



# SUNTRUST

IRREVOCABLE LETTER OF CREDIT F845575

PAGE 1

LETTER OF CREDIT NUMBER: F845575  
ISSUANCE DATE: JANUARY 21, 2005

APPLICANT:  
ACORN DEVELOPMENT COMPANY  
131 PARK LAKE STREET  
ORLANDO, FL 32803-3821

BENEFICIARY:  
SEMINOLE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
1101 EAST FIRST STREET  
SANFORD, FL 32777

FOR USD 534,419.90  
(FIVE HUNDRED THIRTY FOUR THOUSAND FOUR HUNDRED NINETEEN 90/100  
U.S. DOLLARS)

DATE OF EXPIRATION: JANUARY 24, 2006  
PLACE OF EXPIRATION: AT OUR COUNTERS

BY ORDER OF ACORN DEVELOPMENT COMPANY, WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON SUNTRUST BANK UP TO AN AGGREGATE AMOUNT OF FIVE HUNDRED THIRTY FOUR THOUSAND FOUR HUNDRED NINETEEN DOLLARS AND 90/100 U.S. DOLLARS (USD534,419.90), AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT THE PERFORMANCE AND PAYMENT AGREEMENT DATED JANUARY 24, 2005, BETWEEN ACORN DEVELOPMENT COMPANY AND SEMINOLE COUNTY IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND NEGOTIATED ON OR BEFORE JANUARY 24, 2006 AND EACH DRAFT MUST STATE THAT IT IS DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. F845575 OF SUNTRUST BANK DATED JANUARY 21, 2005, AND THE AMOUNT THEREOF ENDORSED ON THIS LETTER OF CREDIT. THE BANK AGREES THAT THIS LETTER OF CREDIT SHALL AUTOMATICALLY RENEW ITSELF FOR SUCCESSIVE ONE-YEAR PERIODS UNLESS THE BANK SHALL GIVE NOTICE TO YOU NO LATER THAN FORTY-FIVE (45) DAYS PRECEDING AN EXPIRATION DATE THAT IT CHOOSES NOT TO RENEW THE LETTER OF CREDIT, IN WHICH CASE, THE COUNTY SHALL BE ENTITLED TO DEMAND AND RECEIVE THE OUTSTANDING AMOUNT OF MONEY REPRESENTED BY THIS LETTER OF CREDIT. IN THE EVENT OF DRAW BASED ON EXPIRATION OF THIS LETTER OF CREDIT, THE PROCEEDS SHALL BE HELD BY SEMINOLE COUNTY AS A CASH BOND TO SECURE CONTINUED ADHERENCE TO THE TERMS OF THE PERFORMANCE AND PAYMENT AGREEMENT WITH ACORN DEVELOPMENT COMPANY.

UPON TENDER OF PAYMENT, YOU WILL RELEASE TO THE BANK THE ORIGINAL

CONTINUED ON NEXT PAGE

105928 (001)

---

# SUNTRUST

IRREVOCABLE LETTER OF CREDIT FB45575 PAGE 2  
IRREVOCABLE LETTER OF CREDIT MARKED "CANCELLED." IN ANY EVENT.  
UPON EXPIRATION OR AT ANY TIME AFTER THE COMPLETION OF THE  
PERFORMANCE AND PAYMENT AGREEMENT DATED JANUARY 24, 2005, TO THE  
SATISFACTION OF THE BOARD OF COUNTY COMMISSIONERS EVIDENCED BY A  
WRITTEN ACCEPTANCE OF THE REQUIRED IMPROVEMENTS COVERED BY SAID  
PERFORMANCE AND PAYMENT AGREEMENT, YOU WILL RETURN THE ORIGINAL  
LETTER OF CREDIT TO THIS BANK MARKED "CANCELLED."

WE HEREBY ENGAGE WITH YOU THAT SUCH COMPLIANT DRAFTS WILL BE DULY  
HONORED UPON PRESENTATION TO THE SUNTRUST BANK AT THE ADDRESS  
BELOW.

