

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Authorize Release of a Maintenance Bond and Two (2) Paving and Drainage Improvement Maintenance Agreements

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

AUTHORIZED BY: Dan Matthys **CONTACT:** Tom Radzai **EXT.** 7342

Agenda Date <u>05/09/2006</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 the Retreat at Wekiva Phase II Maintenance Bond, South Orlando Drive ROW aka Winghouse of Sanford, LLC and Shurgard Hunt Club JV, Paving and Drainage Improvement Maintenance and Escrow Agreements for road improvements.

Districts 1, 3 and 5 (Dallari, Van Der Weide and Carey) Tom Radzai

BACKGROUND:

The following Maintenance Bond and Maintenance and Escrow Agreements were required as part of the Land Development Code Section 35.44 (e) *Additional Required Legal Submittals* (1) *Bonds* to insure operating conditions have not significantly degraded. A two year maintenance inspection was conducted by staff for these projects and was determined to be satisfactory.

- **Retreat at Wekiva Phase II**
Maintenance Bond # SU5004580 for \$65,112.09 (Arch Insurance Company).
- **South Orlando Drive ROW aka Winghouse of Sanford, LLC**
Maintenance and Escrow Agreement for \$2,530.80 and Cash Maintenance Bond.
- **Shurgard Hunt Club JV**
Maintenance and Escrow Agreement for \$5,097.80 and Cash Maintenance Bond.

Reviewed by:
Co Atty: <u>IKET</u>
DFS: _____
Other: _____
DCM: <u>SS</u>
CM: <u>ADP</u>
File No. <u>cpdd01</u>

STAFF RECOMMENDATION:

Staff recommends the release of the Maintenance Bonds and Maintenance and Escrow Agreements.

Districts 1, 3 and 5 (Dallari, Van Der Weide and Carey)

Attachments: Copies of Maintenance Bond and Maintenance and Escrow Agreements

BOND NO.: SU5004580

PREMIUM: \$488.00

MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That we, Retreat-Seminole Limited Partnership, as Principal, and Arch Insurance Company, a corporation organized, existing under the laws of the State of Missouri, and duly licensed to do business in the State of Florida, as Surety, is held and firmly bound unto the County of Seminole, as Obligee, in the penal sum of Sixty Five Thousand One Hundred Twelve and 09/100-Dollars (\$65,112.09) to which payment well and truly to be made we do bind ourselves, and each of our heirs, executors, administrators, successors and assigns jointly and severally, firmly by these presents.

WHEREAS, the said Principal entered into a contract with the County of Seminole dated MARCH 2, 2004 for

**The Retreat at Wekiva, Phase 2
Site Prep, Paving and Storm Drainage Improvements**

WHEREAS, said contract provides that the Principal will furnish a bond conditioned to guarantee for the period of Two year(s) after approval of the final estimate on said job, by the owner, against all defects in workmanship and materials which may become apparent during said period, and

WHEREAS, the said contract has been completed, and was approved on the 2ND day of MARCH, 2004.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that, If the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of any defective materials or workmanship which become apparent during the period of Two year(s) from and after *completion of the work and acceptance by the Obligee* then this obligation shall be void, otherwise to remain in full force and effect.

SIGNED, SEALED AND DATED
December 12, 2003



Retreat-Seminole Limited Partnership,

a Florida limited partnership

By: **FL MSII/SEPII GP, L.L.C.**

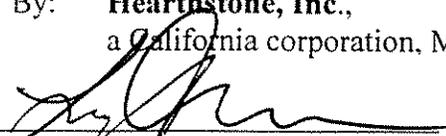
a Florida limited liability company

General Partner

By: **Hearthstone, Inc.,**

a California corporation, Manager

By


Tracy T. Carver

Senior Vice President-General Counsel

Arch Insurance Company

By

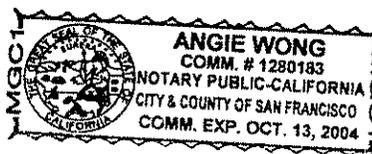

Maria Pena, Attorney-in-Fact

Document: Maintenance Bond (no. SU5004580)
Retreat-Seminole Limited Partnership

State of California)
) ss.
County of San Francisco)

On December 16, 2003, before me, Angie Wong, Notary Public, personally appeared TRACY T. CARVER, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Angie Wong
Notary's Signature

(Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

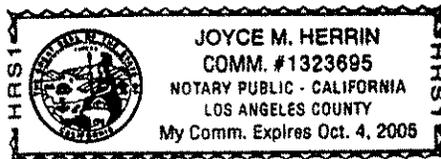
State of California

County of Los Angeles

On December 12, 2003 before me, Joyce M. Herrin, Notary Public, personally appeared Maria Peña, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Joyce M. Herrin



