

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Authorize Release of Two Performance Bonds

DEPARTMENT: Planning & Development **DIVISION:** Development Review

AUTHORIZED BY: Dan Matthys **CONTACT:** Cynthia Sweet **EXT.** 7443

Agenda Date <u>3/8/2005</u> Regular <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Work Session <input type="checkbox"/> Briefing <input type="checkbox"/>
Public Hearing – 1:30 <input type="checkbox"/> Public Hearing – 7:00 <input type="checkbox"/>

MOTION/RECOMMENDATION:

Authorize the release of two Performance Bonds for Roads, Streets, and Drainage and for Water and Sewer for Lake Forest Section 14 as requested by Orlando Lake Forest Joint Venture.

District 5 – Carey (Cynthia Sweet, Planner) *RA*

BACKGROUND:

The subdivision is located on the north side of SR 46, west side of S. Oregon Street, and south side of Orange Blvd., within the Lake Forest Planned Unit Development.

The following Performance Bonds were required as part of the Land Development Code Section 35.44 (d) (1) to secure the construction and completion of the subdivision improvements. Staff has conducted their final construction inspection and found that the construction requirements were completed per the approved final engineering plan.

Performance Bond # 5009165 in the amount of \$213,059.22 from Bond Safeguard Insurance Company

Performance Bond # 5009164 in the amount of \$1,099,932.35 from Bond Safeguard Insurance Company

STAFF RECOMMENDATION:

Staff recommends the release of the two Performance Bonds for subdivision improvements for Lake Forest Section 14.

District 5 - Carey

- Attachments: Performance Bonds
- Water and Sewer – Exhibit A
- Roads – Exhibit B

Reviewed by: Co Atty: <u>KR</u> DFS: _____ Other: _____ DCM: _____ CM: _____ File No. <u>cpdd02</u>
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PERFORMANCE BOND
(Water and Sewer) #5009165

KNOW BY ALL MEN BY THESE PRESENTS

That we, Orlando Lake Forest Joint Venture, hereinafter called the "Principal", and Bond Safeguard Insurance Company, a surety company authorized to do business in the State of Florida, hereinafter called "Surety" are and firmly bound to SEMINOLE COUNTY, a political subdivision of the State of Florida. In the full and just sum of \$213,059.22 lawful money of The United States of America to be paid to the Board of County Commissioners of SEMINOLE COUNTY to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly be these presents.

WHEREAS the above bounden Principal has as condition precedent to the approval by SEMINOLE COUNTY of a plat of a certain subdivision known as Orlando Lake Forest, Section 14 has covenanted and agreed with SEMINOLE COUNTY to construct roads, streets and alleys, drainage as well as sidewalks and other improvements based upon development plans and specifications pertaining to said subdivision said development plans and plans and specification being dated _____ day of _____, 2004 and being on file with SEMINOLE COUNTY, Florida.

WHEREAS, it is a condition precedent to the recording of said subdivision that this bond be executed.

NOW THEREFORE, the conditions of these obligations are such that if the bounden Principal shall construct the aforesaid improvements in accordance with the development plans and specifications dates the _____ day of _____, 2004 and shall in every respect fulfill its, his, their obligations under the development plans and specifications and shall indemnify and save harmless SEMINOLE COUNTY against or formal claims, costs, expenses, damages, injury, or loss, including engineering, legal and contingent costs which SEMINOLE COUNTY may sustain on account of the failure of the Principal to perform in accordance with the development plans and specifications then this obligation to be void otherwise to be and remain in full force and virtue.

The Surety unconditionally covenants and agrees that if the Principal fails to perform all or any part of the construction work required by the development plans and specifications above referred to the Surety upon forty-five (45) days written notice from SEMINOLE COUNTY, or its authorized agent or officer of the default will forthwith perform and complete the aforesaid construction work and pay the cost thereof including, but not limited to engineering, legal and contingent costs. Should the Surety fail or refuse to perform and complete the said improvements, SEMINOLE COUNTY in view of the public, interest, health, safety and welfare factors involved and the inducement in approving and filling the said plat shall have the right to resort to any legal remedies against the Principal and the Surety or either both at law in equity including specifically specific performance to which the Principal and Surety unconditionally agree.

