

SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM

SUBJECT: TUSCANY ISLAND RELEASE OF LETTER OF CREDIT

DEPARTMENT: Planning & Development DIVISION: Development Review

AUTHORIZED BY: Dan Matthys CONTACT: Denny Gibbs EXT. 7359

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

**MOTION/RECOMMENDATION:**

Authorize the release of a Letter of Credit for subdivision improvements for Tuscany Island as requested by SunTrust Bank.

District 1 – Commissioner Dallari

(Denny Gibbs, Senior Planner)

**BACKGROUND:**

Tuscany Island is located on the west side of Tuskawilla Road at Old Bear Run in Section 36 Township 21S Range 30E. The Letter of Credit was required as part of the Land Development Code Section 35.44(e)(1) to secure the construction and completion of the road and stormwater subdivision improvements.

Staff has conducted a final inspection on the subdivision improvements and found that the construction requirements were completed per the approved final engineering plan and a maintenance bond has been submitted.

**Letter of Credit # F843142 for infrastructure in the amount of \$ 232,994.30 from SunTrust Bank.**

**STAFF RECOMMENDATION:**

Staff recommends the Board authorize the release of the Letter of Credit for subdivision improvements for Tuscany Island.

District 1 – Commissioner Dallari  
Attachments: Letter of Credit

Reviewed by:	
Co Atty:	<u>KFT</u>
DFS:	
Other:	
DCM:	<u>[Signature]</u>
CM:	<u>[Signature]</u>
File No.	<u>cpdd04</u>

# SUNTRUST

LETTER OF CREDIT NUMBER F843142

DATE: MARCH 02, 2006

SEMINOLE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY SERVICES BUILDING  
1101 EAST FIRST STREET  
SANFORD, FL 32771

RE: APPLICANT:  
VIA TUSCANY DEVELOPMENT LLC  
4567 TIGUA ISLAND COURT  
WINTER PARK, FL 32792

STANDBY LETTER OF CREDIT NUMBER: F843142

GENTLEMEN;

KINDLY BE ADVISED THAT IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ABOVE REFERENCED LETTER OF CREDIT, THIS IS OUR NOTIFICATION THAT THIS LETTER OF CREDIT WILL NOT BE EXTENDED BEYOND ITS PRESENT EXPIRATION DATE, JUNE 1, 2006.

UPON EXPIRY OF JUNE 01, 2006, THE ORIGINAL LETTER OF CREDIT AND AMENDMENTS, IF ANY, MUST BE RETURNED TO OUR OFFICE LISTED BELOW.

PLEASE DIRECT ALL INQUIRIES AND CORRESPONDENCE REGARDING OUR LETTER OF CREDIT, ANY AMENDMENTS OR NOTICES TO:

SUNTRUST BANK  
ATTN: STANDBY LETTER OF CREDIT DEPARTMENT  
25 PARK PLACE, 16TH FLOOR, MC 3706  
ATLANTA, GEORGIA 30303  
PHONE: 800-951-7847 OPTION 3.

SINCERELY,  
SUNTRUST BANK

  
AUTHORIZED SIGNATURE

111

CC: SUNTRUST A/C OFFICER  
CC: APPLICANT

# SUNTRUST

IRREVOCABLE LETTER OF CREDIT F843142 PAGE 1

LETTER OF CREDIT NUMBER: F843142  
ISSUANCE DATE: MAY 04, 2004

APPLICANT:  
VIA TUSCANY DEVELOPMENT LLC  
4567 TIGUA ISLAND COURT  
WINTER PARK, FL 32792

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

FOR USD 232,994.30  
(TWO HUNDRED THIRTY TWO THOUSAND NINE HUNDRED NINETY FOUR 30/100  
U.S. DOLLARS)

