
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Approve the Release of Irrevocable Letter of Credit for the Bella Vista Subdivision

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

AUTHORIZED BY: Dori DeBord

CONTACT: Brian Walker

EXT: 7337

MOTION/RECOMMENDATION:

Authorize the release of Irrevocable Letter of Credit # 2007-116 for the Bella Vista Subdivision located east of Sandy Lane on the south side of Sand Lake Rd. in Section 8, Township 21 South, Range 29 East as requested by Forest Creek, Inc., applicant.

District 3 Dick Van Der Weide

Brian Walker

BACKGROUND:

The following Irrevocable Letter of Credit was required as part of the Land Development Code Section 35.44, Required submittals for final plat, Part (e) Additional Required Legal Submittals, Sub-part (1) Bonds, to secure the construction and completion of the subdivision improvements for Bella Vista Subdivision:

- Letter of Credit # 2007-116 for \$553,795.00 (United Heritage Bank)

The Letter of Credit for improvements was replaced with Irrevocable Standby Letter of Credit number SB 55117 for maintenance to insure the maintenance of the subdivision improvements. Staff has conducted the final construction inspection and found that all construction requirements were completed per the approved final engineering plan and meet all Land Development Code criteria.

STAFF RECOMMENDATION:

Staff recommends approval of the release of Irrevocable Letter of Credit # 2007-116 for the Bella Vista Subdivision.

ATTACHMENTS:

1. Exhibit A - Original Letter of Credit
2. Exhibit B - Letter of Credit for Maintenance

Additionally Reviewed By:

County Attorney Review (Kathleen Furey-Tran)



IRREVOCABLE LETTER OF CREDIT
(For Performance and Payment Agreement-Roads)

Exhibit A

January 10, 2007

Seminole County Board of County Commissioners
1101 East First Street
Sanford, Florida 32771

Bella Vista at Forest Lake Homeowner's Association, Inc.
557 N. Wymore Road, Suite 102
Maitland, Florida 32751

Dear Commissioners:

By order of Forest Creek, Inc., we hereby establish an Irrevocable Letter of Credit in your favor. We hereby authorize you to draw on United Heritage Bank up to an aggregate amount of \$553,795.00 available by your drafts at sight accompanied by a signed statement of the Board of County Commissioners that the Performance and Payment Agreement dated January 10, 2007, between Forest Creek, Inc. and Seminole County is in default.

Drafts must be drawn and negotiated on or before January 10, 2008 and each draft must state that it is drawn under Irrevocable Letter of Credit No. 2007-116 of United Heritage Bank dated January 10, 2007, 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 Performance and Payment Agreement with Forest Creek, Inc.

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 January 10, 2007, 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".

We hereby engage with drawers, endorsers, 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 attorney's fees, but United Heritage 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.

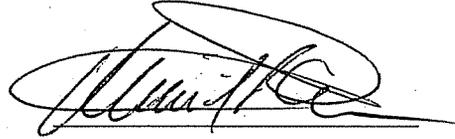


United Heritage Bank
640 E. State Road 434 • Longwood, FL 32750 • 407-712-2411 • Fax 407-712-2412



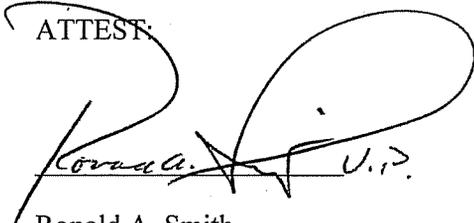
This Letter of Credit sets forth in full the terms of our undertaking and such undertaking shall not, in any way, be amended by reference herein to any agreement, and any such reference shall not be deemed to incorporate herein by reference any document or agreement other than the Performance and Payment Agreement dated January 10, 2007, and referenced herein.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Scures", written over a horizontal line.

Michael Scures
Senior Executive Vice President

ATTEST:

A handwritten signature in black ink, appearing to read "Ronald A. Smith", written over a horizontal line.

Ronald A. Smith
Vice President



BANK

Exhibit B

M&I Marshall & Ilesley Bank
Global Trade Services
770 North Water Street
Milwaukee, WI 53202
414-765-7700

IRREVOCABLE STANDBY LETTER OF CREDIT
(For Maintenance Agreement-Road Improvements)

ORIGINAL

Seminole County Board of County Commissioners
Seminole County Services Building
1101 East First Street
Sanford, Florida 32771

October 19, 2007

Re: Irrevocable Standby Letter of Credit No. SB 55117

Dear Commissioners:

By order of Forest Creek, Inc., we hereby establish Irrevocable Standby Letter of Credit No. SB 55117 ("Letter of Credit") in your favor. We hereby authorize you to draw on M&I Marshall & Ilesley Bank (the "Bank") up to an aggregate amount of USD279,307.65 available by your drafts at sight accompanied by a signed statement of the Board of County Commissioners that the Maintenance Agreement dated October 19, 2007 between Forest Creek, Inc. and Seminole County is in default.

Drafts must be drawn and negotiated on or before December 19, 2009 (the "Expiration Date"), and each draft must state that it is drawn under Irrevocable Standby Letter of Credit No. SB 55117 of M&I Marshall & Ilesley Bank dated October 19, 2007, and the amount thereof endorsed on this Letter of Credit. The Bank agrees that this Letter of Credit shall automatically extend itself for successive one-year periods unless the Bank shall give notice to you no later than forty-five (45) calendar days preceding an Expiration Date that it chooses not to extend the Letter of Credit, in which case, Seminole 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 the 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 Forest Creek, Inc.

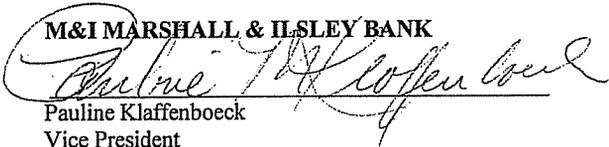
Upon tender of payment, you will release to the Bank the original Irrevocable Standby Letter of Credit marked "Cancelled". In any event, upon expiration of the Maintenance Agreement dated October 19, 2007, and the completion of Forest Creek, Inc. obligations thereunder, you will return the original Letter of Credit to this Bank marked "Cancelled".

We hereby engage with Seminole County that all drafts drawn under and in compliance with the terms of this Letter of 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 attorney's fees, but M&I Marshall & Ilesley 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 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 19, 2007, and referenced herein.

M&I MARSHALL & ILSLEY BANK


Pauline Klaffenboeck
Vice President

ATTEST:


D.K. Polzin Assistant
Vice President

279,307.65

M&I BANK