

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Release of Maintenance Agreement w/Letter of Credit for Bentley Cove

DEPARTMENT: Environmental Services DIVISION: Business Office

**AUTHORIZED BY: [Signature] CONTACT: Becky Noggle EXT. 2143
Robert G. Adolphe, P.E., Director Sr. Coordinator**

Agenda Date <u>07/27/04</u>	Regular <input type="checkbox"/>	Consent <input checked="" type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>		Public Hearing – 7:00 <input type="checkbox"/>	

MOTION/RECOMMENDATION:

Approve release of original Water and Sewer Maintenance Agreement.

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 #78530659 dated 8/22/02 (MAG Development) in the amount of \$12,634.00 for water and sewer which was accepted by submission memorandum into County Records for the project known as Bentley Cove. District 1

Reviewed by:
Co Atty: <u>na</u>
DFS: <u>na</u>
Other: <u>na</u>
DCM: <u>[Signature]</u>
CM: <u>[Signature]</u>
File No <u>CESA01</u>

MAINTENANCE AGREEMENT
(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this day of AUGUST 22, 2002, between MAG DEVELOPMENT Co., 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 BENTLEY COVE, a Plat of which is recorded in Plat Book _____ Pages _____, Public Records of Seminole County, Florida; and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated MARCH 26, 2002 (as subsequently revised or amended) and filed with the Utilities Manager of Seminole County; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said road improvements and to maintain said water and sewer improvements for a period of two (2) years from Aug. 23, 2002 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. 78530659 issued by AM SOUTH BANK, in the sum of TWELVE THOUSAND SIX HUNDRED & THIRTY FOUR DOLLARS (\$ 12,634).

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 TWELVE THOUSAND SIX HUNDRED & THIRTY FOUR DOLLARS (\$ 12,634) 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 Aug. 23, 2002, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The Utilities Manager 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 have to 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 of 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.

ATTEST:

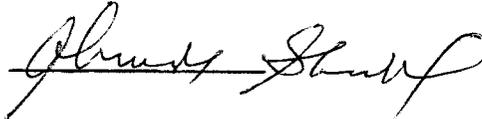
BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

APPROVED FORMS, CHECKLISTS, PROCEDURES AND ILLUSTRATIONS

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida
Signed, sealed and delivered
in the presence of:

By: _____
Chairman

Date: _____



By: AHMAD GHANDOUR
Date: 8-22-07

(App E, LDC, through Supp 16).



AmSouth Bank
International Division
300 Union Street, 9th FL
Nashville, Tennessee 37237 USA

(888) 338-9552
Telex: 6823023
S.W.I.F.T.: AMSBUS44

IRREVOCABLE STANDBY LETTER OF CREDIT NO. 78530659
(FOR MAINTENANCE AGREEMENT, WATER AND SEWER IMPROVEMENTS)

EFFECTIVE DATE: AUGUST 22, 2002

EXPIRY DATE: AUGUST 22, 2004

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

APPLICANT: MAG DEVELOPMENT CO., INC.
501 N. ORLANDO AVENUE NO. 233
WINTER PARK, FLORIDA 32789
ATTN: AHMAD GHANDOUR

AMOUNT: \$12,634.00

DEAR COMMISSIONERS:

BY ORDER OF MAG DEVELOPMENT CO., INC. WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON AMSOUTH BANK UP TO AN AGGREGATE AMOUNT OF USD TWELVE THOUSAND SIX HUNDRED THIRTY FOUR AND 00/100 (USD \$12,634.00) AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT THE MAINTENANCE AGREEMENT DATED AUGUST 22, 2002 BETWEEN MAG DEVELOPMENT CO., INC. AND SEMINOLE COUNTY IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND NEGOTIATED ON OR BEFORE AUGUST 22, 2004, AND EACH DRAFT MUST STATE THAT IT IS DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. 78530659 OF AMSOUTH BANK DATED AUGUST 22, 2002 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 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 MAG DEVELOPMENT CO., INC.

UPON TENDER OF PAYMENT, YOU WILL RELEASE TO THE BANK THE ORIGINAL IRREVOCABLE LETTER OF CREDIT MARKED "CANCELLED." IN ANY EVENT, UPON EXPIRATION OF THE MAINTENANCE AGREEMENT DATED AUGUST 22, 2002 AND THE COMPLETION OF MAG DEVELOPMENT CO., INC. OBLIGATIONS THEREUNDER, YOU WILL RETURN THE ORIGINAL LETTER OF CREDIT TO THIS BANK MARKED "CANCELLED."

BK 0 2 9 0 PG 0 4 4 2

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DATED: AUGUST 22, 2002
OUR REF: 78530659

WE HEREBY ENGAGE WITH DRAWERS, ENDORERS, 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, THE BANK HEREBY AGREES TO BE RESPONSIBLE FOR SEMINOLE COUNTY'S COURT COSTS AND REASONABLE ATTORNEYS' FEES, BUT AMSOUTH BANK SHALL NOT BE RESPONSIBLE FOR ANY ATTORNEYS' FEES IN EXCESS IF FIFTEEN (15%) OF THE AGGREGATE AMOUNT OF THIS LETTER 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 DOCUMENT OR AGREEMENT OTHER THAN MAINTENANCE AGREEMENT DATED AUGUST 22, 2002 AND REFERENCED HEREIN.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500, IN EFFECT AS OF JANUARY 1, 1994.

Lucrecia D. Lutz

VICE PRESIDENT

[Signature]

VICE PRESIDENT



M.A.G. DEVELOPMENT CO., INC.
 501 North Orlando Avenue, Suite 233
 Winter Park, Florida 32789
 (407)-366-5767

June 25, 2004

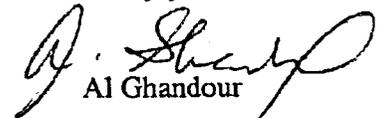
Dept. of Environmental Services
 Seminole County
 Attn: Becky Noggle

Ref: Maintenance Bonds
 Bentley Cove

Dear Ms. Noggle,

We kindly request the release of the bond held by you for the subject subdivision. If a field inspection is necessary, please schedule as soon as possible and we will arrange to have our utility contractor prepare for it, and be present at the inspection.

Sincerely yours,



Al Ghandour

