

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Authorize Release of the Maintenance Agreement (Road Improvements) for The Trails Phase III Subdivision

DEPARTMENT: Planning and Development **DIVISION:** Development Review

AUTHORIZED BY: Dori DeBord **CONTACT:** Larry Poliner **EXT:** 7318

MOTION/RECOMMENDATION:
Authorize the release of The Trails Phase III Subdivision Maintenance Agreement and Irrevocable Standby Letter of Credit #3082975 in the amount of \$122,574.54 for The Trails Phase III road improvements.

District 1 Bob Dallari Larry Poliner

BACKGROUND:
Section 35.44 (e) of the Seminole County Land Development Code, concerning Additional Required Legal Submittals, required The Trails Phase III Subdivision project to have a Maintenance Agreement and Irrevocable Standby Letter of Credit, particularly, Maintenance Agreement and Irrevocable Standby Letter of Credit #3082975 for \$122,574.54 (Bank of America), to insure against any significant degradation in operating conditions resulting from any defective work covered by this bond. Staff conducted a two year maintenance inspection for this project located on Snowhill Road and determined the improvements to be satisfactory.

STAFF RECOMMENDATION:
Staff recommends that the Board authorize the release of The Trails Phase III Subdivision Maintenance Agreement and Irrevocable Standby Letter of Credit #3082975 in the amount of \$122,574.54 for The Trails Phase III road improvements.

- ATTACHMENTS:**
1. Maintenance Agreement Road Improvements
 2. Irrevocable Standby Letter of Credit
 3. Request Letter

Additionally Reviewed By: <input type="checkbox"/> County Attorney Review (Kathleen Furey-Tran)

SUBDIVISION AND SITE PLAN

MAINTENANCE AGREEMENT

(Road Improvements)

THIS AGREEMENT is made and entered into this day of July, 2006, between Maronda Homes, Inc. of Florida, 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 road improvements, including streets, curbs, storm drains and other appurtenances in that certain subdivision described as _____ Trails Unit 3, a Plat of which is recorded in Plat Book _____ Pages _____, Public Records of Seminole County, Florida; and not yet recorded

WHEREAS, the aforesaid road improvements were made pursuant to certain plans and specifications dated April 18, 2005, (as subsequently revised or amended) and filed with the County Engineer 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 road improvements for a period of two (2) years from July 30, 2006; 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. 3082975 issued by Bank of America, in the sum of one hundred twenty-two thousand and five hundred seventy-four + 54/100 USD DOLLARS (\$122,574.54).

NOW THEREFORE, the COUNTY agrees to accept the road improvements into the County Road 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 agree to be held and firmly bound to the COUNTY in the sum of one hundred twenty-two thousand and five hundred seventy-four + 54/100 USD DOLLARS (\$122,574.54) on the condition that, if PRINCIPAL shall promptly and faithfully protect the C O W against any defects resulting from faulty materials or workmanship of the aforesaid road improvements and maintain said road improvements for a period of two (2) years from July 30, 2006, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The County Engineer 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.

Signed, Sealed and delivered in the presence of:

[Signature]
Joe Hrey
Carol Watral
Carol Watral

Maronda Homes, Inc. of Florida

By: [Signature]
Mark D. Falek - VP FL Land Operations
Maronda Homes, Inc. of Florida
Date: July 12, 2006

WITNESSES:

[Signature]

DEPARTMENT OF PUBLIC WORKS
ROAD OPERATIONS/STORMWATER DIVISION
SEMINOLE COUNTY, FLORIDA

[Signature]
Owen Regan, Acting Manager
Road Operations and Stormwater Division

Date: 8/3/06

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.

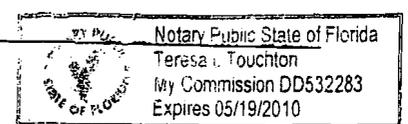
STATE OF Florida)
COUNTY OF Seminole } ss

The foregoing instrument was acknowledged before me this 3 day of Aug, 2006, by Owen Regan, who is personally known to me or who has produced as identification.

[Signature]
Signature of Notary Public in and for the County and State Aforementioned
Print Name Teresa Lynn Touchton

(App E, LDC, through Supp 16).

My Commission Expires:



BANK OF AMERICA - CONFIDENTIAL

PAGE: 1

DATE: JUNE 30, 2006

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: 3082975

BENEFICIARY
SEMINOLE COUNTY BOARD OF COUNTY
COMMISSIONERS
SEMINOLE COUNTY SERVICES BUILDING
1101 EAST FIRST STREET

APPLICANT
MARONDA HOMES, INC. OF FLORIDA
3993 WEST FIRST STREET
SANFORD, FL 32771

SANFORD, FL 32771

AMOUNT
USD 122,574.54
ONE HUNDRED TWENTY TWO THOUSAND FIVE
HUNDRED SEVENTY FOUR AND 54/100'S US
DOLLARS

EXPIRATION
SEPTEMBER 1, 2008
IN WINTER PARK, FLORIDA

RE: THE TRAILS - PHASE 3

BY ORDER OF MARONDA HOMES, INC. OF FLORIDA, WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT 3082975, IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON BANK OF AMERICA, N.A. UP TO AN AGGREGATE AMOUNT OF \$122,574.54 (ONE HUNDRED TWENTY TWO THOUSAND FIVE HUNDRED SEVENTY FOUR AND 54/100'S US DOLLARS) AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT:

"THE MAINTENANCE BETWEEN MARONDA HOMES, INC. OF FLORIDA AND SEMINOLE COUNTY IS IN DEFAULT."

