

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Release of Maintenance Agreement and Letter of Credit for Astor Farms Ph 3

DEPARTMENT: Environmental Services **DIVISION:** Business Office

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

Agenda Date <u>09/13/05</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 with Letter of Credit (it has been replaced with new Agreement and LOC).

BACKGROUND:

Due to Toll Orlando Limited Partnership's acquisition of Landstar Development Corporation's, The following Maintenance Agreement with Letter of Credit has been replaced with new. The new Agreement and Letter of Credit is currently at County Records waiting to be recorded once this has been released.

Release Maintenance Agreement with Letter of Credit #P001539 in the amount of \$16,826.39 for water and sewer which was accepted by submission into County Records Memorandum dated January 7, 2005 for the project known as Astor Farms Ph 3. District 5 - Carey

Reviewed by:
Co Atty: N/A _____
DFS: N/A _____
Other: N/A _____
DCM: <u>[Signature]</u> _____
CM: <u>[Signature]</u> _____
File No. <u>CESA02</u>

Landstar Homes[®]

• *A Toll Brothers Company* •

120 Fairway Woods Boulevard, Orlando, Florida 32824-9026

Phone: 407-240-0044

Fax: 407-857-2267

VIA HAND DELIVERY

August 17, 2005

Becky Noggle
Seminole County Environmental Services Department
500 W. Lake Mary Boulevard
Sanford, FL 32773

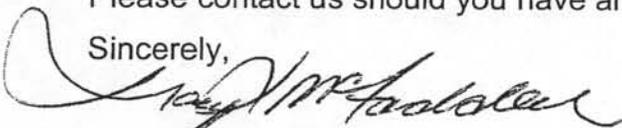
**RE: Astor Farms Phase 3 Irrevocable Standby Letters of Credits and
Maintenance Agreements**

Dear Becky,

As discussed, due to Toll Orlando Limited Partnership's acquisition of Landstar Development Corporation's interest in Astor Farms Phase III Toll is replacing the Letter of Credit's (LOC's). Attached are the original LOC's which replace the previously submitted LOC's. We would like to request that the previously issued original LOC's be returned to the bank and a copy of the correspondence sent to us. We have also included an executed Private Road Maintenance Agreement and Water and sewer improvements Maintenance Agreement reflecting the new ownership by Toll Orlando Limited Partnership. Upon review and acceptance of these documents, please return the original Agreement's executed by Landstar Development Corp. to our office.

Please contact us should you have any questions or comments.

Sincerely,



Tracy McFadden
Administrative Assistant

cc: Cindy Morse (w/o Enclosures)
LOC Book & File

SEMINOLE COUNTY LAND DEVELOPMENT CODE

MAINTENANCE AGREEMENT
(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this day of 7 day of January, 2005 between LANDSTAR DEVELOPMENT CORPORATION, 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 **PRESERVE AT ASTOR FARMS, PHASE 3**, a Plat of which is recorded in **Plat Book 66 Pages 40-43 through**, Public Records of Seminole County; and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated **March, 2000**, (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 road improvements and to maintain said water and sewer improvements for a period of two (2) years from 7 day of January, 2005; 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. P001539, dated November 18, 2004**, and issued by **SUNTRUST Bank, N.A.**, in the sum of **Sixteen Thousand Eight Hundred Twenty Six and 39/100 (\$16,826.39)**.

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 **Sixteen Thousand Eight Hundred Twenty Six and 39/100 (\$16,826.39)** on the 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 7 day of January, 2005, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

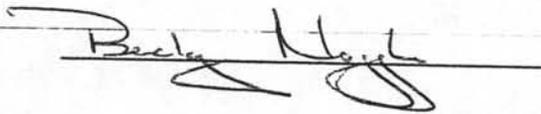
The Utilities Manager shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall have to correct said defect.

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.

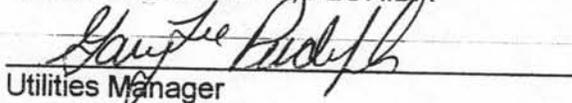
The PRINCIPAL further agrees that the COUNTY, at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or pursuant to public advertisement and receipt of bids, cause to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse 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.

WITNESS:

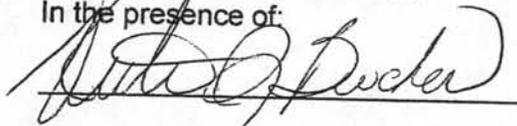


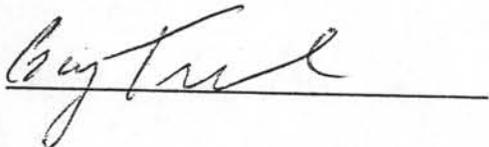
ENVIRONMENTAL SERVICES
SEMINOLE COUNTY, FLORIDA


Utilities Manager

Date: 1/6/05

Signed, sealed and delivered
In the presence of:





