
**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Approve the Release of Irrevocable Letters of Credit for the Grande Oaks at Heathrow Subdivision

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

AUTHORIZED BY: Dori DeBord

CONTACT: Brian Walker

EXT: 7337

MOTION/RECOMMENDATION:

Authorize the release of Irrevocable Letters of Credit numbered 55101278 and 55101279 for the Grande Oaks at Heathrow Subdivision as requested by Kolter Communities, LLC., applicant.

District 5 Brenda Carey

Brian Walker

BACKGROUND:

The Grande Oaks at Heathrow Subdivision is located west of International Parkway and east of Orange Blvd. on the north side of CR 46A in Section 31, Township 19, Range 30.

The following Irrevocable Letters of Credit were 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 the Grande Oaks at Heathrow Subdivision:

- Letter of Credit #55101278 for \$46,628.00 (AmSouth Bank)
- Letter of Credit #55101279 for \$1,293,033.00 (AmSouth Bank)

Letter of Credit #55101279 for improvements has been replaced with reduced Letter of Credit #55102185 for \$666,583.00 (Regions Bank)

Improvements related to Letter of Credit #55101278 have been completed and are now covered with a Maintenance Bond.

The reason for the replacement Letter of Credit is that much work has been accomplished since the establishment of the current Letters of Credit and the replacement Letter of Credit covers only the amount of work remaining at this time.

Staff has conducted an inspection of the subdivision and agrees that the replacement Letter of Credit and Maintenance Bond are sufficient to cover the improvements remaining and those completed at the Grande Oaks at Heathrow Subdivision.

STAFF RECOMMENDATION:

Staff recommends approval of the release of the Irrevocable Letters of Credit numbered 55101278 and 55101279 for the Grande Oaks at Heathrow Subdivision as requested by Kolter Communities, LLC., applicant.

ATTACHMENTS:

1. Letter of Credit # 55102185
2. Exhibit A - Letter of Credit # 55101278 to be released
3. Exhibit B - Letter of Credit # 55101279 to be released

Additionally Reviewed By:

County Attorney Review (Kathleen Furey-Tran)

REGIONS SM

BANK

417 NORTH 20TH STREET, 5TH FL, BIRMINGHAM, ALABAMA 35203
PHONE (866) 828-6928 FAX (205) 801-5788
S.W.I.F.T. UPNBUS44MIA TELEX 6737871 UPBMIA

IRREVOCABLE STANDBY LETTER OF CREDIT NO. 55102185
TRANSACTION DATE: JANUARY 31, 2008
EXPIRY DATE: JANUARY 31, 2009
AMOUNT: \$666,583.00

BENEFICIARY:
SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS
1101 EAST FIRST STREET
SANFORD, FLORIDA 32771
REF: GRANDE OAKS

APPLICANT:
HEATHROW OAKS, LLC
1601 FORUM PLACE
SUITE 805
WEST PALM BEACH, FLORIDA 33401

DEAR COMMISSIONERS:

BY ORDER OF HEATHROW OAKS, LLC., WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON REGIONS BANK UP TO AN AGGREGATE AMOUNT OF \$666,583.00 (SIX HUNDRED SIXTY SIX THOUSAND FIVE HUNDRED EIGHTY THREE AND 00/100 UNITED STATES DOLLARS) AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS THAT THE PERFORMANCE AND PAYMENT AGREEMENT DATED APRIL 25, 2006 BETWEEN HEATHROW OAKS, LLC, AND SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND NEGOTIATED ON OR BEFORE JANUARY 31, 2009, AND EACH DRAFT MUST STATE THAT IT IS DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO. 55102185 OF REGIONS BANK DATED JANUARY 31, 2008, 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 HEATHROW OAKS, LLC.

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 APRIL 25, 2006, 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 AT: 417 NORTH 20TH STREET, 5TH FLOOR, BIRMINGHAM, ALABAMA 35203, ATTN: INTERNATIONAL DEPARTMENT.

