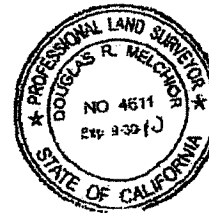


FROM		ANGLE		DIST	NORTH	EAST	TO
=====							
HOTEL AND CONFERENCE CENTER							
LOT CHECK MODE ENABLED							
200	TRAV	N 30 46 47	W	191.78			201
							LEASE
201	TRAV	N 59 13 13	E	114.59			202
							LEASE
202	TRAV	S 30 46 47	E	25.37			203
							LEASE
203	TRAV	N 59 13 13	E	113.19			204
							LEASE
204	TRAV	N 30 46 47	W	85.03			475
							LEASE
475	TRAV	N 59 13 13	E	110.81			477
							LEASE
477	TRAV	N 30 46 47	W	107.44			207
							LEASE
207	TRAV	N 59 13 57	E	108.46			211
							LEASE
211	TRAV	S 30 44 51	E	207.50			212
							LEASE
212	TRAV	N 59 15 09	E	28.00			213
							LEASE
213	TRAV	S 30 44 51	E	18.00			478
							LEASE
478	TRAV	N 59 15 09	E	10.00			479
							LEASE
479	TRAV	S 30 44 51	E	16.00			480
							LEASE
480	TRAV	S 59 15 09	W	38.00			481
							LEASE
481	TRAV	S 30 44 51	E	15.30			482
							LEASE
482	TRAV	E 59 15 09	E	22.50			483
							LEASE
483	TRAV	S 30 44 51	E	9.70			484
							LEASE
484	TRAV	S 59 15 09	W	22.50			219
							LEASE
219	TRAV	S 30 44 51	E	73.47			220
							LEASE
220	TRAV	S 59 13 46	W	5.00			221
							LEASE
221	TRAV	E 50 13 46	W	439.86			200
							LEASE
=====							
		LAT & DEP			0.00078	0.00027	
200	HCLOSE	N 19 43 42	E	0.00	1998808.51084	6306095.21421	200
	PREC = 1 TO	2144840	Area = 103737.35 sq ft		2.38287 ac		



## EXHIBIT B - DOCUMENTS

1. Loan Documents. The documents listed below, numbered 1.1 through 1.3, inclusive, and amendments, modifications and supplements thereto which have received the prior written consent of Lender, together with any documents executed in the future that are approved by Lender and that recite that they are "Loan Documents" for purposes of this Agreement are collectively referred to herein as the Loan Documents.
  - 1.1 This Agreement.
  - 1.2 The Promissory Note (Fixed Rate, Interest Only-Installment Payments) of even date herewith in the original principal amount of the Loan made by Borrower payable to the order of Lender.
  - 1.3 The Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing of even date herewith executed by Borrower, as Trustor, to Chicago Title Company, Inc., a escrow company, as Trustee, for the benefit of Lender, as Beneficiary.

### EXHIBIT C - FINANCIAL REQUIREMENT ANALYSIS

The Financial Requirement Analysis set forth herein represents an analysis of the total costs necessary in Borrower's estimation to perform Borrower's obligations under the Loan Documents. Column A, "Total Costs," sets forth Borrower's estimation of the maximum costs for each Item specified in Column A. Column B, "Costs Paid By Borrower," sets forth Borrower's estimation of costs that Borrower has paid or has caused to be paid from other sources of funds for each Item specified in Column B. Column C, "Costs To Be Paid By Borrower," sets forth Borrower's estimation of costs that Borrower will pay or will cause to be paid from other sources of funds for each Item specified in Column C. Column D, "Disbursement Budget," sets forth the portion of the Loan and Borrower's Funds which has been allocated for each Item specified in Column D and will be disbursed pursuant to the terms, covenants, conditions and provisions of Exhibit D of this Agreement and the Loan Documents. Unless specified otherwise, all reference to Columns or Items in this Agreement refer to Columns or Items in this Exhibit C.

