

**RESOLUTION NO. 20-73**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODBURY AUTHORIZING  
RELEASE OF THE PERFORMANCE GUARANTEE AND ACCEPTING THE  
MAINTENANCE BOND OF A.C.SCHULTES, INC. FOR THE REDEVELOPMENT OF  
WELL NO. 1A**

**WHEREAS**, A. C. Schultes, Inc. posted a Performance Guaranty, being Western Surety Company Bond No. 30081735 dated January 28, 2020, for the project known as the Well No. 1A Redevelopment and Pump Repairs Project; and

**WHEREAS**, Federici & Akin, City Engineer on the Project, by correspondence dated February 14, 2020, recommends release of the Performance Guaranty contingent upon the posting of a Maintenance Guaranty in a form acceptable to the City Solicitor to be held for a period of two (2) years; and

**WHEREAS**, A. C. Schultes, Inc. has posted Western Surety Company Bond No. 30081735 in the amount of \$73,895.00 for a period of two (2) years commencing January 13, 2020; and

**WHEREAS**, Federici & Akin, City Engineer on the Project, and Timothy Scaffidi, City Solicitor, recommend acceptance of the Maintenance Bond for the project; and

**WHEREAS**, Federici & Akin, City Engineer on the Project, recommends release of the retainer held by the City of Woodbury in the amount of \$7,389.50 to A. C. Schultes, Inc.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of the City of Woodbury, County of Gloucester and State of New Jersey on this 26<sup>th</sup> day of February, 2020, that:

1. The Performance Guaranty being Western Surety Company Bond No. 30081735 posted by A. C. Schultes, Inc. for the project known as the Well No. 1A Redevelopment and Pump Repairs Project is hereby released; and
2. The Maintenance Bond being Western Surety Company Bond No. 30081735 posted by A. C. Schultes, Inc. for the project known as the Well No. 1A Redevelopment and Pump Repairs Project in the amount of \$73,895.00 is hereby accepted; and
3. The Retainer held by the City of Woodbury in the amount of \$7,389.50, is hereby released to A. C. Schultes, Inc.

**ADOPTED** at the regular meeting of the Mayor and City Council of the City of Woodbury held on February 26, 2020.

**CITY OF WOODBURY**

By:   
**PHILIP HAGERTY,**  
Council President Pro-Tempore

**ATTEST:**

  
**DANEEN FUSS, City Clerk**



Council Member	Ayes	Nays	Abstain	Absent
Councilwoman Carter	✓			
Councilman Fleming	✓			
Councilman Hagerty	✓			
Councilman Johnson				✓
Councilman McIlvaine	✓			
Councilman Merinuk	✓			
Councilwoman Miller	✓			
Councilwoman O'Connor	✓			
Council President Parker				✓
Mayor Floyd				

**CERTIFICATION**

I, Daneen D. Fuss hereby certify that the foregoing Resolution was adopted by the City Council, of the City of Woodbury, in the County of Gloucester and State of New Jersey at the meeting held on **February 26, 2020** at City Hall 33 Delaware Street, Woodbury, New Jersey 08096.



Daneen D. Fuss  
City Clerk



FEDERICI & AKIN, P.A.  
CONSULTING ENGINEERS

Joseph P. Federici, Jr. P.E., P.P.  
President

Douglas E. Akin, P.L.S., P.P.  
Vice President

Bret T. Yates  
Associate

Jonathan A. Bryson, P.F.E., C.M.E.  
Associate

307 Greentree Road  
Sewell, New Jersey 08080  
856-589-1400  
Fax 856-582-7976

February 14, 2020  
F&A #19195

Mr. Franklin Brown, Administrator  
City of Woodbury  
33 Delaware Street  
Woodbury, NJ 08096

Re: **FY2019 Water & Sewer Utility Improvements  
Redevelopment of Well #1A and  
Replacement of Existing Pump  
Acceptance of Maintenance Bond and  
Release of Retainer and Performance Bond**

Dear Frank:

The Contractor for the above-referenced project, A.C. Schultes, Inc., has submitted the required Maintenance Bond (Western Surety No. 30081735) in the amount of \$73,895.00 which is 100% of the final contract amount. The Bond is in effect for a period of two (2) years from the date of January 13, 2020.

Therefore, I am recommending release of the retainer for this project in the amount of \$7,389.50 to A.C. Schultes. I am also requesting that a resolution be prepared for the next Council meeting for the acceptance of the maintenance bond and the release of the performance bond and the retainer to A.C. Schultes.


By copy of this letter I am sending the original Maintenance Bond to Daneen Fuss for the City's project file and a copy to Tim Scaffidi for his review and approval. I have also attached the Council Agenda Item form and a draft resolution with the project particulars for Daneen's use to finalize for Council's review and approval.

Please add this resolution to the agenda for the February 26<sup>th</sup> Council meeting.

Should you have any questions please do not hesitate to contact me.



