CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: 15.

Meeting Type: Regular

Meeting Date: Nov 3, 2016

Action Requested By: Legal

Agenda Type: Resolution

Subject Matter:

Invoking Letter of Credit.

Exact Wording for the Agenda:

Resolution authorizing the Clerk-Treasurer to invoke BancorpSouth Letter of Credit No. 362000515942 for Magnolia Village 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 25, 2016

RESOLUTION NO. 16-_____

WHEREAS, BancorpSouth issued a certain letter of credit (No. 362000515942), 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 BancorpSouth Letter of Credit No. 362000515942, prior to the expiration date thereof, with the language as specified in said Letter of Credit.

ADOPTED this the 3rd day of November, 2016.

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

APPROVED this the 3rd day of November, 2016.

_____
Mayor of the City of
Huntsville, Alabama

Amendment Number 007
To
Irrevocable Standby Letter of Credit
BancorpSouth Bank
Tupelo, Mississippi

Amendment Number 007 Date: October 2, 2015
Amendment Number 006 Date: October 24, 2014
Amendment Number 005 Date: November 14, 2013
Amendment Number 004 Date: November 14, 2012
Amendment Number 003 Date: November 14, 2011
Amendment Number 002 Date: November 5, 2010
Amendment Number 001 Date: October 30, 2009
Original Issuance Date: October 15, 2007
Letter of Credit Number: 362000515942

Beneficiary: City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant: W. Steve Simmons Company Inc.
P.O. Box 18096
Huntsville, AL 35804

Name of Subdivision: Magnolia Village at Lake Forest Subdivision

Re: Sidewalks

Dear Sir or Madam:

The above referenced Irrevocable Standby Letter of Credit together with each amendment thereto, (collectively the "Letter of Credit") in the aggregate amount of $134,442.00 is hereby amended on the indicated Amendment Number 007 Date as follows:

- The Expiration Date is extended from **November 14, 2015** to **November 14, 2016**.

ALL OTHER TERMS AND CONDITIONS STATED IN THE AFOREMENTIONED LETTER OF CREDIT REMAIN UNCHANGED.

This amendment forms an integral part of the Letter of Credit and must be attached thereto. The Beneficiary is requested to notify us promptly and in writing if this amendment is not accepted by the Beneficiary. Rejection of any part of this amendment constitutes rejection of the entire amendment.

CRH 10/8/15

BANCORPSOUTH BANK

MS 10/7/15 MW 10-8-15 10-8-15

BY: Beth Grubbs
Beth Grubbs
ITS: First Vice President

Amendment Number 006
To
Irrevocable Standby Letter of Credit
BancorpSouth Bank
Tupelo, Mississippi

Amendment Number 006 Date: October 24, 2014
Amendment Number 005 Date: November 14, 2013
Amendment Number 004 Date: November 14, 2012
Amendment Number 003 Date: November 14, 2011
Amendment Number 002 Date: November 5, 2010
Amendment Number 001 Date: October 30, 2009
Original Issuance Date: October 15, 2007
Letter of Credit Number: 362000515942

Beneficiary: City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant: W. Steve Simmons Company Inc.
P.O. Box 18096
Huntsville, AL 35804

Name of Subdivision: Magnolia Village at Lake Forest Subdivision

Re: Sidewalks

Dear Sir or Madam:

The above referenced Irrevocable Standby Letter of Credit together with each amendment thereto, (collectively the "Letter of Credit") in the aggregate amount of $134,442.00 is hereby amended on the indicated Amendment Number 006 Date as follows:

- The Expiration Date is extended from **November 14, 2014** to **November 14, 2015**.

ALL OTHER TERMS AND CONDITIONS STATED IN THE AFOREMENTIONED LETTER OF CREDIT REMAIN UNCHANGED.

This amendment forms an integral part of the Letter of Credit and must be attached thereto. The Beneficiary is requested to notify us promptly and in writing if this amendment is not accepted by the Beneficiary. Rejection of any part of this amendment constitutes rejection of the entire amendment.

