CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Jul 24, 2014

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Invoke Letter of Credit.

Exact Wording for the Agenda:

Resolution authorizing the Clerk-Treasurer to invoke National Bank of Commerce Letter of Credit No. 400512200 for Watercress Phase 3 Subdivision.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: _____

Budgeted Item: Not Applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: Mary C. Cates

Date: Jul 23, 2014

RESOLUTION NO. 14-_____

WHEREAS, National Bank of Commerce issued a certain letter of credit (No. 400512200), a copy of which is attached hereto and incorporated herein by reference, including any amendments thereto, in favor of the City of Huntsville, Alabama pursuant to Article 5 of the Subdivision Regulations for the City of Huntsville, Alabama; and

WHEREAS, the letter of credit is due to be invoked and the proceeds used in accordance with said subdivision regulations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the City of Huntsville Clerk-Treasurer be and is hereby authorized to present for payment to National Bank of Commerce Letter of Credit No. 400512200, prior to the expiration date thereof, with the language as specified in said Letter of Credit.

ADOPTED this the 24th day of July, 2014.

_____
President of the City Council
of the City of Huntsville,
Alabama

APPROVED this the 24th day of July, 2014.

_____
Mayor of the City of
Huntsville, Alabama

NATIONAL
BANK of
COMMERCE

Irrevocable Standby Letter of Credit

Beneficiary
City of Huntsville
Clerk-Treasurer Office
P.O. Box 308
Huntsville, AL 35804
(hereinafter "City")

Applicant
Watercress Development LLC
P.O. Box 1397
Madison AL 35758
(hereinafter "Developer")

Bank
National Bank of Commerce
203 Greene Street
Huntsville, AL 35801

Letter of Credit Number: 400512200

Amount: $100,000.00
Issue Date: February 15, 2014
Expiration Date: August 15, 2014

Re: Article 5 Improvements/Pre-acceptance, Letter of Credit for, Watercress Phase 3

Gentlemen:

We hereby amend our Irrevocable Standby Letter of Credit in your favor for the account of **Watercress Development, LLC** issued August 15, 2012, for a sum not to exceed the aggregate of TWO HUNDRED FIFTY THOUSAND AND 00/100 ($250,000.00) which will now be extended to August 15, 2014 and decreased to ONE HUNDRED THOUSAND DOLLARS AND NO/100 ($100,000.00) available by your one or more drafts at sight on us.

All draft(s) drawn under and in compliance with the terms of this Credit prior to the expiration thereof will be dually honored if drawn and presented for payment to National Bank of Commerce in Huntsville, Alabama.

Each draft must be accompanied by a statement signed by an authorized representative of the City of Huntsville, Alabama stating that the draw is being made pursuant to Article 5 of the Subdivision Regulations of the City of Huntsville, Alabama.

The original of this letter of credit must be presented with any drawings.

We hereby engage with you that draft(s) drawn under and in compliance with the terms of the credit will be duly honored upon presentation and delivery of the documents specified.

This Letter of Credit shall be governed by the laws of the State of Alabama, including but not limited to, the Alabama Uniform Commercial Code, as the same may be from time to time amended.

Issued By: National Bank of Commerce
300 Randolph Avenue
Huntsville, AL 35801

B. Shelton

Brian K. Shelton, Senior Vice President

Sworn to and subscribed before mo on the 15 day of February 2014

Heidi Bonds

HEIDI BONDS
MY COMMISSION EXPIRES
NOTARY PUBLIC
FEBRUARY 9, 2016
STATE OF ALABAMA

OK
CEA
3/5/14

MS
2/28/14

MN
2-28-14

OK KOA
3/4/14

NATIONAL
BANK of
COMMERCE

Irrevocable Standby Letter of Credit

Beneficiary
City of Huntsville
Clerk-Treasurer Office
P.O. Box 308
Huntsville, AL 35804
(hereinafter "City")

Applicant
Watercress Development LLC
P.O. Box 1397
Madison AL 35758
(hereinafter "Developer")