IF THE BOARD OF COUNTY COMMISSIONERS INITIATES SUIT UNDER THIS  
LETTER OF CREDIT, THE BANK HEREBY AGREES TO BE RESPONSIBLE FOR  
SEMINOLE COUNTY'S COURT COSTS AND REASONABLE ATTORNEY'S FEES, BUT  
THE SUNTRUST BANK SHALL NOT BE RESPONSIBLE FOR ANY ATTORNEY'S  
FEES IN EXCESS OF FIFTEEN PERCENT (15%) OF THE AGGREGATE AMOUNT OF  
THIS LETTER OF CREDIT.

THIS LETTER OF CREDIT SETS FORTH IN FULL THE TERMS OF OUR  
UNDERTAKING AND SUCH UNDERTAKING SHALL NOT, IN ANY WAY, BE  
AMENDED BY REFERENCE HEREIN TO ANY AGREEMENT, AND ANY SUCH  
REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCED  
ANY DOCUMENT OR AGREEMENT OTHER THAN THE PERFORMANCE AND PAYMENT  
AGREEMENT DATED JANUARY 24, 2005, AND REFERENCED ABOVE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE INTERNATIONAL  
STANDBY PRACTICES 1998.

WE HEREBY AGREE WITH YOU THAT ALL DRAFTS DRAWN IN COMPLIANCE WITH  
THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED UPON  
PRESENTATION AND DELIVERY OF THE DOCUMENTS SPECIFIED ABOVE TO THE  
BELOW ADDRESS ON OR BEFORE JANUARY 24, 2006 OR ANY AUTOMATICALLY  
EXTENDED DATE.

ALL DOCUMENTS ARE TO BE REMITTED TO:  
SUNTRUST BANK, INTERNATIONAL DIVISION  
ATTN: LETTER OF CREDIT DEPARTMENT  
25 PARK PLACE, 16TH FLOOR, MC 3706

CONTINUED ON NEXT PAGE

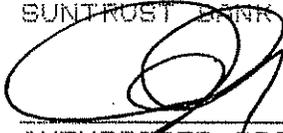
# SUNTRUST

IRREVOCABLE LETTER OF CREDIT F845575  
ATLANTA, GEORGIA 30303

PAGE 3

SINCERELY,

SUNTRUST BANK



AUTHORIZED SIGNATURE  
JON CONLEY, VP  
MANAGER, STANDBY LETTERS OF CREDIT

ATTEST:



DALE TOOTHILL  
ASSISTANT VICE PRESIDENT

SEMINOLE COUNTY

AGREEMENT

Performance and Payment – Water & Sewer

THIS AGREEMENT is made and entered into this 24th day of January, 2005, between ACORN DEVELOPMENT COMPANY, a Florida corporation, hereinafter referred to as "Developer," the Developer of the Ellington Estates residential subdivision, and SEMINOLE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County."

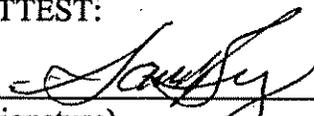
WITNESSETH:

1. The Developer hereby delivers to the County an Irrevocable Letter of Credit No. F845575 of SunTrust Bank in the sum of \$534,419.90 to guarantee that all improvements set forth on the approved plans and specifications for the above development will be fully completed and paid for.
2. The County agrees to accept the Letter of Credit and to return or draw on same in the following manner:
  - a. To return to SunTrust Bank upon request by Developer and upon proof satisfactory to the County, that work has been completed in accordance with all applicable requirements. Said proof to include a certificate to that effect signed by the Developer, the Developer's Engineer, and the County's Engineer, and upon proof satisfactory to the County that all bills therefore have been paid, including, but not limited to, bills for surveying, engineering, land clearing, and work and material used in the construction of roads and other required improvements which are included in the plans and specifications.
  - b. To draw upon the Letter of Credit in accordance with its terms upon a determination that any portion or all of the improvements have not been completed in accordance with the approved plans and specifications within 365 calendar days from the date of this Agreement. Provided, however, that if the work is not completed within 365 calendar days and the Developer has made substantial progress towards completion of the required improvements, is proceeding with completion of the work and the public interest is served thereby, the County may extend the time for performance hereunder to a time no later than thirty (30) days prior to the expiration date of the Letter of Credit. The County is hereby authorized, but not obligated to take over and perform or cause to be performed any such uncompleted work and to use for such purposes the funds available under said Letter of Credit to reimburse the 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 Developer's failure to perform this Agreement.