IF THE BOARD OF COUNTY COMMISSIONERS INITIATES SUIT UNDER THIS LETTER OF CREDIT, HEATHROW OAKS, LLC, HEREBY AGREES TO BE RESPONSIBLE FOR SEMINOLE COUNTY'S COURT COSTS AND REASONABLE ATTORNEY'S FEES, BUT HEATHROW OAKS, LLC., 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 PERFORMANCE AND PAYMENT AGREEMENT DATED APRIL 25, 2006, AND REFERENCED HEREIN.

THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98) WHICH WAS EFFECTIVE JANUARY 1, 1999.



SINCERELY,


JARROD LANDERS
AUTHORIZED SIGNATURE

ATTEST:


BANK VICE-PRESIDENT

Exhibit A

IRREVOCABLE STANDBY LETTER OF CREDIT NO. 55101278
TRANSACTION DATE: MAY 09, 2007
EXPIRY DATE: MAY 09, 2008
AMOUNT: \$46,628.00

BENEFICIARY:
SEMINOLE COUNTY BANK OF COUNTY COMMISSIONERS
1101 EAST FIRST STREET
SANFORD, FL 32771

APPLICANT:
HEATHROW OAKS, LLC
1601 FORUM PLACE
SUITE 805
WEST PALM BEACH, FL 33401

REF: GRANDE OAKS

DEAR COMMISSIONERS:

BY ORDER OF HEATHROW OAKS, LLC WE HEREBY ESTABLISH AN IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR. WE HEREBY AUTHORIZE YOU TO DRAW ON AMSOUTH BANK IS NOW REGIONS BANK UP TO AN AGGREGATE AMOUNT OF \$46,628.00 (FORTY SIX THOUSAND SIX HUNDRED TWENTY EIGHT UNITED STATES DOLLARS) AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY A SIGNED STATEMENT OF THE BOARD OF COUNTY COMMISSIONERS THAT THE PERFORMANCE AND PAYMENT AGREEMENT DATED APRIL 25, 2006 BETWEEN HEATHROW OAKS, LLC AND SEMINOLE COUNTY IS IN DEFAULT.

DRAFTS MUST BE DRAWN AND NEGOTIATED ON OR BEFORE MAY 09, 2008, AND EACH DRAFT MUST STATE THAT IT IS DRAWN UNDER IRREVOCABLE LETTER OF CREDIT NO.55101278 OF AMSOUTH BANK IS NOW REGIONS BANK DATED '5/9/07, 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 HEATHROW OAKS, LLC.

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 APRIL 25, 2006, 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".

Our reference Number: 55101278

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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 THE AMSOUTH BANK, SHALL NOT BE RESPONSIBLE FOR ANY ATTORNEYS' FEES IN EXCESS OF FIFTEEN PERCENT (15%) OF THE AGGREGATE AMOUNT OF THIS LETTER OF CREDIT.

WE HEREBY ENGAGE WITH DRAWERS, ENDORSERS, AND BOND 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.

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THIS LETTER OF CREDIT IS SUBJECT TO THE INTERNATIONAL STANDBY PRACTICES (ISP98) WHICH WAS EFFECTIVE JANUARY 1, 1999.

SINCERELY,



JARROD LANDERS
AUTHORIZED SIGNATURE

REGIONS BANK, SUCCESSOR BY MERGER TO AMSOUTH BANK

Exhibit B

IRREVOCABLE STANDBY LETTER OF CREDIT NO. 55101279
TRANSACTION DATE: MAY 09, 2007
EXPIRY DATE: MAY 09, 2008
AMOUNT: \$1,293,033.00

BENEFICIARY:
SEMINOLE COUNTY BANK OF COUNTY COMMISSIONERS
1101 EAST FIRST STREET
SANFORD, FL 32771

APPLICANT:
HEATHROW OAKS, LLC
1601 FORUM PLACE
SUITE 805
WEST PALM BEACH, FL 33401

REF: GRANDE OAKS

DEAR COMMISSIONERS:

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Our reference Number: 55101279

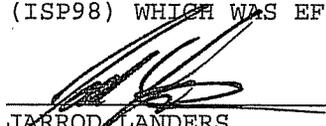
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