OK
CEK
11/4/14

NW 10-31-14

MS
10/29/14

OK KEA
11/3/14

BANCORPSOUTH BANK

BY: Gary Ford
Gary Ford
ITS: Senior Vice President

Amendment Number 005
To
Irrevocable Standby Letter of Credit
BancorpSouth Bank
Tupelo, Mississippi

Amendment Number 005 Date: November 14, 2013
Amendment Number 004 Date: November 14, 2012
Amendment Number 003 Date: November 14, 2011
Amendment Number 002 Date: November 5, 2010
Amendment Number 001 Date: October 30, 2009
Original Issuance Date: October 15, 2007
Letter of Credit Number: 362000515942

Beneficiary: City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant: W. Steve Simmons Company Inc.
P.O. Box 18096
Huntsville, AL 35804

Name of Subdivision: Magnolia Village at Lake Forest Subdivision

Re: Sidewalks

Dear Sir or Madam:

The above referenced Irrevocable Standby Letter of Credit together with each amendment thereto, (collectively the "Letter of Credit") in the aggregate amount of $134,442.00 is hereby amended on the indicated Amendment Number 005 Date as follows:

- The Expiration Date is extended from **November 14, 2013** to **November 14, 2014**.

ALL OTHER TERMS AND CONDITIONS STATED IN THE AFOREMENTIONED LETTER OF CREDIT REMAIN UNCHANGED.

This amendment forms an integral part of the Letter of Credit and must be attached thereto. The Beneficiary is requested to notify us promptly and in writing if this amendment is not accepted by the Beneficiary. Rejection of any part of this amendment constitutes rejection of the entire amendment.

MS 11/26/13 ON KCA 12/3/13

12-3-13 OK CEH 12/6/13

BANCORPSOUTH BANK

BY: Beth Grubbs
Beth Grubbs
ITS: First Vice President

Ext

Amendment Number 004
To
Irrevocable Standby Letter of Credit

BancorpSouth Bank
Tupelo, Mississippi

Amendment Number 004 Date: November 14, 2012
Amendment Number 003 Date: November 14, 2011
Amendment Number 002 Date: November 5, 2010
Amendment Number 001 Date: October 30, 2009
Original Issuance Date: October 15, 2007
Letter of Credit Number: 362000515942

Beneficiary: City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant: W. Steve Simmons Company Inc.
P.O. Box 18096
Huntsville, AL 35804

Name of Subdivision: Magnolia Village at Lake Forest Subdivision

Re: Sidewalks

Dear Sir or Madam:

The above referenced Irrevocable Standby Letter of Credit together with each amendment thereto, (collectively the "Letter of Credit") in the aggregate amount of $134,442.00 is hereby amended on the indicated Amendment Number 004 Date as follows:

- The Expiration Date is extended from **November 14, 2012** to **November 14, 2013**.

ALL OTHER TERMS AND CONDITIONS STATED IN THE AFOREMENTIONED LETTER OF CREDIT REMAIN UNCHANGED.

This amendment forms an integral part of the Letter of Credit and must be attached thereto. The Beneficiary is requested to notify us promptly and in writing if this amendment is not accepted by the Beneficiary. Rejection of any part of this amendment constitutes rejection of the entire amendment.

MS 11/19/12 MW 11-20-12 OK CEH 11/30/12 OK KCA 11/29/12

BANCORPSOUTH BANK

BY: _____

David E. Ferrell
ITS: Executive Vice President

S/W
ent

Amendment Number 003
To
Irrevocable Standby Letter of Credit

BancorpSouth Bank
Tupelo, Mississippi

Amendment Number 003 Date: November 14, 2011
Amendment Number 002 **Date:** November 5, 2010
Amendment Number 001 **Date:** October 30, 2009
Original Issuance Date: October 15, 2007
Letter of Credit Number: 362000515942

Beneficiary: City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant: W. Steve Simmons Company Inc.
P.O. Box 18096
Huntsville, AL 35804

Name of Subdivision: Magnolia Village at Lake Forest Subdivision

Re: Sidewalks

MS 11/17/11 MW 11-17-11 11-18-11 OK CEIR 11/21/11

Dear Sir or Madam:

The above referenced Irrevocable Standby Letter of Credit together with each amendment thereto, (collectively the "Letter of Credit") in the aggregate amount of $134,442.00is hereby amended on the indicated Amendment Number 003 Date as follows:

- The Expiration Date is extended from **November 14, 2011** to **November 14, 2012**.

ALL OTHER TERMS AND CONDITIONS STATED IN THE AFOREMENTIONED LETTER OF CREDIT REMAIN UNCHANGED.

This amendment forms an integral part of the Letter of Credit and must be attached thereto. The Beneficiary is requested to notify us promptly and in writing if this amendment is not accepted by the Beneficiary. Rejection of any part of this amendment constitutes rejection of the entire amendment.