The Principal and the Surety further jointly and severally agree that SEMINOLE COUNTY at its option shall have the right to construct or pursuant to public advertisement and receipt of bids, cause to be constructed the aforesaid improvements in case the Principal shall fail or refuse to do so. In the event SEMINOLE COUNTY should exercise and give effect to such right the Principal and the Surety shall be jointly and severally liable hereunder to reimburse SEMINOLE COUNTY the total cost thereof, including but not limited to engineering, legal and contingent costs, together with any damages, either direct or consequential, which may be sustained on account of the failure of the Principal to carry out and execute all the provisions of said agreement.

IN WITNESS WHEREOF, the Principal and the Surety have these presents this the 3rd day of February, 2004.

Address:

10172 Linn Station Road
Louisville, KY 40223

Orlando Lake Forest Joint Venture
By: Orlando Lake Forest, Inc., Managing General Partner
(Principal)
By: [Signature] V.P.
(If Corporation) (PRINT NAME) (TITLE)

Attest: [Signature] Secretary
(If Corporation) (PRINT NAME) (TITLE)



Address:

2307 River Road, Suite 200
Louisville, Ky 40206

Bond Safeguard Insurance Company
Surety
By: [Signature]
Its Attorney-in-Fact (PRINT NAME AND TITLE)
Raymond M. Hundley, Atty-in-Fact
Attest: [Signature]
(PRINT NAME) Julie Radican

Bond Safeguard INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS, that BOND SAFEGUARD INSURANCE COMPANY, an Illinois Corporation with its principal office in Lombard, Illinois, does hereby constitute and appoint:

James T. Smith, John B. Manus, Linda Gibson,
Tammy Masterson, Brook T. Smith, Kathy Hobbs, Raymond M. Hundley, Jason D. Cromwell, James H. Martin

its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of BOND SAFEGUARD INSURANCE COMPANY on the 7th day of November, 2001 as follows:

Resolved, that the President of the Company is hereby authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed \$500,000.00, Five Hundred Thousand Dollars, which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Vice President, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, BOND SAFEGUARD INSURANCE COMPANY has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 7th day of November, 2001.



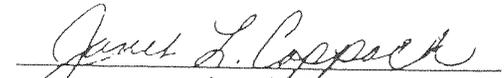
BOND SAFEGUARD INSURANCE COMPANY

BY 
David E. Campbell
President

ACKNOWLEDGEMENT

On this 7th day of November, 2001, before me, personally came David E. Campbell to me known, who being duly sworn, did depose and say that he is the President of BOND SAFEGUARD INSURANCE COMPANY, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



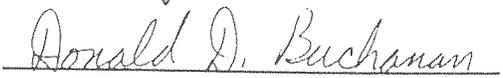

Janet L. Coppock
Notary Public

CERTIFICATE

I, the undersigned, Secretary of BOND SAFEGUARD INSURANCE COMPANY, An Illinois Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Lombard, Illinois this 3rd Day of February, 2004




Donald D. Buchanan
Secretary

RIDER

To be attached to and form a part of Subdivision Bond

Bond No. 5009164 on behalf of Orlando Lake Forest Joint Venture

In favor of Seminole County, Seminole Co. Services Bldg, 1101 E. First St., Sanford, FL 327

And Dated February 3, 2004

It is agreed:

That the bond be increased by \$18,964.55

That the bond be increased from \$1,099,932.35

That the bond be increased to \$1,118,896.90

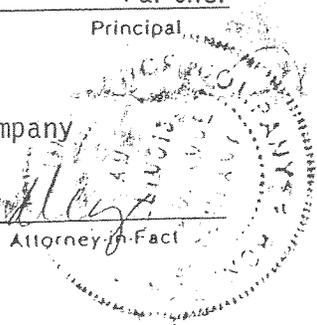
This rider shall become effective the 3rd day of February xx 19 2004

Orlando Lake Forest Joint Venture
By: Orlando Lake Forest, Inc., Managing General
By: Partner

Principal

Bond Safeguard Insurance Company

By Raymond M Hundley
Raymond M. Hundley Attorney-in-Fact



ACCEPTED:

POWER OF ATTORNEY
Bond Safeguard

AO 17961
INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS, that BOND SAFEGUARD INSURANCE COMPANY, an Illinois Corporation with its principal office in Lombard, Illinois, does hereby constitute and appoint:

James T. Smith, John B. Manus, Linda Gibson, Mary E. Joseph, Megan Kaelin, Tammy Masterson, Brook T. Smith, Kathy Hobbs, Raymond M. Hundley, Jason D. Cromwell, James H. Martin, Sandra F. Harper, Myrtie F. Henry

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which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed for good cause and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Vice President, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond or undertaking to which it is attached, continue to be valid and binding on the Company.

