

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Authorize Release of the Private Road Maintenance Bond for Hawthorne Glen Townhomes

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

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

MOTION/RECOMMENDATION:

Authorize the release of the Hawthorne Glen Townhomes Private Road Maintenance Bond #929273577 in the amount of \$126,207.51 for the Hawthorne Glen Townhomes road improvements.

District 1 Bob Dallari

Larry Poliner

BACKGROUND:

Section 35.44 (e) of the Seminole County Land Development Code, concerning Additional Required Legal Submittals, required the Hawthorne Glen Townhomes project to have a Private Road Maintenance Bond, specifically, Maintenance Bond #929273577 for \$126,207.51 (The Continental Insurance Company), to insure against any significant degradation in operating conditions resulting from any defective work covered by this bond. Staff conducted a two year maintenance inspection for this project located at McCulloch Road and Old Lockwood Road and determined the improvements to be satisfactory.

STAFF RECOMMENDATION:

Staff recommends the Board authorize the release of the Hawthorne Glen Townhomes Private Road Maintenance Bond #929273577 in the amount of \$126,207.51 for the Hawthorne Glen Townhomes road improvements.

ATTACHMENTS:

- 1. Maintenance Bond
- 2. Power of Attorney
- 3. Request Letter

<p>Additionally Reviewed By:</p> <p><input checked="" type="checkbox"/> County Attorney Review (Kathleen Furey-Tran)</p>

PRIVATE ROAD MAINTENANCE BOND

Bond Number: 929273577

KNOW ALL MEN BY THESE PRESENTS:

That we CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, hereinafter referred to as "Principal" and THE CONTINENTAL INSURANCE COMPANY, hereinafter referred to as "Surety" are held and firmly bound unto the Homeowners Association and each and all purchasers of lots within subdivision in Seminole County, Florida, and their heirs, successors and assigns, hereinafter referred to as the "Beneficiary" or "Beneficiaries" in the sum of ONE HUNDRED TWENTY SIX THOUSAND TWO HUNDRED SEVEN & 511100 (\$126,207.51) 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 subdivision described as HAWTHORNE GLEN, a plat of which is recorded in Plat Book 666, Page 12-25, Public Records of Seminole County, Florida; and

WHEREAS, the aforesaid improvements were made pursuant to certain plans and specifications dated _____, 20____, and filed with the County Engineer of Seminole County; and

WHEREAS, Principal is obligated to protect each and every Beneficiary against any defects resulting from faulty materials or workmanship of said improvements and to maintain said improvements for a period of two (2) years from JULY 24TH, 2006;

NOW, THEREFORE, the condition of this obligation is such that if Principal shall promptly and faithfully protect the Beneficiaries against any defects resulting from faulty materials or workmanship of the aforesaid improvements and maintain said improvements for a period of two (2) years from JULY 24TH, 2006, then this obligation shall be null and void, otherwise to remain in full force and effect.

Any Beneficiary may 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 thirty (30) days written notice from any Beneficiary, or an 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, any Beneficiary, in view of the health, safety, welfare and factors involved, 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 Beneficiaries shall have the right to correct said defects resulting from faulty materials or workmanship in case the Principal shall fail or refuse to do so, and in the event the Beneficiaries should exercise and give effect to such right, the Principal and the Surety shall be jointly and severally hereunder to reimburse the Beneficiaries the total cost thereof, including, but not limited to, engineering, legally 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.

[This Bond shall be held by Seminole County, a political Subdivision of the State of Florida, on behalf of Beneficiaries and maintained in the public records of Seminole County.]

IN WITNESS WHEREOF, the Principal and the Surety have executed these presents this 23RD day of JUNE, 2006.