BANCORPSOUTH BANK

BY:
David E. Ferrell
ITS: Executive Vice President

S/W
RT

Amendment Number 002
To
Irrevocable Standby Letter of Credit

BancorpSouth Bank
Tupelo, Mississippi

Amendment Number 002 **Date:** November 5, 2010
Amendment Number 001 **Date:** October 30, 2009
Original Issuance Date: October 15, 2007
Letter of Credit Number: 362000515942

Beneficiary: City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant: W. Steve Simmons Company Inc.
P.O. Box 18096
Huntsville, AL 35804

Name of Subdivision: Magnolia Village at Lake Forest Subdivision

MS
11/16/10

Re: Sidewalks

Dear Sir or Madam:

The above referenced Irrevocable Standby Letter of Credit together with each amendment thereto, (collectively the "Letter of Credit") in the aggregate amount of $134,442.00is hereby amended on the indicated Amendment Number 002 Date as follows:

- The Expiration Date is extended from **November 14, 2010** to **November 14, 2011**.

ALL OTHER TERMS AND CONDITIONS STATED IN THE AFOREMENTIONED LETTER OF CREDIT REMAIN UNCHANGED.

This amendment forms an integral part of the Letter of Credit and must be attached thereto. The Beneficiary is requested to notify us promptly and in writing if this amendment is not accepted by the Beneficiary. Rejection of any part of this amendment constitutes rejection of the entire amendment.

OK
CEH
1/3/2011

MN
11-17-10

OK KCA
11/17/10

BANCORPSOUTH BANK

BY: CR Livingston
Coy R. Livingston
ITS: Executive Vice President

SW
DT

Amendment 001
to
Irrevocable Standby Letter of Credit
BancorpSouth Bank
Tupelo, Mississippi

Amendment Number 001
Amendment Number 001 Date: October 30, 2009
Letter of Credit Number: 362000515942
Original Issuance Date: October 15, 2007

Beneficiary:
City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant:
W. Steve Simmons Company Inc.
P.O. Box 18096
Huntsville, AL 35804

Name of Subdivision: Magnolia Village at Lake Forest Subdivision

Re: Sidewalks

Dear Sir or Madam:

The above referenced Irrevocable Standby Letter of Credit ("Letter of Credit") in the aggregate amount of $134,442.00 is hereby amended on the indicated Amendment Number 001 Date as follows:

- The Date of Expiry is extended from **November 14, 2009 to November 14, 2010**

ALL OTHER TERMS AND CONDITIONS STATED IN THE AFOREMENTIONED LETTER OF CREDIT REMAIN UNCHANGED.

This amendment forms an integral part of the Letter of Credit and must be attached thereto. The Beneficiary is requested to notify us promptly and in writing if this amendment is not accepted by the Beneficiary. Rejection of any part of this amendment constitutes rejection of the entire amendment.

MS 11/5/09

OK CER 11/6/09

MW 11-6-09

OA KCA 11/6/09

BANCORPSOUTH BANK

BY: _____

David E. Ferrell
ITS: Senior Vice President

SW
AB

BancorpSouth®

IRREVOCABLE STANDBY LETTER OF CREDIT

Date of Issuance: October 15, 2007
Place of Issuance: BancorpSouth Bank
201 South Spring Street
P.O. Box 789
Tupelo, MS 38802
Attn: Trade Finance Department

No.: 362000515942

Date of Expiry: November 14, 2009
Place of Presentment/Expiry: BancorpSouth Bank
603 Madison Street
Huntsville, Alabama 35801
Attn: Huntsville Division President

Beneficiary:
City of Huntsville, Alabama
Clerk-Treasurer Office
308 Fountain Circle
Huntsville, AL 35801

Applicant:
W. Steve Simmons Company, Inc.
P.O. Box 18096
Huntsville, AL 35804

Bank:
BancorpSouth Bank
201 South Spring St.
P.O. Box 789
Tupelo, MS 38802
Attn: Trade Finance Dept.

Name of Subdivision: Magnolia Village at Lake Forest Subdivision
Amount: $134,442.00USD
Re: **Sidewalks**

MS 10/17/07
SM 10/17/07

Gentlemen:

We hereby issue our Irrevocable Standby Letter of Credit in your favor for the account of the above-stated applicant for a sum not to exceed the above-stated amount, available by one or more of your drafts drawn on sight at the above-stated address or at the Office of the BancorpSouth Bank in the City of Huntsville, Alabama.

All draft(s) drawn under and in compliance with the terms of this Letter of Credit will be duly honored if drawn and presented for payment on or before the expiration date noted above and accompanied by a signed statement from a representative of the City of Huntsville, Alabama stating: **"This draw is being made pursuant to Article 5 of the Subdivision Regulations."**

The original of this Letter of Credit must be presented with any drawing. 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 amended from time to time.

BANCORPSOUTH BANK

By: _____
David E. Ferrell
Its: Senior Vice President

OK
CEH
10/22/07

Ok KCA
10/19/07