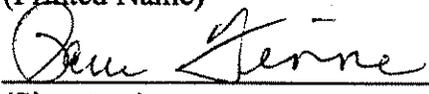
- c. Further, the County is authorized to draw on the Letter of Credit to pay any bills for said improvements upon proof satisfactory to the County that such claims are just and unpaid, and the Developer hereby consents to any such payments and authorizes and ratifies any such action on the part of the County and agrees to protect and save harmless the County from any claims of any persons whomsoever on account of any improvements which have not been completed or paid for or which have been completed or paid for by the County.

IN WITNESS WHEREOF, the Developer and the County have executed these presents the day and year above written.

ATTEST:

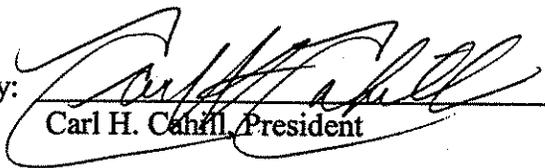
  
\_\_\_\_\_  
(Signature)

SANDRA BERLY  
\_\_\_\_\_  
(Printed Name)

  
\_\_\_\_\_  
(Signature)

Pam Finne  
\_\_\_\_\_  
(Printed Name)

ACORN DEVELOPMENT COMPANY

By:   
\_\_\_\_\_  
Carl H. Cahill, President

ATTEST:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

SEMINOLE COUNTY

By: \_\_\_\_\_  
Printed Name/Title \_\_\_\_\_

SEMINOLE COUNTY

AGREEMENT

Performance and Payment – Roads

**THIS AGREEMENT** is made and entered into this **24th day of January, 2005**, between ACORN DEVELOPMENT COMPANY, a Florida corporation, hereinafter referred to as "Developer," the Developer of the Ellington Estates residential subdivision, and SEMINOLE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "County."

**WITNESSETH:**

1. The Developer hereby delivers to the County an Irrevocable Letter of Credit No. **F845575 of SunTrust Bank** in the sum of **\$534,419.90** to guarantee that all improvements set forth on the approved plans and specifications for the above development will be fully completed and paid for.
2. The County agrees to accept the Letter of Credit and to return or draw on same in the following manner:
  - a. To return to **SunTrust Bank** upon request by Developer and upon proof satisfactory to the County, that work has been completed in accordance with all applicable requirements. Said proof to include a certificate to that effect signed by the Developer, the Developer's Engineer, and the County's Engineer, and upon proof satisfactory to the County that all bills therefore have been paid, including, but not limited to, bills for surveying, engineering, land clearing, and work and material used in the construction of roads and other required improvements which are included in the plans and specifications.
  - b. To draw upon the Letter of Credit in accordance with its terms upon a determination that any portion or all of the improvements have not been completed in accordance with the approved plans and specifications within 365 calendar days from the date of this Agreement. Provided, however, that if the work is not completed within 365 calendar days and the Developer has made substantial progress towards completion of the required improvements, is proceeding with completion of the work and the public interest is served thereby, the County may extend the time for performance hereunder to a time no later than thirty (30) days prior to the expiration date of the Letter of Credit. The County is hereby authorized, but not obligated to take over and perform or cause to be performed any such uncompleted work and to use for such purposes the funds available under said Letter of Credit to reimburse the 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 Developer's failure to perform this Agreement.

- c. Further, the County is authorized to draw on the Letter of Credit to pay any bills for said improvements upon proof satisfactory to the County that such claims are just and unpaid, and the Developer hereby consents to any such payments and authorizes and ratifies any such action on the part of the County and agrees to protect and save harmless the County from any claims of any persons whomsoever on account of any improvements which have not been completed or paid for or which have been completed or paid for by the County.

IN WITNESS WHEREOF, the Developer and the County have executed these presents the day and year above written.

ATTEST:

*[Signature]*  
(Signature)

JANOR BERRY  
(Printed Name)

*[Signature]*  
(Signature)

PAM FINNE  
(Printed Name)

ACORN DEVELOPMENT COMPANY

By: *[Signature]*  
Carl H. Cahill, President

ATTEST:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

SEMINOLE COUNTY

By: \_\_\_\_\_  
Printed Name/Title \_\_\_\_\_