DRAFTS MUST BE DRAWN ON OR BEFORE SEPTEMBER 1, 2008 AND EACH DRAFT MUST STATE THAT IT IS "DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. 3082975 OF BANK OF AMERICA, N.A. DATED JUNE 30, 2006 AND THE AMOUNT THEREOF ENDORSED ON THIS LETTER OF CREDIT."

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR AN ADDITIONAL PERIOD OF ONE YEAR FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE UNLESS AT LEAST 45 DAYS PRIOR TO SUCH EXPIRATION DATE, WE NOTIFY YOU IN WRITING BY REGISTERED MAIL OR OVERNIGHT COURIER SERVICE THAT WE ELECT NOT TO

ORIGINAL

THIS IS AN INTEGRAL PART OF LETTER OF CREDIT NUMBER: 3082975

CONSIDER THIS LETTER OF CREDIT RENEWED FOR SUCH AN ADDITIONAL PERIOD. UPON RECEIPT OF SUCH NOTICE YOU MAY DRAW HEREUNDER BY PRESENTATION OF YOUR DRAFT AND SIGNED STATEMENT STATING "THE PROCEEDS SHALL BE HELD BY SEMINOLE COUNTY AS A CASH BOND TO SECURE CONTINUED ADHERENCE TO THE TERMS OF THE MAINTENANCE AGREEMENT WITH MARONDA HOMES, INC. OF FLORIDA."

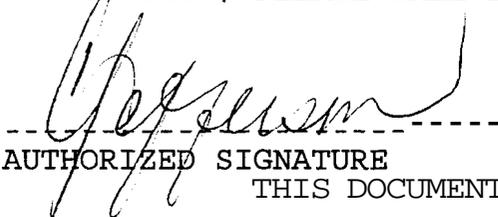
WE HEREBY ENGAGE WITH YOU THAT ALL DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT, THAT SUCH DRAFTS WILL BE DULY HONORED. PAYMENT UNDER THIS LETTER OF CREDIT WILL BE EFFECTED UPON PRESENTATION OF YOUR DRAFT ACCOMPANIED BY THE REQUIRED DOCUMENT(S) (THE "DRAWING") TO BANK OF AMERICA N.A., 250 SOUTH PARK AVENUE, SUITE 400, WINTER PARK, FLORIDA 32789, ATTENTION: BRENDA J. KASTEN AND A COPY OF SUCH DRAWING SENT SIMULTANEOUSLY BY FACSIMILE TO FAX NUMBER (213) 240-6989.

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, IF THE BENEFICIARY PREVAILS, BUT THE BANK OF AMERICA, N.A. 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 DOCUMENT OR AGREEMENT, AND ANY SUCH REFERENCE SHALL NOT BE DEEMED TO INCORPORATE HEREIN BY REFERENCE ANY DOCUMENT OR AGREEMENT OTHER THAN THE MAINTENANCE AGREEMENT.

THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500.

IF YOU REQUIRE ANY ASSISTANCE OR HAVE ANY QUESTIONS REGARDING THIS TRANSACTION, PLEASE CALL 213-481-7833.



AUTHORIZED SIGNATURE

THIS DOCUMENT CONSISTS OF 2 PAGE(S).

CHERYL JEFFERSON

ORIGINAL



Maronda Homes, Inc. of Florida
3993 West First Street
Sanford, Florida 32771

Florida Corporate Offices: (407) 302-7800 Fax (407) 688-4665

August 18, 2008

Seminole County
1301 E 2nd Street
Sanford, FL 32771
Attn: BeJay Harbin

RE: Public Road Maintenance Agreement
Project Name: The Trails Unit 3
LC#: 3082975
Bond Amount: \$122,574.54
District #: 1

Dear Ms. Harbin;

Please consider this letter as a request for the release of the above-mentioned Road Maintenance bond. I have attached a letter **from** Seminole County Planning & Development Department, which states that the Road Maintenance bond may be released.

If you have any questions, please do not hesitate to call me at 407-302-7800, Ext. 311

Sincerely,

MARONDA HOMES, INC. OF FLORIDA

A handwritten signature in black ink that reads "Jane B. Forest".

Jane B. Forest
Exec. Admin. Asst.

CC: Stephen Colbert
Land Development