1 Land Costs	2,622,143			2,622,143
2 Construction Costs of Improvements	32,164,598			32,164,598
3 Tenant Improvement				
4 Site Work Costs	1,954,796			1,954,796
5 Offsite Costs				
6 Architect & Engineering	2,502,490			2,502,490
7 Government Fees	1,617,203			1,617,203
8 Operating Costs During Construction				
9 Contingency	2,000,000			2,000,000
10 Other				
a. FF&E/OS&E	6,316,142			6,316,142
b. Equipment/Technology	2,010,755			2,010,755
c. Miscellaneous	0			0
11 TOTAL HARD COSTS	51,188,128			51,188,128
12 Specialty Consultants & Fees	1,310,220			
13 Taxes During Loan	663,730			663,730
14 Insurance During Loan	215,128			215,128
15 Intentionally Omitted				
16 Intentionally Omitted				
17 Title/Recording/Escrow	54,000			54,000
18 Legal Fees	328,125			328,125
19 Intentionally Omitted				
20 Commission Expense	3,309,063			3,309,063
21 Developer Overhead	2,415,882			2,415,882
22 Contingency (Soft Costs)	1,844,634			1,844,634
23 Other				
a. Marketing/Pre-Opening	1,576,859			1,576,859
b. Interest Reserve	6,893,483			6,893,483
24 TOTAL SOFT COSTS	18,611,123		0	18,611,123
25 CUMMULATIVE TOTALS	69,799,250		0	69,799,250

**Footnotes:**

- (a) Borrower's funds in the amount of \$0 are included in the total shown on line #25 of the Project Budget.
- (b) These funds will be available on or after the Effective Date as defined in the Agreement.

#### EXHIBIT D - DISBURSEMENT PLAN

1. Timing of Disbursement. Unless another provision of this Agreement specifies otherwise, on or about the 15th day of each month, or at such other times as Lender may approve or determine more appropriate, Borrower shall submit to:

J & H Capital Investments, LLC  
4020 N. MacArthur Blvd., Suite 123-200  
Irving, Texas 75038  
Attention: \_\_\_\_\_

a written itemized statement, signed by Borrower ("Application for Payment") setting forth:

- 1.1 a description of the work performed, material supplied and/or costs incurred or due for which disbursement is requested with respect to any line item ("Item") shown in Column D ("Disbursement Budget") of the Financial Requirement Analysis attached as Exhibit C to this Agreement; and
  - 1.2 the total amount incurred, expended and/or due for each requested item less prior disbursements.
2. Lender's Right to Condition Disbursements. Lender shall have the right to condition any disbursement upon Lender's receipt and approval of the following:
- 2.1 the Application for Payment and an itemized requisition for payment of Items 2 through 10 shown in the Disbursement Budget ("Hard Costs");
  - 2.2 bills, invoices, documents of title, vouchers, statements, payroll records, receipts and any other documents evidencing the total amount expended, incurred or due for any requested items;
  - 2.3 evidence of Borrower's use of a lien release, joint check and voucher system acceptable to Lender for payments or disbursements to any contractor, subcontractor, materialman, supplier or lien claimant;
  - 2.4 architect's, inspector's and/or engineer's periodic certifications of the percentage and/or stage of construction that has been completed and its conformance to the Plans and Specifications and governmental requirements based upon any such architect's, inspector's and/or engineer's periodic physical inspections of the Property and Improvements;
  - 2.5 waivers and releases of any mechanics' lien, stop notice claim, equitable lien claim or other lien claim rights;
  - 2.6 evidence of Borrower's compliance with the provisions of the Articles and Sections of this Agreement entitled Construction and Authority/Enforceability;
  - 2.7 valid, recorded Notice(s) of Completion for the Improvements or any portions of the Improvements for which Notice(s) of Completion may be recorded under applicable law;
  - 2.9 Certificate of Substantial Completion from the Architect and Engineer, if any, prior to the final retention disbursement or the final stage disbursement of Hard Costs, as applicable;
  - 2.10 any other document, requirement, evidence or information that Lender may reasonably request under any provision of the Loan Documents; and
  - 2.11 evidence that any goods, materials, supplies, fixtures or other work in process for which disbursement is requested have been incorporated into the Improvements.