DATE OF EXPIRATION: JUNE 01, 2005  
PLACE OF EXPIRATION: AT OUR COUNTERS

BY ORDER OF VIA TUSCANY DEVELOPMENT LLC, 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 USD  
232,994.30 AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A  
SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT THE  
PERFORMANCE AND PAYMENT AGREEMENT DATED MAY 07, 2004 BETWEEN VIA  
TUSCANY DEVELOPMENT LLC AND SEMINOLE COUNTY IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND NEGOTIATED ON OR BEFORE JUNE 01, 2005,  
AND EACH DRAFT MUST STATE THAT IT IS DRAWN UNDER IRREVOCABLE  
LETTER OF CREDIT NO. F843142 OF SUNTRUST BANK DATED MAY 04,  
2004, AND THE AMOUNT THEREOF ENDORSED ON THIS LETTER OF CREDIT.  
SUNTRUST BANK AGREES THAT THIS LETTER OF CREDIT SHALL  
AUTOMATICALLY RENEW ITSELF FOR SUCCESSIVE ONE-YEAR PERIODS  
UNLESS SUNTRUST 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 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 ADHERANCE TO THE TERMS OF THE PERFORMANCE AND  
PAYMENT AGREEMENT WITH VIA TUSCANY DEVELOPMENT LLC

BK 312 PG 0809

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# SUNTRUST

IRREVOCABLE LETTER OF CREDIT F843142 PAGE 2

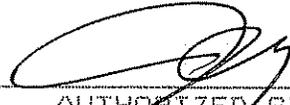
UPON TENDER OF PAYMENT, YOU WILL RELEASE TO SUNTRUST BANK THE ORIGINAL IRREVOCABLE LETTER OF CREDIT MARKED "CANCELLED." IN ANY EVENT, UPON EXPIRATION OR AT ANY TIME AFTER THE COMPLETION OF THE PERFORMANCE AND PAYMENT AGREEMENT DATED MAY 07, 2004 TO THE SATISFACTION OF THE BOARD OF COUNTY COMMISSIONERS 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 SUNTRUST BANK MARKED "CANCELLED."

IF THE BOARD OF COUNTY COMMISSIONERS INITIATES SUIT UNDER THIS LETTER OF CREDIT, SUNTRUST BANK HEREBY AGREES TO BE RESPONSIBLE FOR SEMINOLE COUNTY'S COURT COSTS AND REASONABLE ATTORNEY'S FEES, BUT 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 IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION 500.

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 SUNTRUST BANK, 25 PARK PLACE, 16TH FLOOR, ATTN: STANDBY LETTERS OF CREDIT, MC: 3706, ATLANTA, GA 30303 ON OR BEFORE JUNE 01, 2005 OR ANY EXTENDED DATE.

SINCERELY,  
SUNTRUST BANK



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

BK 3 | 2 PG 08 | 0

**AGREEMENT**

(Performance and Payment -Water, Sewer, and Roads)

This Agreement is made and entered into this 7<sup>th</sup> day of May, 2004, between Via Tuscany Development, hereinafter referred to as DEVELOPER, Developer of Tuscany Island, 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. F843142 of SunTrust Bank in the sum of \$ 232,994.30 to guarantee that all improvements set forth on the approval plans will be fully completed and paid for.

2. That 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 Engineer and, upon proof satisfactory to the COUNTY that all bills therefore have been paid, including, but not limited to, bills for surveying, engineering and land clearing, and work and materials used in the construction of roads water and sewer lines 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 days and the DEVELOPER has made substantial progress towards completion of the required improvements, is prosecuting completion of the work and the public interest is served thereby, 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 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 in 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.

THIS AGREEMENT, signed and sealed the day and year above written.

WITNESSES:

Michael P. [Signature]  
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SEMINOLE COUNTY, FLORIDA

Planning and Development Department  
Development Review Division  
Seminole County, Florida

By: [Signature] 6/9/04  
Development Review Division Manager

WITNESSES:

Richard [Signature]  
Rick Bush

DEVELOPER

By: RLL W. W. [Signature]