

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: Release of Maintenance Agreement and Letter of Credit for Estates @
Wekiva Park Ph 1

DEPARTMENT: Environmental Services DIVISION: Business Office

AUTHORIZED BY: [Signature] CONTACT: [Signature] EXT. 2148
Dr. John Cirello, Director Bob Biggs, Finance Manager

Agenda Date 4-25-06 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

Approve release of original Water and Sewer Maintenance Agreement with Letter of Credit.

BACKGROUND:

The following project has satisfactorily completed the two (2) year maintenance inspection by the Water and Sewer Division.

Release Maintenance Agreement with Letter of Credit #FGAC-05238 in the amount of \$70,500.00 for water and sewer which was accepted by submission into County Records Memorandum dated March 26, 2004 for the project known as Estates @ Wekiva Ph 1 District 5 - Carey

Reviewed by:
Co Atty: N/A _____
DFS: N/A _____
Other: N/A _____
DCM: SS _____
CM: [Signature] _____
File No. CEAS07



LETTER OF TRANSMITTAL

TO: Becky Noggle
FROM: Michelle Roberts
DATE: April 3, 2006
SUBJECT: Release of LOC# FGAC-05238

REMARKS:

Becky,

Lennar Homes, Inc was notified that the Seminole County Water and Sewer Inspector found no deficiencies in regards to the maintenance of Estates @ Wekiva Park Phase 1; therefore, we are requesting the release of letter of credit FGAC-05238 in the amount of \$70,500.00.

Please send the original letter of credit to the following address:

Lennar Homes, Inc – Orlando Land
Attn: Michelle Roberts
101 Southhall Lane
Suite 200
Maitland, FL 32751

Please contact me if you have any questions.

Sincerely,

Michelle Roberts

Michelle Roberts
Staff Accountant



ENVIRONMENTAL SERVICES DEPARTMENT



March 31, 2006

Lennar Homes, Inc
151 Wymore Rd., Suite 4000
Altamonte Springs, FL 32714

Re: Maintenance Agreement with Letter of Credit

Project Name: Estates @ Wekiva Ph 1
LOC# FGAC-05238
Amount: \$70,500.00
District #5

To Whom It May Concern:

Pursuant to Seminole County's Land Development Code (LDC) requirements, Chapter 35, Part 8, Sec. 35.902 (H) (1,2) the County conducted an inspection of the referenced project on 3/30/06 to insure that any maintenance problems or design deficiencies which manifested themselves during the maintenance period were addressed prior to expiration of the Bond.

As of 3/30/06, the Seminole County Water and Sewer Inspector found no deficiencies. Therefore, the above mentioned Water and Sewer Maintenance Bond may be released as required by the LDC.

In writing, please contact Becky Noggle, 500 W Lake Mary Blvd, Sanford, FL 32773 to request the release of the Bond or Letter of Credit. Bond/LOC are to be released by the Board of County Commissioners through a regular board session.

If you have any questions, please contact Becky Noggle @ 407-665-2143.

Sincerely,

A handwritten signature in black ink that reads "Becky Noggle for" followed by a stylized signature.

Brent Keith
Sr. Utilities Inspector

c: Project File

MAINTENANCE AGREEMENT
(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this 12 day of AUGUST, 2005, between LENNAR HOMES, INC, 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 water and sewer improvements, including water lines, sewer lines, lift stations and other appurtenances in that certain subdivision described as ESTATES @ WEKIVA PARK PH 1, as recorded in Plat Book 63 Pages 6-12, Public Records of Seminole County, Florida, hereinafter referred to as the "Plat"; and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated FEB. 18, 2003 (as subsequently revised or amended on _____, 20____) and filed with the COUNTY Department of Environmental Services; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said water and sewer improvements and to maintain said water and sewer improvements for a period of two (2) years from MARCH 17, 2004; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL, PRINCIPAL has obtained and furnished to the COUNTY, a certain Irrevocable Letter of Credit No FGAC05238 issued by FIDELITY GUARANTY, in the sum of SEVENTY THOUSAND FIVE HUNDRED DOLLARS (\$70,500.00),

NOW, THEREFORE, the COUNTY agrees to accept the water and sewer improvements into the COUNTY Utility System upon execution of this Agreement and to accept an Irrevocable Letter of Credit as security for the maintenance obligation of the PRINCIPAL.

PRINCIPAL, its heirs, executors, successors, and assigns, jointly and severally agrees to be held and firmly bound to the COUNTY in the sum of SEVENTY THOUSAND FIVE HUNDRED DOLLARS (\$70,500.00) 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 water and sewer improvements and maintain said water and sewer improvements for a period of two (2) years from MARCH 17, 2004, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The COUNTY Department of Environmental Services 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 correct said defect.