- 2.12 in the event any Application for Payment includes the cost of materials stored at a location other than the Property ("Offsite Materials"), such Application for Payment shall include each of the following: (a) evidence that the Offsite Materials have been purchased by Borrower, have been segregated from other materials in the facility and have been appropriately marked to indicate Borrower's ownership thereof and Lender's security interest therein; and (b) evidence that the Offsite Materials are insured as required by this Agreement; and (c) at Lender's request, a security agreement, financing statement and/or subordination agreement in form and substance satisfactory to Lender executed by the supplier of the Offsite Materials, and/or such other persons as Lender determines may have an interest in or claim to the Offsite Materials, together with such other additional documentation and evidence as Lender may reasonably require to assure itself that it has a perfected first priority lien on the Offsite Materials.
- 2.13 in the event that any Application for Payment includes the cost of materials stored on the Property ("Onsite Materials"), such Application for Payment shall include each of the following: (a) evidence that the Onsite Materials have been purchased by Borrower; (b) evidence that the Onsite Materials are insured as required hereunder; and (c) evidence that the Onsite Materials are stored in an area on the Property for which adequate security is provided against theft and vandalism.
- 3.0 Projected Draw Schedule. Borrower estimates disbursements could be per made by the Lender per the schedule below which neither the Borrower or Lender shall be obligated to commit to.

EXHIBIT D-ESTIMATED DRAW SCHEDULE (Prelim): J&H Construction Loan Agreement  
 Principal Amount \$55,081,250  
 Annual Interest Rate 5.50%  
 See Cashflow Schedule for Construction Periods 1-19  
 ♦ Start Mo. Interest on Loan Balance Outstanding

Payment	Month	Loan Amount Required This Period	Loan Balance Outstanding		Interest Cost Monthly	Cumulative Interest Cost
1	Jul-10	\$983,532	\$983,532	C	\$4,554	\$4,554
2	Aug-10	\$2,282,224	\$3,275,756	O	\$15,014	\$19,568
3	Sep-10	\$2,314,084	\$5,589,850	N	\$26,620	\$46,188
4	Oct-10	\$2,649,513	\$8,239,363	S	\$37,764	\$82,951
5	Nov-10	\$2,350,850	\$10,590,213	S	\$48,638	\$131,490
6	Dec-10	\$2,798,589	\$13,378,792	T	\$61,310	\$192,800
7	Jan-11	\$3,658,007	\$17,036,799	U	\$78,076	\$270,876
8	Feb-11	\$3,742,479	\$20,779,267	C	\$95,229	\$366,105
9	Mar-11	\$3,644,704	\$24,424,071	I	\$111,834	\$478,039
10	Apr-11	\$208,985	\$24,633,055	I	\$112,892	\$590,931
11	May-11	\$2,773,288	\$27,406,221	O	\$125,803	\$716,534
12	Jun-11	\$2,767,728	\$30,174,044	N	\$138,288	\$854,822
13	Jul-11	\$2,834,086	\$33,008,010	P	\$151,278	\$1,006,100
14	Aug-11	\$2,147,082	\$35,155,101	P	\$161,118	\$1,167,218
15	Sep-11	\$2,485,113	\$37,639,214	O	\$172,508	\$1,339,727
16	Oct-11	\$2,310,763	\$39,949,967	T	\$183,100	\$1,522,826
17	Nov-11	\$4,278,757	\$44,228,755	I	\$202,715	\$1,725,541
18	Dec-11	\$4,424,208	\$48,652,963	O	\$222,983	\$1,948,534
19	Jan-12	(\$3,834,855)	\$44,818,008	D	\$205,418	\$2,153,950
20	Feb-11	\$205,418	\$45,023,424	♦	\$208,357	\$2,360,307
21	Mar-11	\$208,357	\$45,228,781		\$207,303	\$2,567,610
22	Apr-11	\$207,303	\$45,437,084		\$208,253	\$2,775,864
23	May-11	\$208,253	\$45,645,338		\$209,208	\$2,985,071
24	Jun-11	\$209,208	\$45,854,546		\$210,167	\$3,195,238
25	Jul-11	\$210,167	\$46,064,712		\$211,130	\$3,406,368
26	Aug-11	\$211,130	\$46,275,842		\$212,098	\$3,618,466
27	Sep-11	\$212,098	\$46,487,940		\$213,070	\$3,831,535
28	Oct-11	\$213,070	\$46,701,009		\$214,046	\$4,045,582
29	Nov-11	\$214,046	\$46,915,056		\$215,027	\$4,260,609
30	Dec-11	\$215,027	\$47,130,083		\$216,013	\$4,476,622
31	Jan-12	\$216,013	\$47,346,096		\$217,003	\$4,693,625
32	Feb-12		\$47,346,096		\$217,003	\$4,910,628
33	Mar-12		\$47,346,096		\$217,003	\$5,127,631
34	Apr-12		\$47,346,096		\$217,003	\$5,344,634
35	May-12		\$47,346,096		\$217,003	\$5,561,637
36	Jun-12		\$47,346,096		\$217,003	\$5,778,640
37	Jul-12		\$47,346,096		\$217,003	\$5,995,642
38	Aug-12		\$47,346,096		\$217,003	\$6,212,645
39	Sep-12		\$47,346,096		\$217,003	\$6,428,648
40	Oct-12		\$47,346,096		\$217,003	\$6,644,651
41	Nov-12		\$47,346,096		\$217,003	\$6,860,654
42	Dec-12		\$47,346,096		\$217,003	\$7,076,657
43	Jan-13		\$47,346,096		\$217,003	\$7,292,660
44	Feb-13		\$47,346,096		\$217,003	\$7,508,663
45	Mar-13		\$47,346,096		\$217,003	\$7,724,666
46	Apr-13		\$47,346,096		\$217,003	\$7,940,669
47	May-13		\$47,346,096		\$217,003	\$8,156,672
48	Jun-13		\$47,346,096		\$217,003	\$8,372,675
49	Jul-13		\$47,346,096		\$217,003	\$8,588,678
50	Aug-13		\$47,346,096		\$217,003	\$8,804,681
51	Sep-13		\$47,346,096		\$217,003	\$9,020,684
52	Oct-13		\$47,346,096		\$217,003	\$9,236,687
53	Nov-13		\$47,346,096		\$217,003	\$9,452,690
54	Dec-13		\$47,346,096		\$217,003	\$9,668,692
55	Jan-14		\$47,346,096		\$217,003	\$9,884,695
56	Feb-14		\$47,346,096		\$217,003	\$10,100,698
57	Mar-14		\$47,346,096		\$217,003	\$10,316,701
58	Apr-14		\$47,346,096		\$217,003	\$10,532,704
59	May-14		\$47,346,096		\$217,003	\$10,748,707
60	Jun-14		\$47,346,096		\$217,003	\$10,964,710