POWER OF ATTORNEY

Know All Men By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal office in Kansas City, Missouri (hereinafter referred to as the "Company") does hereby appoint

KD Conrad, C.K. Nakamura, Joyce Herrin, Tom Branigan, Edward C. Spector, Marina Tapia, Clarice Lee, Richard E. Bigley, Lisa L. Thornton, Maria Pena, E. S. Albrecht Jr., Tracy Aston, Betty Walker and Brenda Wong of Los Angeles, CA (EACH)

its true and lawful Attorney(s)-in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds and undertakings

EXCEPTION: NO AUTHORITY is granted to make, execute, seal and deliver bonds or undertakings that guarantee the payment or collection of any promissory note, check, draft or letter of credit.

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The Company may revoke this appointment at any time.

The execution of such bonds and undertakings in pursuance of these presents shall be as binding upon the said 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 in Kansas City, Missouri.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on March 3, 2003, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or any Vice President, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and 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, recognizances, contracts of indemnity and other writings, obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on March 3, 2003:

VOTED, That the signature of the Chairman of the Board, the President, or any Vice President, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on March 3, 2003, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.



IMPORTANT NOTICE CONCERNING THE TERRORISM RISK INSURANCE ACT OF 2002

The Terrorism Risk Insurance Act of 2002 establishes a mechanism by which the federal government will share with the insurance industry, in losses arising out of "acts of terrorism" certified as such by the Secretary of the Treasury. "Certified acts of terrorism" are defined as events that cause more than \$5 million in losses and:

1. Are violent or dangerous to human life, property, or the infrastructure;
2. Result in damage within the United States, on a United States mission, or to a United States aircraft or vessel; and
3. Are committed by individuals, acting on behalf of foreign persons or interests, as part of an effort to coerce the civilian population of the United States or to influence the policies or conduct of the United States Government.

The Act specifies that coverage for "certified acts of terrorism" must be made available in commercial property and casualty policies of insurance, and it requires insurers to disclose any applicable premium charges and the federal share of compensation. We are making these disclosures in strict compliance with the Act.

Disclosure of Availability of Coverage for Terrorism Losses

Coverage for losses resulting from "certified acts of terrorism" is being made available to you on terms, amounts, and limitations generally applicable to losses resulting from perils other than acts of terrorism.

Disclosure of Federal Share of Compensation for Terrorism Losses

The federal government will pay a 90% share of an insurer's terrorism losses once the insurer has satisfied a significant aggregate annual deductible. For terrorism losses occurring in 2002, that deductible is 1% of the insurer's 2001 direct earned premium. For losses occurring in 2003, 2004 and 2005, the annual insurer deductibles are 7%, 10% and 15% of the prior year's direct earned premium, respectively. The Act provides that neither insurers nor the federal government are responsible for losses associated with "certified acts of terrorism" once aggregate annual insured losses exceed \$100 billion.

Disclosure of Terrorism Insurance Premium

Your Bond premium charge for "certified acts of terrorism" coverage is \$ 0.

SUBDIVISION AND SITE PLAN

PAVING AND DRAINAGE IMPROVEMENTS
MAINTENANCE AND ESCROW AGREEMENT

2004 THIS AGREEMENT is made and entered into this 18TH day of MAY,
2004, between WINN-DIXIE OF SAFFORD, LLC, hereinafter referred
to as "PRINCIPAL," and SEMINOLE COUNTY, a political subdivision of the State of
Florida, hereinafter referred to as "COUNTY."

W I T N E S S E T H:

WHEREAS, PRINCIPAL has constructed certain paving and drainage improvements
in that certain subdivision described as Druid Park, a Plat of which is
recorded in Plat Book 7 Pages 5, Public Records of Seminole
County, Florida; and

WHEREAS, the aforesaid improvements were made pursuant to certain plans and
specifications dated 3/25/04, 19 , (as subsequently revised or
amended) and filed with the Seminole County Engineer; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY 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 5/25,
2004 and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL,
PRINCIPAL has obtained and furnished to the COUNTY cash (U.S. Currency) in the
sum of Twenty five hundred thirty a 50/100 DOLLARS (\$ 2530.50).

NOW, THEREFORE, in consideration of the agreements and promises herein made
and other good and valuable consideration, the receipt and sufficiency of which
the parties hereby acknowledge, the parties agree as follows:

1. The COUNTY agrees to accept the paving and drainage improvements into
the County System upon execution of this Agreement and to accept the aforemen-
tioned cash as security for the maintenance obligation of the PRINCIPAL.

2. The PRINCIPAL hereby deposits in escrow with COUNTY, the sum of
Twenty five hundred thirty a 50/100 DOLLARS (\$ 2530.50)
to guarantee that all paving and drainage improvements set forth on plans and
specifications for the above subdivision will be maintained in accordance with
the terms of this Agreement.