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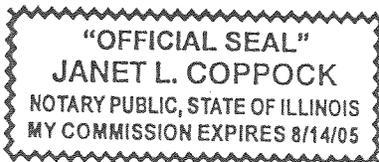


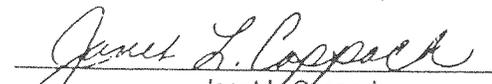
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BY 
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President

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Notary Public

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Signed and Sealed at Lombard, Illinois this 3rd Day of February, 2004



BK 308 PG 1771 
Donald D. Buchanan
Secretary

PERFORMANCE BOND
(Roads, Streets, Drainage)

#5009164

KNOW BY ALL MEN BY THESE PRESENTS

That we, Orlando Lake Forest Joint Venture, hereinafter called the "Principal", and Bond Safeguard Insurance Company a surety company authorized to do business in the State of Florida, hereinafter called "Surety" are and firmly bound to SEMINOLE COUNTY, a political subdivision of the State of Florida. In the full and just sum of \$1,099,932.35 lawful money of The United States of America to be paid to the Board of County Commissioners of SEMINOLE COUNTY to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

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The Surety unconditionally covenants and agrees that if the Principal fails to perform all or any part of the construction work required by the development plans and specifications above referred to the Surety upon forty-five (45) days written notice from SEMINOLE COUNTY, or its authorized agent or officer of the default will forthwith perform and complete the aforesaid construction work and pay the cost thereof including, but not limited to engineering, legal and contingent costs. Should the Surety fail or refuse to perform and complete the said improvements, SEMINOLE COUNTY in view of the public, interest, health, safety and welfare factors involved and the inducement in approving and filling the said plat shall have the right to resort to any legal remedies against the Principal and the Surety or either both at law in equity including specifically specific performance to which the Principal and Surety unconditionally agree.

The Principal and the Surety further jointly and severally agree that SEMINOLE COUNTY at its option shall have the right to construct or pursuant to public advertisement and receipt of bids, cause to be constructed the aforesaid improvements in case the Principal shall fail or refuse to do so. In the event SEMINOLE COUNTY should exercise and give effect to such right the Principal and the Surety shall be jointly and severally liable hereunder to reimburse SEMINOLE COUNTY the total cost thereof, including but not limited to engineering, legal and contingent costs, together with any damages, either direct or consequential, which may be sustained on account of the failure of the Principal to carry out and execute all the provisions of said agreement.

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Louisville, KY 40223

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By: Orlando Lake Forest, Inc., Managing
General Partner
(Principal)

By: [Signature]
(If Corporation) (PRINT NAME) (TITLE)

Attest: [Signature]
(If Corporation) (PRINT NAME) (TITLE)

CORPORATE SEAL

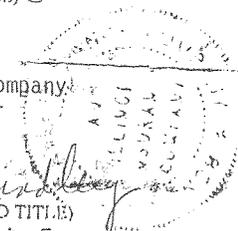
Bond Safeguard Insurance Company
Surety

By: [Signature]
Its Attorney-in-Fact (PRINT NAME AND TITLE)
Raymond M. Hundley, Atty-in-Fact

Attest: [Signature]
(PRINT NAME) Julie Radican

Address:

2307 River Road, Suite 200
Louisville, KY 40206



POWER OF ATTORNEY
Bond Safeguard

AO 17961
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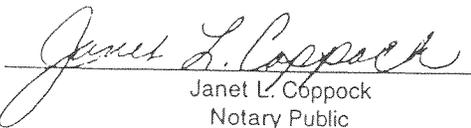
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BY 
David E. Campbell
President

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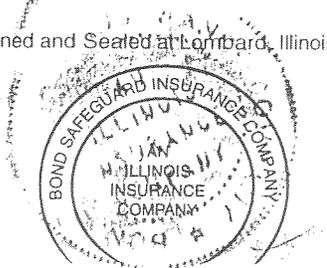



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Signed and Sealed at Lombard, Illinois this 3rd Day of February, 2004



BK 308 PG 1773 
Donald D. Buchanan
Secretary