**ATTACHMENT NO. 16**  
**LABOR AND MATERIALS PAYMENT BOND**

**THE AMERICAN INSTITUTE OF ARCHITECTS**



Bond No. 929496772

AIA Document A311

**Labor and Material Payment Bond**

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE  
OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

KNOW ALL MEN BY THESE PRESENTS: that  
JAYNES CORPORATION OF CALIFORNIA  
111 Elm Street, Fourth Floor, San Diego, California 92101-2649

as Principal, hereinafter called Principal, and,  
WESTERN SURETY COMPANY  
320 Osuna NE, Suite G-1, Albuquerque, New Mexico 87107

as Surety, hereinafter called Surety, are held and firmly bound unto  
ESCONDIDO DEVELOPMENT, LLC  
c/o Transcan Development, LLC, 3189 Danville Boulevard, Suite 280, Alamo, California 94507

as Oblige, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the  
amount of FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND  
SIX HUNDRED THIRTY & 00/100-- Dollars (\$ 43,396,630.00 ),  
for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators,  
successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS,**

Principal has by written agreement dated JANUARY 28, 2010, entered into a contract with Owner for  
MARRIOTT ESCONDIDO HOTEL AND CONFERENCE CENTER  
250 West Valley Parkway, Escondido, California 92025  
in accordance with Drawings and Specifications prepared by  
LEE & SAKAHARA ARCHITECTS  
16842 Von Karman Avenue, Suite 300, Irvine, California 92606-4927

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following, the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial

accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this 28TH

day of JANUARY

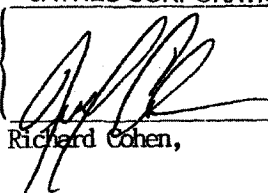
2010

  
Debra Luhnnow (Witness)

