CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Oct 22, 2015

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. 401000000 for Oakwood Phase 1 at Lake Forest 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: _____

Date: Oct 13, 2015

RESOLUTION NO. 15-_____

WHEREAS, National Bank of Commerce issued a certain letter of credit (No. 401000000), 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. 401000000, prior to the expiration date thereof, with the language as specified in said Letter of Credit.

ADOPTED this the 22nd day of October, 2015.

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

APPROVED this the 22nd day of October, 2015.

_____
Mayor of the City of
Huntsville, Alabama

NATIONAL
BANK of
COMMERCE

Amendment To Irrevocable Standby Letter of Credit 401000000

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

Applicant
Smart Living, LLC
2101 W. Clinton Avenue Ste. 201
Huntsville AL 35805
(hereinafter "Developer")

Bank
National Bank of Commerce
415 Meridian Street
Huntsville, AL 35801

Re: Article 5 sidewalks letter of credit for Oakwood Phase 1 at Lake Forest

Gentlemen:

We hereby amend our Irrevocable Standby Letter of Credit dated 10/29/13 in your favor for the account of **Smart Living, LLC.** Effective October 29, 2014, to extend the expiration to October 29, 2015 available by your one or more drafts at sight on us.

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

Issued By: National Bank of Commerce
415 Meridian Street
Huntsville, AL 35801

Chris Hanback, Senior Vice President

Sworn to and subscribed before me on the 29 day of October, 2014

Heidi G. Gomes

REGISTRATION NOTARY PUBLIC STATE OF ALABAMA

MW 11-5-14

OK
CEIR
11/12/14

MS
11/6/14

OK KCA
11/7/14

NATIONAL
BANK of
COMMERCE

32.00
138 lots

Ext

Irrevocable Standby Letter of Credit 401000000

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

Applicant
Smart Living, LLC
2101 West Clinton Avenue
Suite 201
Huntsville, AL 35805
(hereinafter "Developer")

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

Letter of Credit Number: 401000000

Amount: $114,860.00
Issue Date: October 29, 2013
Expiration Date: October 29, 2014

Re: Article 5 Sidewalks, Letter of Credit for, Oakwood Phase 1 at Lake Forest

Gentlemen:

We hereby issue our Irrevocable Standby Letter of Credit in your favor for the account of **Smart Living, LLC** effective October 29, 2013, for a sum not to exceed the aggregate of ONE HUNDRED FOURTEEN THOUSAND, EIGHT HUNDRED SIXTY DOLLARS AND NO/100 ($114,860.00) 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 duly 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

W. Evans Quinlivan, President

Sworn to and subscribed before me on the 28th day of October 2013

Eliashib Rafford Smith

OK
CEIS
11/6/13

10-28-13

MS
10/29/13

GA KCA
11/4/13