

SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM

SUBJECT: TALMAN MEWS RELEASE OF LETTER OF CREDIT

DEPARTMENT: Planning & Development DIVISION: Development Review

AUTHORIZED BY: Dan Matthys *DM* CONTACT: Denny Gibbs *DG* EXT. 7359

Agenda Date <u>9/27/05</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:

Authorize the release of a Letter of Credit for subdivision improvements for Talman Mews as requested by Talman Mews LLC – Jay Barfield, Registered Agent.

District 1 – Commissioner Dallari (Denny Gibbs, Senior Planner) *RD*

BACKGROUND:

Talman Mews is located on the north side Gabriella Lane, west of Tuskawilla Road in Section 25 Township 21S Range 30E. The following 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 their final inspection on the subdivision improvements and found that the construction requirements were completed per the approved final engineering plan.

Letter of Credit # 1017417-0412 for infrastructure in the amount of \$167,853.00 from First National Bank of Central Florida.

STAFF RECOMMENDATION:

Staff recommends the release of the Letter of Credit for subdivision improvements for Talman Mews.

District 1 – Commissioner Dallari
Attachments: Letter of Credit

Reviewed by:	<i>KR</i>
Co Atty:	<i>KR</i>
DFS:	_____
Other:	<i>[Signature]</i>
DCM:	<i>[Signature]</i>
CM:	<i>[Signature]</i>
File No.	<u>cpdd05</u>

IRREVOCABLE STANDBY LETTER OF CREDIT

Number: 1017417-0412 Issuing Bank:
Date: October 4, 2004 First National Bank of Central Florida
369 N. New York Avenue
Winter Park, FL 32789

Applicant: Talman Mews, LLC, a Florida limited liability company
157 E. New England Avenue, Suite 274
Winter Park, FL 32789

Beneficiary: Seminole County Board of County Commissioners
Seminole County Services Building
1101 East First Street
Sanford, FL 32771

Amount: One Hundred Sixty Seven Thousand Eight Hundred Fifty Three and
00/100 U.S. Dollars (\$167,853.00)

Expiration: October 4, 2005

We hereby establish our Irrevocable Standby Letter of Credit Number 1017417-0412 in favor of the Seminole County Board of County Commissioners and authorize you to draw on First National Bank of Central Florida at 369 N. New York Avenue, Winter Park, Florida up to but not exceeding the aggregate amount of One Hundred Sixty Seven Thousand Eight Hundred Fifty Three and 00/100 U.S. Dollars (\$167,853.00) by your drafts at sight, accompanied by:

1. A signed statement from the Board of County Commissioners that the drawing is due to a default under the Performance and Payment Agreement dated October 4, 2004 between Talman Mews, LLC and Seminole County.
2. The signed statement shall provide:
 - a. The improvements were not completed as required;
 - b. Talman Mews, LLC received notice of the deficiencies two (2) weeks prior to this demand for payment;
 - c. The improvements were not completed, or deficiencies corrected, prior to submission of this drawing.
3. Copy(s) of the related documents.

Drafts must be drawn and negotiated not later than October 4, 2005 and must bear the clause: *Drawn under First National Bank of Central Florida Irrevocable Standby Letter of Credit Number 1017417-0412 dated October 4, 2004.* Partial drawings are permitted.

Upon tender of payment, you will release to the 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 October 4, 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 this Bank marked "Cancelled".

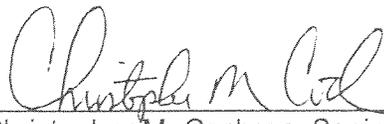
This Irrevocable Standby Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended, or amplified by reference to any document, instrument, or agreement referred to herein or in which this Irrevocable Standby Letter of Credit is referred to or this Irrevocable Standby Letter of Credit relates, and any such reference shall not be deemed to incorporate therein by reference any document, instrument, or agreement other than the Performance and Payment Agreement dated October 4, 2004 referenced herein.

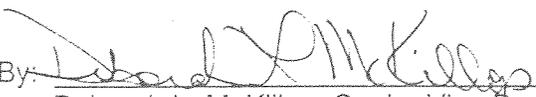
We hereby agree with you as drawer, endorser and bona fide holder of all draft(s) drawn under and in compliance with the terms of this Irrevocable Standby Letter of Credit that such draft(s) will be duly honored upon presentation to First National Bank of Central Florida, 369 N. New York Avenue, Winter Park, FL 32789, Attn: Commercial Loan Department, when accompanied by the aforementioned documents.

This Irrevocable Standby Letter of Credit will be considered as cancelled upon receipt by us of the original document or upon the expiration date, whichever shall occur first.

This Credit is subject to the Uniform Customs and Practice for Documentary Credits, 1983 Revision, International Chamber of Commerce Publication No. 400 and to the provisions of Florida law. If a conflict between the Uniform Customs and Practice for Documentary Credits and Florida law should arise, Florida law shall prevail. If a conflict between the law of another state or country and Florida law should arise, Florida law shall prevail.

FIRST NATIONAL BANK OF CENTRAL FLORIDA

By: 
Christopher M. Cochran, Senior Vice President

By: 
Deborah L. McKillop, Senior Vice President

AGREEMENT
(Performance and Payment – Road)

THIS AGREEMENT is made and entered into this 4th day of October, 2004, between Talman Mews LLC, hereinafter referred to as DEVELOPER, Developer of Talman Mews, 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. **1017417-0412** of **First National Bank of Central Florida** in the sum of **\$167,853.00** 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. That COUNTY agrees to accept the Letter of Credit and to return or draw on same in the following manner:
 - a. To return to **First National Bank of Central Florida** 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 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 240 calendar days from the date of this Agreement. Provided, however, that if the work is not completed within 240 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, 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.

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

ATTEST:

Witness:

Christopher M. Cochran
(Signature)

Christopher M. Cochran
(Printed Name)

Sherrifurst
(Signature)

SHERRIFURST
(Printed Name)

[Signature]
(Signature)

J. C. Barfield
(Printed Name)

Witness:

(Signature)

(Printed Name)

(Signature)

(Printed Name)

(Signature)

(Printed Name)

ACCEPTANCE BY SEMINOLE COUNTY:

PLANNING & DEVELOPMENT DEPARTMENT
DEVELOPMENT REVIEW DIVISION
SEMINOLE COUNTY, FLORIDA

By: *Mahmoud Najda*

Date: 10/15/04

STATE OF FLORIDA)

COUNTY OF SEMINOLE)

The foregoing instrument was acknowledged before me this 15th day of October
2004, by Mahmoud Najda who is personally known to me or
who has produced personally known to me as identification.

Notary Public in and for the County and State Aforementioned



Barbara J Harbin
My Commission DD112560
Expires April 29, 2006

Barbara J. Harbin
Notary Public Signature

My Commission Expires: 4/29/2006