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as the COUNTY in the sum of \$ 2,753.00 \*\* for the payment of which we bind ourselves, heirs, executors, successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, PRINCIPAL has constructed certain improvements, including streets, curbs, storm drains and other appurtenances in that certain public right-of-way known as MAPLE STREET, recorded in Plat Book 66, Page(s) 6 & 7, Public Records of Seminole County, Florida; and

WHEREAS, the aforesaid improvements were made pursuant to certain plans and specifications dated JUNE 23, 2004, and filed with the County Engineer of Seminole County; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said improvements for a period of two (2) years from NOVEMBER 01, 2005;

NOW, THEREFORE, the condition of this obligation is such that if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid improvements for a period of (2) years from NOV. 01, 2005 then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The County Engineer shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall have to correct said defect.

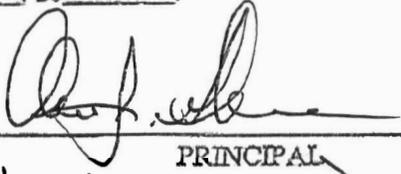
The SURETY unconditionally covenants and agrees that if the PRINCIPAL fails to perform, within the time specified, the SURETY, upon 30 days written notice from COUNTY, or its authorized agent or officer, of the default will forthwith correct such defect or defects and pay the cost thereof, including, but not limited to engineering, legal and contingent cost. Should the SURETY fail or refuse to correct said defects, the COUNTY, in view of the public interest, health, safety, welfare and factors involved, and the consideration in approving the said permit shall have the right to resort to any and all legal remedies against the PRINCIPAL and SURETY and either, both at law and in equity, including specifically, specific performance to which the PRINCIPAL and SURETY unconditionally agree.

The PRINCIPAL and SURETY further jointly and severally agree that the COUNTY at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or, pursuant to public advertisement and receipt of bids, caused to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL and the SURETY shall be jointly and severally hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent cost, together with any damages either direct or consequent which may be sustained on account of the failure of the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the Principal and the Surety have executed these presents this the 13TH day of OCTOBER, 2005.

Name and Address:

JH HOLDINGS, LTD.  
3312 PIEDMONT RD.  
SUITE 400  
ATLANTA, GA 30305

 (Seal)  
PRINCIPAL

By: Adam Gilmore Its: Development Manager  
(If a corporation)

Attest: \_\_\_\_\_ Its: \_\_\_\_\_  
(If a corporation)

Name and Address:

WESTERN SURETY COMPANY  
SIOUX FALLS, SD  
A SOUTH DAKOTA CORP.

 (Seal)  
SURETY

By: SHANNON STOVER Its: ATTORNEY-IN-FACT  
Its Attorney-in-Fact

Attest: Natali Creen

(App E, LDC, through Supp 16).

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**William H Holley, Christopher T Skinner, Vicki T Smith, Shannon L Stover, Individually**

of Atlanta, GA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

### - In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 16th day of July, 2003.



WESTERN SURETY COMPANY

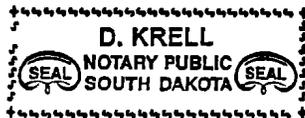
Paul T. Bruflat, Senior Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 16th day of July, 2003, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2006



D. Krell, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 13<sup>th</sup> day of OCTOBER, 2005.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

**Authorizing By-Law**

**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.



**GENERAL PURPOSE RIDER**

To be attached to and form part of Bond Number **929361868** effective **11/01/2005** issued by the **WESTERN SURETY COMPANY, A SOUTH DAKOTA CORP.** in the amount of **TWO THOUSAND SEVEN HUNDRED FIFTY THREE AND 00/100 (\$2,753.00)** DOLLARS, on behalf of **JH HOLDINGS, LTD.** as Principal and in favor of **SEMINOLE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA** as Obligee.

Now, Therefore, it is agreed that:

**THE BOND AMOUNT IS CHANGED TO READ \$27,530.00, TWENTY SEVEN THOUSAND FIVE HUNDRED THIRTY AND 00/100 DOLLARS, IN LIEU OF \$2,753.00.**

It is further understood and agreed that all other terms and conditions of this bond shall remain unchanged.

This rider is to be effective the **1<sup>ST</sup>** day of **NOVEMBER**, 2005 .

Signed, sealed, and dated this **27<sup>TH</sup>** day of **OCTOBER**, 2005 .

**JH HOLDINGS, LTD.**

By: *Coro Inc. its sole Principal general partner*  
By: *[Signature]* (Seal)  
*Vice President*

**WESTERN SURETY COMPANY**

By: *[Signature]* (Seal)  
Surety  
**SHANNON STOVER, Attorney-in-fact**

Accepted By:

(Seal)

Title

G-23174-D



For All the Commitments You Make®

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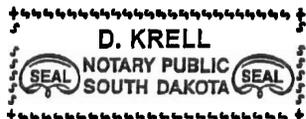
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WESTERN SURETY COMPANY

L. Nelson  
L. Nelson, Assistant Secretary

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