3. The COUNTY agrees to hold said funds and to pay same out in the
manner described herein.

4. PRINCIPAL, its heirs, executors, successors and assigns, jointly and
severally agrees to be held and firmly bound to the COUNTY in the sum of
Twenty five hundred thirty a 50/100 DOLLARS (\$ 2530.50) on the condition
that, if PRINCIPAL shall promptly and faithfully protect the COUNTY 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
5/25, 2004, then this obligation shall be null and void, otherwise
it shall remain in full force and effect.

5. The Seminole 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.

6. Should the PRINCIPAL fail or refuse to perform or correct said defects within the time specified, the COUNTY shall be authorized, but shall not be obligated, to take over and perform, or cause to be performed, such work as shall be necessary to correct such defects, and shall be authorized to draw upon the Letter of Credit to pay the cost thereof, including, but not limited to, engineering, construction, legal and contingent costs. Further, the COUNTY, in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including specifically, **specific performance**, to which the PRINCIPAL unconditionally agrees.

7. The PRINCIPAL further agrees 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, cause 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 shall be obligated hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, construction, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure of the PRINCIPAL to correct said defects.

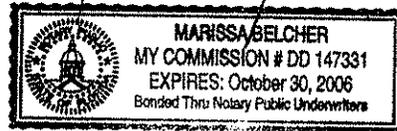
IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

Signed, sealed and delivered
in the presence of:

By: BA

Date: 5/11/09

Marissa Belcher



Witnesses

Sharon H Johnson
Wendy [Signature]

HOLDER:

DEPARTMENT OF PUBLIC WORKS
ROAD OPERATIONS AND STORMWATER DIVISION
SEMINOLE COUNTY, FLORIDA

[Signature]
Mark E. Flomerfelt, P.E., Manager
Road Operations and Stormwater Division

Date: 6/14/04

Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda Items and approved on April 2, 1997.

STATE OF FLORIDA)
COUNTY OF Seminole)

The foregoing instrument was acknowledged before me this 14th day of June, 2004, by Mark Flomerfelt, who is personally known to me or who has produced [Signature] as identification.

Linda Gail Blackwelder
Linda Gail Blackwelder
Signature of Notary Public in and for the County and State Aforementioned

My Commission Expires: 4/6/08

(App E, LDC, through Supp 16).



SUBDIVISION AND SITE PLAN
PAVING AND DRAINAGE IMPROVEMENTS
CASH MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned Brian McGuire, as PRINCIPAL is held and firmly bound unto SEMINOLE COUNTY, a political subdivision of the State of Florida, in the cash penal sum of ~~Twenty Five Thousand~~ Twenty Five Thousand DOLLARS (\$ 25,000), which sum has been deposited in escrow with SEMINOLE COUNTY in accordance with the provisions of a Maintenance and Escrow Agreement of even date which is attached hereto and made a part hereof by this reference to it, does bind Brian McGuire, Country Ka, respective heirs, personal representatives, successors and assigns, jointly and severally, firmly by this Bond.

The condition of this Bond is that the paving and drainage improvements made as shown on Subdivision Plans and Specifications dated 3/25/04, including surveying, engineering, and land clearing, for Country Ka ~~Subdivision~~ shall be maintained by the PRINCIPAL for a period of two (2) years or for any extension thereof agreed to by SEMINOLE COUNTY, and if all costs incurred in connection with the maintenance of said improvements shall be made and shall be paid in full, and in accordance therewith and with the documents and specifications referred to therein or attached thereto, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

DATED: 5/11, 19 2004.

[Signature] (SEAL)
Principal

[Signature] (SEAL)
Principal

Principal (SEAL)

(App E, LDC, through Supp 16).

SUBDIVISION AND SITE PLAN

PAVING AND DRAINAGE IMPORVEMENTS
MAINTENANCE AND ESCROW AGREEMENT

THIS AGREEMENT is made and entered into this 3rd day of **March, 2004**, between **SHURGARD HUNT CLUB JV**, hereinafter referred to as "PRINCIPAL," and **SEMINOLE COUNTY**, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY."

WITNESSETH:

WHEREAS, PRINCIPAL has constructed certain paving and drainage improvements in that certain subdivision described as **FOXWOOD PHASE I (455 S Hunt Club Blvd)** which is recorded in Plat Book **21**, pages **53-55**, Public Records of Seminole County, Florida, and

WHEREAS, the aforesaid improvements were made pursuant to certain plans and specifications dated **JUNE, 2002**, (as subsequently revised or amended) and filed with the Seminole County Engineer; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY 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 **March 3, 2004**; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL, PRINCIPAL has obtained and furnished to the COUNTY cash (U.S. Currency) in the sum of **FIVE THOUSAND NINETY-SEVEN AND EIGHTY/HUNDRETHS DOLLARS (\$5,097.80)**.