JAYNES CORPORATION OF CALIFORNIA

(Principal)

(Seal)

  
Richard Cohen,

(Title) Executive Vice-President

WESTERN SURETY COMPANY

(Surety)

(Seal)

  
CARL S. CONLEE, III

(Title)

ATTORNEY-IN-FACT

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

New Mexico  
State of ~~California~~

County of Bernalillo

On JANUARY 28, 2010 before me, Linda D. Dooley, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Carl S. Conlee, III  
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.



OFFICIAL SEAL  
Linda D. Dooley  
NOTARY PUBLIC-STATE OF NEW MEXICO  
My commission expires: 7-22-12

Place Notary Seal Above

Signature Linda D. Dooley  
Signature of Notary Public  
My Commission Expires: July 22, 2012

**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: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

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

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

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

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

Signer Is Representing: \_\_\_\_\_  
Continental Casualty Company

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

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

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

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

RIGHT THUMBPRINT  
OF SIGNER  
Top of thumb here

**Dual Obligor Rider**

TO BE ATTACHED TO and form part of Bond Number 929496772  
WESTERN SURETY COMPANY  
as Surety, on behalf of JAYNES CORPORATION OF CALIFORNIA

Issued by the

of 111 Elm Street, 4th Floor, San Diego, California 92101-2649

, hereinafter referred to as the Principal, and

In favor of ESCONDIDO DEVELOPMENT, LLC

of c/o Transcan Development, LLC, 3189 Danville Boulevard, Suite 280, Alamo, CA 94507

, hereinafter referred to as the Obligor, in the sum of

FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND SIX HUNDRED THIRTY & 00/100—  
Dollars ( \$43,396,630.00 ), effective the 28TH day of JANUARY . 2010 .

In consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration receipt of which is hereby acknowledged, the Undersigned hereby agree as follows:

1. The CITY OF ESCONDIDO, J & H CAPITAL INVESTMENTS and the ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION

are hereby added to said bond as additional obligors.

2. The Surety shall not be liable under this bond to the Obligor, or any of them unless the said Obligor, or any of them, shall make payments to the Principal strictly in accordance with the terms of the said contract as to payments, and shall perform all other obligations to be performed under said contract at the time and in manner therein set forth.

3. No suit, action or proceeding by reason of any default whatever shall be brought on this bond after two (2) years from the day on which the final payment under said construction contract falls due.

4. Aggregate liability of Surety hereunder to Obligor is limited to the penal sum above stated and Surety, upon making payment hereunder, shall be subrogated to, and shall be entitled to an assignment of all rights of the payee with respect to the particular obligation discharged by the payment, either against principal or against any other party liable to the payee on the discharged obligation.

SIGNED, SEALED AND DATED this 28TH day of JANUARY

2010

ESCONDIDO DEVELOPMENT, LLC

Accepted By:

By: Robert Bahan  
Robert Bahan, Managing Member

JAYNES CORPORATION OF CALIFORNIA

(Principal)

By: Richard Cohen (Seal)  
Richard Cohen, Executive Vice-President

CITY OF ESCONDIDO

Accepted By:

By: \_\_\_\_\_

WESTERN SURETY COMPANY

(Surety)

By: Carl S. Conlee, III (Seal)  
CARL S. CONLEE, III, ATTORNEY-IN-FACT

J & H CAPITAL INVESTMENTS

Accepted By:

By: \_\_\_\_\_

ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION

Accepted By:

By: \_\_\_\_\_

# 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

**Robert L Brooks, Bart H Kinney III, Michael L Chrestman, Carl S Conlee III, Dean E Vigil,  
Sarah J Hamilton, David D Gebhardt, Sally L Nelson, Individually**

of Albuquerque, NM, 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 20th day of June, 2006.



WESTERN SURETY COMPANY

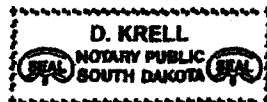
Paul T. Bruflat, Senior Vice President

State of South Dakota }  
County of Minnehaha }

On this 20th day of June, 2006, 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 28TH day of JANUARY, 2010.