Bank
National Bank of Commerce
203 Greene Street
Huntsville, AL 35801

Letter of Credit Number: 400512200

Amount: $250,000.00
Issue Date: August 15, 2013
Expiration Date: February 15, 2014

Re: Article 5 Improvements/Pre-acceptance, Letter of Credit for, Watercress Phase 3

Gentlemen:

We hereby amend our Irrevocable Standby Letter of Credit in your favor for the account of **Watercress Development, LLC** effective August 15, 2013, for a sum not to exceed the aggregate of TWO HUNDRED FIFTY THOUSAND AND 00/100 ($250,000.00) dollars available by your one or more drafts at sight on us.

All draft(s) drawn under and in compliance with the terms of this Credit prior to the expiration thereof will be dually honored if drawn and presented for payment to National Bank of Commerce in Huntsville, Alabama.

Each draft must be accompanied by a statement signed by an authorized representative of the City of Huntsville, Alabama stating tha the draw is being made pursuant to Article 5 of the Subdivision Regulations of the City of Huntsville, Alabama.

The original of this letter of credit must be presented with any drawings.

We hereby engage with you that draft(s) drawn under and in compliance with the terms of the credit will be duly honored upon presentation and delivery of the documents specified.

This Letter of Credit shall be governed by the laws of the State of Alabama, including but not limited to, the Alabama Uniform Commercial Code, as the same may be from time to time amended.

Issued By: National Bank of Commerce
300 Randolph Avenue
Huntsville, AL 35801

Brian K. Shelton, Senior Vice President

Sworn to and subscribed before mo on the 15 day of AUG 2013

HEIDI J. JONES
NOTARY PUBLIC
STATE OF ALABAMA
FEBRUARY 9, 2018

8-19-13

8/19/13

OK
CEH
8/26/13

8/22/13

NATIONAL BANK of COMMERCE

imp
lft

Irrevocable Standby Letter of Credit

Beneficiary
City of Huntsville
Clerk-Treasurer Office
P.O. Box 308
Huntsville, AL 35804
(hereinafter "City")

Applicant
Watercress Development LLC
P.O. Box 1397
Madison AL 35758
(hereinafter "Developer")

Bank
National Bank of Commerce
300 Randolph Avenue SE
Huntsville, AL 35801

Letter of Credit Number: 400512200

Amount: $250,000.00
Issue Date: August 15, 2012
Expiration Date: August 15, 2013

Re: Article 5 Improvements/Pre-acceptance, Letter of Credit for, Watercress,Phase 3

Gentlemen:

We hereby issue our Irrevocable Standby Letter of Credit in your favor for the account of **Watercress Development, LLC** effective August 15, 2012, for a sum not to exceed the aggregate of TWO HUNDRED FIFTY THOUSAND AND 00/100 ($250,000.00) dollars available by your one or more drafts at sight on us.

All draft(s) drawn under and in compliance with the terms of this Credit prior to the expiration thereof will be dually honored if drawn and presented for payment to National Bank of Commerce in Huntsville, Alabama.

Each draft must be accompanied by a statement signed by an authorized representative of the City of Huntsville, Alabama stating that the draw is being made pursuant to Article 5 of the Subdivision Regulations of the City of Huntsville, Alabama.

The original of this letter of credit must be presented with any drawings.

We hereby engage with you that draft(s) drawn under and in compliance with the terms of the credit will be duly honored upon presentation and delivery of the documents specified.

This Letter of Credit shall be governed by the laws of the State of Alabama, including but not limited to, the Alabama Uniform Commercial Code, as the same may be from time to time amended.

Issued By: National Bank of Commerce
300 Randolph Avenue
Huntsville, AL 35801

Brian K. Shelton, Senior Vice President

Sworn to and subscribed before mo on the 15 day of August 2012

Heidi J. Jonas

HEIDI J. JONAS
MY COMMISSION EXPIRES
NOTARY PUBLIC
FEBRUARY 3, 2016
STATE OF ALABAMA

MS
8/20/12

OK
CEIX
8/22/12

on KCA
8/22/12