NOW, THEREFORE, in consideration of the agreements and promises herein made and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties agree as follows:

1. The COUNTY agrees to accept the paving and drainage improvements into the County System upon execution of this Agreement and to accept the aforementioned cash as security for the maintenance obligation of the PRINCIPAL.

2. The PRINCIPAL hereby deposits in escrow with COUNTY, the sum of **FIVE THOUSAND NINETY-SEVEN AND EIGHTY/HUNDRETHS DOLLARS (\$5,097.80)** to guarantee that all paving and drainage improvements set forth on plans and specifications for the above subdivision will be maintained in accordance with the terms of this Agreement.

3. The COUNTY agrees to hold said funds and to pay same out in the manner described herein.

4. PRINCIPAL, its heirs, executors, successors and assigns, jointly and severally agrees to be held and firmly bound to the COUNTY in the sum of **FIVE THOUSAND NINETY-SEVEN AND EIGHTY/HUNDRETHS DOLLARS (\$5,097.80)** on the condition that, if PRINCIPAL shall promptly and faithfully protect the COUNTY 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 **March 3, 2004**, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

5. The Seminole 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.

6. Should the PRINCIPAL fail or refuse to perform or correct said defects within the time specified, the COUNTY shall be authorized, but shall not be obligated, to take over and perform, or cause

to be performed, such work as shall be necessary to correct such defects, and shall be authorized to draw upon the Letter of Credit to pay the cost thereof, including, but not limited to, engineering, construction, legal and contingent costs. Further, the COUNTY, in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including specifically, specific performance, to which the PRINCIPAL unconditionally agrees.

7. The PRINCIPAL further agrees 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, cause 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 shall be obligated hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, construction, legal and contingent costs, 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 parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

Signed, sealed and delivered
in the presence of:

Debi A. Frye

Debi A. Frye

SHURGARD HUNT CLUB JV
PRINCIPAL

By: **LIBERTY SELF STORAGE, LLLP,**
Its: **Managing Partner**

By: Wm. Michael Mikkelsen
Wm. Michael Mikkelsen

Its: **General Partner**

Date: March 9, 2004

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 9th day of March, 2004, by Wm. Michael Mikkelsen, who is personally known to me.

Deborah Ann Frye
Deborah Ann Frye, Notary Public in
and for the County and State Afore-
mentioned.

My Commission expires on 02/27/2007.



Deborah Ann Frye
My Commission DD185613
Expires February 27, 2007

SUBDIVISION AND SITE PLAN

PAVING AND DRAINAGE IMPROVEMENTS
CASH MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned **SHURGARD HUNT CLUB JV**, as PRINCIPAL is held and firmly bound unto SEMINOLE COUNTY, a political subdivision of the state of Florida, in the cash penal sum of **FIVE THOUSAND NINETY-SEVEN AND EIGHTY/HUNDRETHS DOLLARS (\$5,097.80)**, which sum has been deposited in escrow with SEMINOLE COUNTY in accordance with the provisions of a Maintenance and Escrow Agreement of even date which is attached hereto and made a part hereof by this reference to it, does bind **SHURGARD HUNT CLUB JV**, respective heirs, personal representatives, successors and assigns, jointly and severally, firmly by this Bond.

The condition of this Bond is that the paving and drainage improvements made as shown on Subdivision Plans and Specifications dated **JUNE 2002**, including surveying, engineering, and land clearing, for **FOXWOOD PHASE I (455 S Hunt Club Blvd)** Subdivision shall be maintained by the PRINCIPAL for a period of two (2) years or for any extension thereof agreed to by SEMINOLE COUNTY, and if all costs incurred in connection with the maintenance of said improvements shall be made and shall be paid in full, and in accordance therewith and with the documents and specifications referred to therein or attached thereto, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

DATED: March 9, 2004.

SHURGARD HUNT CLUB JV
PRINCIPAL

By: **LIBERTY SELF STORAGE, LLLP,**
Its: **Managing Partner**

By: Wm. Michael Mikkelson
Wm. Michael Mikkelson

Its: **General Partner**

Date: March 9, 2004

(App E, LDC, through Supp 16).

Supplement No. 17

Appendix E-83

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 9th day of March, 2004, by Wm. Michael Mikkelson, who is personally known to me.

Deborah Ann Frye

Deborah Ann Frye, Notary Public in and for the County and State Aforementioned.
My Commission expires on 02/27/2007.



Deborah Ann Frye
My Commission DD185513
Expires February 27, 2007