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.



INCREASE - DECREASE RIDER

TO BE ATTACHED TO and form part of Bond Number 929496772 issued by the  
WESTERN SURETY COMPANY, as  
Surety, on behalf of JAYNES CORPORATION OF CALIFORNIA of  
111 Elm Street, Fourth Floor, San Diego, CA 92101-2649 hereinafter referred  
to as the Principal, and in favor of ESCONDIDO DEVELOPMENT, LLC, CITY OF ESCONDIDO, J & H CAPITAL INVESTMENTS,  
ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION  
of c/o Transcan Development, LLC, 3189 Danville Boulevard, Suite 280, Alamo, CA 94507, hereinafter  
referred to as the Oblige, effective the 28TH day of JANUARY, 2010.

IN CONSIDERATION of the premium charged for the attached bond and other good and valuable consideration it  
is understood and agreed that effective the 8TH day of APRIL, 2010, and  
subject to all the terms, conditions and limitations of the attached bond, the penal sum thereof shall be and the  
same is hereby INCREASED from the sum of  
FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND SIX HUNDRED THIRTY & 00/100 Dollars (\$ 43,396,630.00), to the  
sum of FORTY SIX MILLION NINE HUNDRED FORTY-EIGHT THOUSAND  
SEVEN HUNDRED EIGHTY ONE & 00/100 Dollars (\$ 46,948,781.00).

IT IS FURTHER UNDERSTOOD and agreed that subject to all the terms, conditions and limitations of the  
attached bond, the aggregate liability of the Surety for any loss occurring prior to said date shall not exceed the  
sum of FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND  
SIX HUNDRED THIRTY & 00/100 Dollars (\$ 43,396,630.00),  
or for any loss occurring subsequent to said date shall not exceed the sum of FORTY SIX MILLION NINE HUNDRED  
FORTY-EIGHT THOUSAND SEVEN HUNDRED EIGHTY ONE & 00/100 Dollars (\$ 46,948,781.00).

In no event, however, shall the aggregate liability of the Surety exceed the larger of the aforementioned sums, it  
being the intent hereof to preclude cumulative liability.

SIGNED, SEALED AND DATED this 8TH day of APRIL, 2010.

Accepted By:

ESCONDIDO DEVELOPMENT, LLC

By Robert Bahan  
Robert Bahan, Managing Member  
CITY OF ESCONDIDO

By \_\_\_\_\_

J & H CAPITAL INVESTMENTS

By \_\_\_\_\_

Form F4763

ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION

By: \_\_\_\_\_

JAYNES CORPORATION OF CALIFORNIA

(Principal)  
By Richard Cohen (Seal)  
Richard Cohen, Executive Vice-President

WESTERN SURETY COMPANY

(Surety)  
By Carl S. Conlee, III (Seal)  
Carl S. Conlee, III, Attorney-In-Fact Attorney-in-Fact

# 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

**Robert L Brooks, Bart H Kinney III, Michael L Chrestman, Carl S Conlee III, Dean E Vigil,  
Sarah J Hamilton, David D Gebhardt, Sally L Nelson, Individually**

of Albuquerque, NM, 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 20th day of June, 2006.



WESTERN SURETY COMPANY

Paul T. Bruffat, Senior Vice President

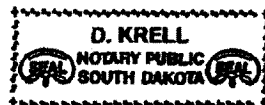
State of South Dakota }  
County of Minnehaha }

ss

On this 20th day of June, 2006, before me personally came Paul T. Bruffat, 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 8TH day of APRIL, 2010.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary



COC  
Resolution No. 2010-07(R)  
EXHIBIT 1  
Page 157 of 165

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.