LANDSTAR DEVELOPMENT CORPORATION

By: 
WILLIAM D. MORRISEY, EXECUTIVE
VICE PRESIDENT

Date: December 29, 2004

SUNTRUST

IRREVOCABLE LETTER OF CREDIT P001539 PAGE 1

LETTER OF CREDIT NUMBER: P001539
ISSUANCE DATE: NOVEMBER 18, 2004

APPLICANT:
LANDSTAR DEVELOPMENT CORPORATION
120 FAIRWAY WOODS BLVD.
ORLANDO, FLORIDA 32824

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

FOR USD 16,826.39
(SIXTEEN THOUSAND EIGHT HUNDRED TWENTY SIX 39/100 U.S. DOLLARS)

DATE OF EXPIRATION: OCTOBER 15, 2006
PLACE OF EXPIRATION: AT OUR COUNTERS

DEAR COMMISSIONERS:

BY ORDER OF LANDSTAR DEVELOPMENT CORP., WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT NO. P001539 IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON SUNTRUST BANK UP TO AN AGGREGATE AMOUNT OF U.S.\$16,826.39 AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT THE MAINTENANCE AGREEMENT DATED January 7, 2005, BETWEEN LANDSTAR DEVELOPMENT CORP. AND SEMINOLE COUNTY IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND PRESENTED ON OR BEFORE OCTOBER 15, 2006, AND EACH DRAFT MUST STATE THAT IT IS DRAWN UNDER SUNTRUST BANK IRREVOCABLE LETTER OF CREDIT NO. P001539 DATED NOVEMBER 18, 2004 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 THIRTY (30) 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.

SUNTRUST

IRREVOCABLE LETTER OF CREDIT P001539 PAGE 2

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 LANDSTAR DEVELOPMENT CORPORATION.

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 ~~OCTOBER 15, 2004~~ *January 7, 2005*, AND THE COMPLETION OF LANDSTAR DEVELOPMENT CORPORATION OBLIGATIONS THEREUNDER, YOU WILL RETURN THE ORIGINAL LETTER OF CREDIT TO THIS BANK MARKED "CANCELLED".

WE HEREBY AGREE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND 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, LETTER OF CREDIT DEPARTMENT - MC3706, ATLANTA, GEORGIA 30303 ON OR BEFORE OCTOBER 15, 2006 OR ANY AUTOMATICALLY EXTENDED DATE.

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 COST AND REASONABLE ATTORNEY'S FEES, BUT SUNTRUST BANK SHALL NOT BE RESPONSIBLE FOR ANY ATTORNEYS' 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 DOCUMENT OR AGREEMENT OTHER THAN THE MAINTENANCE AGREEMENT DATED ~~OCTOBER 15, 2004~~ *January 7, 2005* AND REFERENCED HEREIN.

THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION 500.

SINCERELY,
SUNTRUST BANK



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

The Preserve @ Astor Farms Phase 3
 Seminole County, Florida
 Engineer's Estimate of Cost
 (Based on Contractor's Prices)
 Sanitary Sewer and Water Improvements

SANITARY SEWER SYSTEM

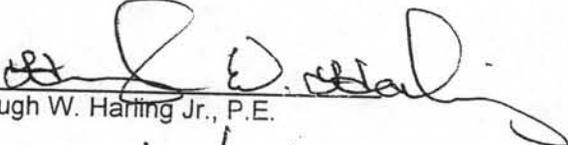
DESCRIPTION	QTY	UNIT	PRICE	TOTALS
Sanitary Manhole (0-6)	10	EA	\$ 1,724.61	\$ 17,246.10
Sanitary Manhole (6-8)	2	EA	\$ 1,992.36	\$ 3,984.72
8" Sanitary PVC (0-6)	2,496	LF	\$ 15.59	\$ 38,912.64
8" Sanitary PVC (6-8)	494	LF	\$ 22.26	\$ 10,996.44
Single Services	8	EA	\$ 310.80	\$ 2,486.40
Double Services	40	EA	\$ 328.61	\$ 13,144.40
SUBTOTAL				\$ 86,770.70

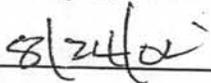
POTABLE WATER SYSTEM

DESCRIPTION	QTY	UNIT	PRICE	TOTALS
8" Gate Valve	3	EA	\$ 1,687.80	\$ 5,063.40
12" Watermain	200	LF	\$ 17.99	\$ 3,598.00
Fire Hydrants	4	EA	\$ 2,513.09	\$ 10,052.36
8" Water Main	3,200	LF	\$ 11.97	\$ 38,304.00
8" DI Water Main	60	LF	\$ 23.47	\$ 1,408.20
Single Services	25	EA	\$ 398.44	\$ 9,961.00
Double Services	32	EA	\$ 409.57	\$ 13,106.24
SUBTOTAL				\$ 81,493.20

SANITARY SEWER & POTABLE WATER TOTAL	\$ 168,263.90
10% OF IMPROVEMENT TOTAL	X 0.10
MAINTENANCE BOND AMOUNT (10%)	<u>\$ 16,826.39</u>

Based on the total cost of \$168,263.90 the letter of credit to guarantee the materials, workmanship, structural integrity, functioning and maintenance of the improvements is \$16,826.39


 Hugh W. Harling Jr., P.E.


 Date