Address:
2301 LUCIEN WAY, SUITE 400
MAITLAND, FL 32751

CENTEX HOMES, A NEVADA
GENERAL PARTNERSHIP (SEAL)
Principal

By: [Signature]
Its Division President
(if cyjporation)

ATTEST: [Signature]
Its Secretary
(if corporation)
SEAL

Address:
600 N. PEARL STREET, SUITE 1700
DALLAS, TX 75201

THE CONTINENTAL INSURANCE
COMPANY
Surety

By: Jacqueline Kirk
Its Attorney-in-Fact, JACQUELINE KIRK

ATTEST: [Signature]
TANNIS MATTSON

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That The Continental Insurance Company, a New Hampshire corporation, and Firemen's insurance Company of Newark, New Jersey, a New Jersey corporation (herein called "the CIC Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signatures and seals herein affixed hereby make, constitute and appoint

Tannis Mattson, Jacqueline Kirk, Terri Morrison, Individually

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

- In Unlimited Amounts -

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

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

In Witness Whereof, the CIC Companies have caused these presents to be signed by their Vice President and their corporate seals to be hereto affixed on this 9th day of October, 2002.



The Continental Insurance Company
Firemen's Insurance Company of Newark, New Jersey

Michael Gengler
Michael Gengler Senior Vice President

State of Illinois, County of Cook, ss:

On this 9th day of October, 2002, before me personally came Michael Gengler to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Chicago, State of Illinois; that he is a Senior Vice President of The Continental Insurance Company, a New Hampshire corporation, and Firemen's Insurance Company of Newark, New Jersey, a New Jersey corporation described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



My Commission Expires September 17, 2005

Diane Faulkner

Diane Faulkner Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of The Continental Insurance Company, a New Hampshire corporation, and Firemen's Insurance Company of Newark, New Jersey, a New Jersey corporation do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of the corporations 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 corporations this 23rd day of June 2004.



The Continental Insurance Company
Firemen's Insurance Company of Newark, New Jersey

Mary A. Ribikawskis
Mary A. Ribikawskis Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE BOARD OF DIRECTORS OF THE CONTINENTAL INSURANCE COMPANY:

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolution adopted by the Executive Committee of the Board of Directors of The Continental Insurance Company by unanimous written consent dated the 13th day of January, 1989:

"RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President, a Senior Vice President or a Vice President of the Company be, and each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of the Company bonds, undertakings and all contracts of suretyship; and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and each or any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to 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 when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."

ADOPTED BY THE BOARD OF DIRECTORS OF FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY:

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolution adopted by the Executive Committee of the Board of Directors of the FIREMEN'S INSURANCE COMPANY OF NEWARK, NEW JERSEY by unanimous written consent dated the 13th day of January, 1989:

"RESOLVED, that the Chairman of the Board, the Vice Chairman of the Board, the President, an Executive Vice President, a Senior Vice President or a Vice President of the Company be, and each or any of them hereby is, authorized to execute Powers of Attorney qualifying the attorney named in the given Power of Attorney to execute in behalf of the Company bonds, undertakings and all contracts of suretyship; and that an Assistant Vice President, a Secretary or an Assistant Secretary be, and each of any of them hereby is, authorized to attest the execution of any such Power of Attorney, and to attach thereto the seal of the Company.

RESOLVED, that the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or to 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 when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached."



Centex Homes
Orlando Division
2301 Lucien Way, Suite 400
Orlando, FL 32751-7025

November 11, 2008

Ms. BeJay Harbin
Seminole County
Planning & Development
1301 East 2nd Street
Sanford, FL 32771

Via Fax: 407.665.7003

Re: Release of Maintenance Bond for Private Road
Project Name: Hawthorne Glen Townhomes
Bond #: 929273577 / Amount: \$126,207.51
District #: 1

Per Seminole County's letter dated November 5, 2008, Centex Homes has fulfilled all maintenance requirements as specified according to the re-inspection conducted by the County on November 3, 2008.

Centex Homes is hereby requesting release of the maintenance bond listed above. Please send original bond to my attention at 2301 Lucien Way, Suite 400, Maitland, FL 32751. If you have any questions, please feel free to contact me at 407.661.6204.

Sincerely,

Carolyn S. Hunt
Land Development Administrator
Centex Homes – Orlando Division
407.661.6204
Carolyn.Hunt@Centex.com

cc: File