**ATTACHMENT NO. 17  
PERFORMANCE BOND**

**THE AMERICAN INSTITUTE OF ARCHITECTS**



Bond No. 929496772

AIA Document A311

**Performance Bond**

KNOW ALL MEN BY THESE PRESENTS: that  
JAYNES CORPORATION OF CALIFORNIA  
111 Elm Street, Fourth Floor, San Diego, California 92101-2649

as Principal, hereinafter called Contractor, and,  
WESTERN SURETY COMPANY  
320 Osuna NE, Suite G-1, Albuquerque, New Mexico 87107

as Surety, hereinafter called Surety, are held and firmly bound unto  
ESCONDIDO DEVELOPMENT, LLC  
c/o Transcan Development, LLC, 3189 Danville Boulevard, Suite 280, Alamo, California 94507

as Obligee, hereinafter called Owner, in the amount of  
FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND  
SIX HUNDRED THIRTY & 00/100— Dollars (\$ 43,396,630.00 ),

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated JANUARY 28, 2010, entered into a contract with Owner for  
MARRIOTT ESCONDIDO HOTEL AND CONFERENCE CENTER  
250 West Valley Parkway, Escondido, California 92025

in accordance with Drawings and Specifications prepared by  
LEE & SAKAHARA ARCHITECTS  
16842 Von Karman Avenue, Suite 300, Irvine, California 92606-4927

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

## PERFORMANCE BOND

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of

defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this 28TH

day of JANUARY


2010

  
Debra Luhnnow (Witness)

JAYNES CORPORATION OF CALIFORNIA

(Principal)

(Seal)

  
Richard Cohen,

(Title)

Executive Vice-President

  
Linda D. Boof (Witness)

WESTERN SURETY COMPANY

(Surety)

(Seal)

  
CARL S. CONLEE, III

(Title)

ATTORNEY-IN-FACT

**Dual Obligee Rider**

TO BE ATTACHED TO and form part of Bond Number 929496772  
WESTERN SURETY COMPANY

Issued by the

as Surety, on behalf of JAYNES CORPORATION OF CALIFORNIA

of 111 Elm Street, 4th Floor, San Diego, California 92101-2649

, hereinafter referred to as the Principal, and

In favor of ESCONDIDO DEVELOPMENT, LLC

of c/o Transcan Development, LLC, 3189 Danville Boulevard, Suite 280, Alamo, CA 94507

, hereinafter referred to as the Obligee, in the sum of

FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND SIX HUNDRED THIRTY & 00/100---  
Dollars ( \$43,396,630.00 ), effective the 28TH day of JANUARY . 2010 .

In consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration receipt of which is hereby acknowledged, the Undersigned hereby agree as follows:

1. The CITY OF ESCONDIDO, J & H CAPITAL INVESTMENTS and the ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION

are hereby added to said bond as additional obligees.

2. The Surety shall not be liable under this bond to the Obligee, or any of them unless the said Obligees, or any of them, shall make payments to the Principal strictly in accordance with the terms of the said contract as to payments, and shall perform all other obligations to be performed under said contract at the time and in manner therein set forth.
3. No suit, action or proceeding by reason of any default whatever shall be brought on this bond after two (2) years from the day on which the final payment under said construction contract falls due.
4. Aggregate liability of Surety hereunder to Obligees is limited to the penal sum above stated and Surety, upon making payment hereunder, shall be subrogated to, and shall be entitled to an assignment of all rights of the payee with respect to the particular obligation discharged by the payment, either against principal or against any other party liable to the payee on the discharged obligation.

SIGNED, SEALED AND DATED this 28TH day of JANUARY

2010

ESCONDIDO DEVELOPMENT, LLC

Accepted By:

By: Robert Bahan  
Robert Bahan, Managing Member

JAYNES CORPORATION OF CALIFORNIA

(Principal)

By: Richard Cohen (Seal)  
Richard Cohen, Executive Vice-President

CITY OF ESCONDIDO

Accepted By:

By: \_\_\_\_\_

WESTERN SURETY COMPANY

(Surety)

By: Carl S. Conlee, III (Seal)  
CARL S. CONLEE, III, ATTORNEY-IN-FACT

J & H CAPITAL INVESTMENTS

Accepted By:

By: \_\_\_\_\_

ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION

Accepted By:

By: \_\_\_\_\_

# 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

**Robert L Brooks, Bart H Kinney III, Michael L Chrestman, Carl S Conlee III, Dean E Vigil, Sarah J Hamilton, David D Gebhardt, Sally L Nelson, Individually**

of Albuquerque, NM, 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 20th day of June, 2006.