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, 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.

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, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure to 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.

Address _____

Lennar Homes, Inc (PRINCIPAL)
By: [Signature] (Signature)
Its Vice President (Title)

[CORPORATE SEAL]

WITNESSES:

[Signature]
[Signature]

DEPARTMENT OF ENVIRONMENTAL SERVICES
UTILITIES DIVISION
SEMINOLE COUNTY, FLORIDA

[Signature]
Utilities Manager

Date: 8/18/05

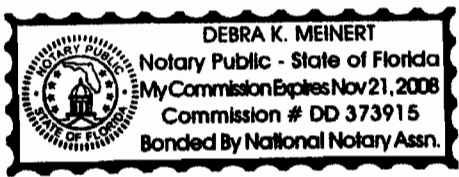
Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda items and approved on April 2, 1997.

STATE OF FLORIDA
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 18 day of August, 2005, by Gary Lee Rudolph, the Utilities Manager of SEMINOLE COUNTY, a political subdivision of the State of Florida, on behalf of the County. He/she is personally known to me or has produced _____ as identification.

[Signature]

NOTARY SEAL



FIDELITY GUARANTY AND ACCEPTANCE CORP.
10707 CLAY ROAD (77041)
Box 2863, HOUSTON, TEXAS 77252-2863
PHONE (713) 599-2575

IRREVOCABLE STANDBY LETTER OF CREDIT
(FOR MAINTENANCE AGREEMENT – WATER AND SEWER IMPROVEMENTS)

DATE: JULY 27, 2005

BENEFICIARY: SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY SERVICES BUILDING
1101 EAST FIRST STREET
SANFORD, FLORIDA 32771

RE: IRREVOCABLE LETTER OF CREDIT NO. FGAC-05238

DEAR COMMISSIONERS:

BY ORDER OF LENNAR HOMES, INC. WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON FIDELITY GUARANTY AND ACCEPTANCE CORP. UP TO AN AGGREGATE AMOUNT OF \$70,500.00 AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT THE MAINTENANCE AGREEMENT DATED AUGUST 1, 2005, BETWEEN LENNAR HOMES, INC. AND SEMINOLE COUNTY IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND NEGOTIATED ON OR BEFORE MARCH 17, 2006 AND EACH DRAFT MUST STATE THAT IT IS DRAWN, UNDER IRREVOCABLE LETTER OF CREDIT NO. FGAC-05238 OF FIDELITY GUARANTY AND ACCEPTANCE CORP. DATED JULY 27, 2005 AND THE AMOUNT THEREOF ENDORSED ON THIS LETTER OF CREDIT. FIDELITY GUARANTY AND ACCEPTANCE CORP. AGREES THAT THIS LETTER OF CREDIT SHALL AUTOMATICALLY RENEW ITSELF FOR SUCCESSIVE ONE-YEAR PERIODS UNLESS FIDELITY GUARANTY AND ACCEPTANCE CORP. 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 A 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 MAINTENANCE AGREEMENT WITH LENNAR HOMES, INC.

UPON TENDER OF PAYMENT, YOU WILL RELEASE TO FIDELITY GUARANTY AND ACCEPTANCE CORP. THE ORIGINAL IRREVOCABLE LETTER OF CREDIT MARKED "CANCELLED". IN ANY EVENT, UPON EXPIRATION OF THE MAINTENANCE AGREEMENT DATED AUGUST 1, 2005, AND THE COMPLETION OF LENNAR HOMES, INC. OBLIGATIONS THEREUNDER, YOU WILL RETURN THE ORIGINAL LETTER OF CREDIT TO FIDELITY GUARANTY AND ACCEPTANCE CORP. MARKED "CANCELLED".


WE HEREBY ENGAGE WITH DRAWERS, ENDORSERS, AND BONA FIDE HOLDERS OF ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT, THAT SUCH DRAFTS WILL BE DULY HONORED UPON PRESENTATION TO THE DRAWEE.

IF THE BOARD OF COUNTY COMMISSIONERS INITIATES SUIT UNDER THIS LETTER OF CREDIT, FIDELITY GUARANTY AND ACCEPTANCE 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 REFERENCE ANY DOCUMENTS OR AGREEMENT OTHER THAN THE MAINTENANCE AGREEMENT DATED AUGUST 1, 2005, AND REFERENCED HEREIN.

VERY TRULY YOURS,

FIDELITY GUARANTY AND ACCEPTANCE CORP.



WILLIAM D. GUNTRUM, VICE PRESIDENT

CORPORATE SEAL