Very truly yours,  
**FEDERICI & AKIN, P.A.**

  
Erika S. Vardaxis, P.E.  
City Engineer

**Enclosures**

**Cc: Daneen Fuss, City Clerk (w/ attachments)**  
**Robert Law, CFO**  
**Timothy Scaffidi, Esq., City Solicitor (w/att.)**

**CITY COUNCIL AGENDA ITEM #**

Meeting Date: Wednesday, February 26, 2020

Subject: Well No. 1A Redevelopment and Pump Repairs  
Accept Maintenance Bond, Release Perf. Bond & Retainer  
**A. C. Schultes, Inc.**

Submitted by: Erika Vardaxis, City Engineer

Date: 2/18/2020

Approved by: \_\_\_\_\_

Attachments: 1. letter to Administrator dated February 14  
2. draft resolution  
3. Maintenance Bond

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**RECOMMENDATION**

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**PREVIOUS ACTION**

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**BACKGROUND**

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**FISCAL IMPACT**

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**CONCURRENCES**

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**ALTERNATIVES**

MAINTENANCE BOND

Bond No. 30081735

KNOW ALL MEN BY THESE PRESENTS:

That, A.C. Schultes, Inc. of Woodbury Heights, NJ  
as Principal, and the Western Surety Company as Surety,  
are held and firmly bound unto City of Woodbury Woodbury, NJ in the

penal sum of Seventy Three Thousand Eight Hundred Ninety Five Dollars and 00/100 (\$ 73,895.00 )

Dollars, lawful money of the United States of America, for the payment of which, well and truly to be made, the Principal and Surety bind themselves, their and each of their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the said Principal entered into a certain contract, with City of Woodbury

To furnish all the material and labor necessary for the construction of Well #1A Redevelopment and Pump Repairs Project

in Woodbury, NJ In conformity with certain specifications; and

Whereas, a further condition of said contract is that the said Principal should furnish a bond in indemnity, guaranteeing to remedy any defects in workmanship or materials that may develop in said work within a period of Two ( 2 ) years from the date of acceptance of the work under said contract; and

Whereas, the said Western Surety Company for a valuable consideration, has agreed to join with said Principal in such bond or guarantee, indemnifying said City of Woodbury Woodbury, NJ

Now, therefore, the condition of this obligation is such, that if the said Principal shall, at his own cost and expense, remedy any and all defects that may develop in said work within the period of Two ( 2 ) years from the date of acceptance of the work under said contract, by reason of bad workmanship or poor material used in the construction of said work, and shall keep all work in continuous good repair during said period, and shall in all other respects, comply with all the terms and conditions of said contract with respect to maintenance and repair of said work, then this obligation to be null and void; otherwise to be and remain in full force and virtue in law.

In Witness whereof, we have hereunto set our hands and seals this 28th  
day of January, 2020.

A.C. Schultes, Inc.

Principal

By: AUGUST C. SCHULTES, IV PRESIDENT

Western Surety Company

Surety

By: Daniel P. Dunigan Attorney-in-Fact



# Western Surety Company

Bond No. 30081735

## SURETY DISCLOSURE STATEMENT AND CERTIFICATION

Western Surety Company, surety on the attached bond, hereby certifies the following:

(1) The surety meets the applicable capital and surplus requirements of R.S. 17:17-6 or R.S. 17:17-7 as of the surety's most current annual filing with the New Jersey Department of Insurance.

(2) The capital and surplus, as determined in accordance with the applicable laws of this State, of the surety(ies) participating in the issuance of the attached bond is (are) in the following amount(s) as of the calendar year ended December 31, 2018. The financial statements of Western Surety Company as of and for the year ended December 31, 2018 have been audited by Deloitte & Touche LLP, 111 S. Wacker Drive, Chicago, IL 60606-4301.

Surety Company	Capital	Policyholders' Surplus (including Capital)
Western Surety Company	\$4,000,000	\$1,541,567,347

(3) (a) With respect to each surety participating in the issuance of the attached bond that has received from the United States Secretary of the Treasury a certificate of authority pursuant to 31 U.S.C. § 9305, the underwriting limitation established therein on July 1, 2019, is as follows:

Surety Company	Underwriting Limitation
Western Surety Company	\$153,381,000

(b) With respect to each surety participating in the issuance of the attached bond that has not received such a certificate of authority from the United States Secretary of the Treasury, the underwriting limitation of that surety as established pursuant to R.S. 17.18.9 as of (date of which such limitation was so established) is as follows: N/A

(4) The amount of the bond to which this statement and certification is attached is \$ 73,895.00.

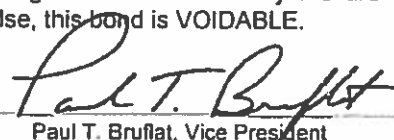
(5) If, by virtue of one or more contracts of reinsurance, the amount of the bond indicated under item (4) above exceeds the total underwriting limitation of all sureties on the bond as set forth in items (3)(a) or (3)(b) above, or both, then for each such contract of reinsurance:

(a) The name and address of each such reinsurer under that contract and the amount of that reinsurer's participation in the contract is as follows: N/A  
and

(b) Each surety that is party to any such contract of reinsurance certifies that each reinsurer listed under item (5)(a) satisfies the credit for reinsurance requirement established under P.L. 1993, c. 243 (C.17:51B-1 et seq.) and any applicable regulations in effect as of the date on which the bond to which this statement and certification is attached shall have been filed with the appropriate public agency. N/A

### CERTIFICATE

I, Paul T. Bruffat, as Vice President, for Western Surety Company, a corporation domiciled in South Dakota, DO HEREBY CERTIFY that, to the best of my knowledge, the foregoing statements made by me are true, and ACKNOWLEDGE that, if any of those statements made by me are false, this bond is VOIDABLE.

  
Paul T. Bruffat, Vice President

Date: 1/28/20

# 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

**Daniel P. Dunigan , Individually**

of **Berwyn, PA** 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 -**

Surety Bond No.: 30081735  
Principal: A.C. Schultes, Inc.  
Obligee: City of Woodbury

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 Vice President and its corporate seal to be hereto affixed on this 27th day of February, 2018.



WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 27th day of February, 2018, 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 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

June 23, 2021



J. Mohr, 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, 2020.



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.