WESTERN SURETY COMPANY

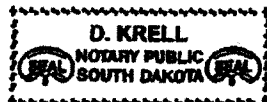
Paul T. Bruflat, Senior Vice President

State of South Dakota }  
County of Minnehaha }

On this 20th day of June, 2006, 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 28TH day of JANUARY, 2010.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

**Authorizing By-Law**

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

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INCREASE - DECREASE RIDER

TO BE ATTACHED TO and form part of Bond Number 929496772 issued by the  
WESTERN SURETY COMPANY, as  
Surety, on behalf of JAYNES CORPORATION OF CALIFORNIA of  
111 Elm Street, Fourth Floor, San Diego, CA 92101-2649 hereinafter referred  
to as the Principal, and in favor of ESCONDIDO DEVELOPMENT, LLC, CITY OF ESCONDIDO, J & H CAPITAL INVESTMENTS,  
ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION  
of c/o Transcan Development, LLC, 3189 Danville Boulevard, Suite 280, Alamo, CA 94507, hereinafter  
referred to as the Obligor, effective the 28TH day of JANUARY, 2010.

IN CONSIDERATION of the premium charged for the attached bond and other good and valuable consideration it  
is understood and agreed that effective the 8TH day of APRIL, 2010, and  
subject to all the terms, conditions and limitations of the attached bond, the penal sum thereof shall be and the  
same is hereby INCREASED from the sum of  
FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND SIX HUNDRED THIRTY & 00/100 Dollars (\$ 43,396,630.00), to the  
sum of FORTY SIX MILLION NINE HUNDRED FORTY-EIGHT THOUSAND  
SEVEN HUNDRED EIGHTY ONE & 00/100 Dollars (\$ 46,948,781.00).

IT IS FURTHER UNDERSTOOD and agreed that subject to all the terms, conditions and limitations of the  
attached bond, the aggregate liability of the Surety for any loss occurring prior to said date shall not exceed the  
sum of FORTY THREE MILLION THREE HUNDRED NINETY-SIX THOUSAND  
SIX HUNDRED THIRTY & 00/100 Dollars (\$ 43,396,630.00),  
or for any loss occurring subsequent to said date shall not exceed the sum of FORTY SIX MILLION NINE HUNDRED  
FORTY-EIGHT THOUSAND SEVEN HUNDRED EIGHTY ONE & 00/100 Dollars (\$ 46,948,781.00).

In no event, however, shall the aggregate liability of the Surety exceed the larger of the aforementioned sums, it  
being the intent hereof to preclude cumulative liability.

SIGNED, SEALED AND DATED this 8TH day of APRIL, 2010.

Accepted By:

ESCONDIDO DEVELOPMENT, LLC

By Robert Bahan  
Robert Bahan, Managing Member  
CITY OF ESCONDIDO

By \_\_\_\_\_

J & H CAPITAL INVESTMENTS

By \_\_\_\_\_

Form F4763

ESCONDIDO COMMUNITY DEVELOPMENT COMMISSION

By: \_\_\_\_\_

JAYNES CORPORATION OF CALIFORNIA

(Principal)

By Richard Cohen (Seal)  
Richard Cohen, Executive Vice-President

WESTERN SURETY COMPANY

(Surety)

By Carl S. Conlee, III (Seal)  
Carl S. Conlee, III, Attorney-In-Fact Attorney-in-Fact

# Western Surety Company

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

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**Robert L Brooks, Bart H Kinney III, Michael L Chrestman, Carl S Conlee III, Dean E Vigil,  
Sarah J Hamilton, David D Gebhardt, Sally L Nelson, Individually**

of Albuquerque, NM, 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 20th day of June, 2006.



WESTERN SURETY COMPANY

*Paul T. Brufat*

Paul T. Brufat, Senior Vice President

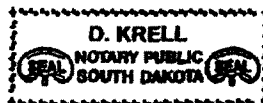
State of South Dakota }  
County of Minnehaha }

ss

On this 20th day of June, 2006, before me personally came Paul T. Brufat, 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*

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 8TH day of APRIL, 2010



WESTERN SURETY COMPANY

*L. Nelson*

L. Nelson, Assistant Secretary



**Authorizing By-Law**

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

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