

RESOLUTION NO. R2020-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, PRELIMINARILY ACCEPTING PUBLIC STREET, WATER, WASTEWATER, AND ELECTRICAL IMPROVEMENTS CONSTRUCTED WITHIN PHASE ONE OF THE WESTFALL VILLAGE SUBDIVISION; APPROVING THE PROVISION OF A LETTER OF CREDIT FOR THE MAINTENANCE OF THE INFRASTRUCTURE IMPROVEMENTS; AND FINDING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Burnet (Council), Texas, has determined that public street, water, wastewater, and electrical distribution improvements (Improvements) constructed within the Westfall Village Subdivision, Phase One have been constructed in accordance with the construction plans approved for construction of said subdivision;

WHEREAS, Council has further determined that as constructed, said plans have been found to be in compliance with applicable City design specifications; and

WHEREAS, Langley Homes, Inc., the developer of the referenced improvements, has satisfied all applicable provisions of the City of Burnet, Code of Ordinances, Chapter 98 – Subdivisions;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby resolved by the City Council of the City of Burnet, Texas and made a part hereof for all purposes and findings of fact.

Section 2. Preliminary Acceptance of Improvements. The City Council hereby preliminarily accepts for public use and maintenance, the street improvements, public water system, public wastewater system, and public infrastructure constructed within the Westfall Village, Phase I Subdivision; as shown on the plat of the subdivision to be subject to public dedication.

Section 3. Maintenance guarantee accepted. The Letter or Credit issued by First State Bank of Burnet, dated September 15, 2020, for the warranty and maintenance of the public improvements required for the Westfall Village, Phase I Subdivision in an amount equal to ten percent of the cost of improvements verified by the city and running for a

period of one calendar year measured from the date of signing and recording of the final plat is hereby approved subject to the conditions that follows:

- (a) Should a defect or failure of any required improvement occurs within the one year period of coverage, the city will require performance under the letter of credit; and
- (b) In the event of defect or failure of any required improvement within the one year period of coverage a new warranty or maintenance bond or surety instrument shall be required to be posted for a period of one full calendar year sufficient to cover the corrected defect or failure.

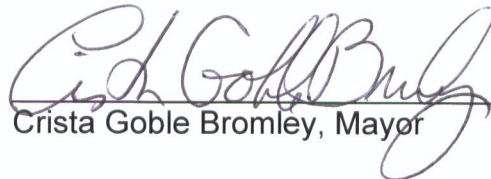
Section 4. Final Acceptance of Improvements. Prior to the date of expiration of the Letter of Credit, the preliminarily accepted improvements shall be inspected. Should the inspection find such improvements free of defect or failure the Director of Development Services may issue a letter of acknowledgement of final acceptance of the improvements. However, should a defect or failure be discovered such defect or failure shall be addressed in accordance with section three herein.

Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

Section 6. Effective Date. This resolution shall take effect upon approval and adoption by City Council.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Burnet this the 22nd day of September, 2020.

CITY OF BURNET


Crista Goble Bromley, Mayor

ATTEST:



Kelly Dix, City Secretary

EXHIBIT A – MAINTENANCE BOND

FIRST STATE BANK OF BURNET
PO BOX 10
BURNET, TX 78611

IRREVOCABLE LETTER OF CREDIT #220 Date: September 15, 2020

APPLICANT: LANGLEY HOMES, INC.
ATTN: WADE LANGLEY, VICE PRESIDENT
717 N. WATER STREET
BURNET, TEXAS 78611

BENEFICIARY: CITY OF BURNET
ATTN: CITY MANAGER
1001 BUCHANAN DRIVE, SUITE #4, BURNET, TEXAS 78611
PO BOX 1369, BURNET, TEXAS 78611

AMOUNT: US \$48,071.54 (FORTY EIGHT THOUSAND, SEVENTY ONE AND
54/100 US DOLLARS) 10% AS STATED IN EXHIBIT "A"

EXPIRATION DATE: SEPTEMBER 15, 2021

GENTLEMEN:

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. 220 IN YOUR FAVOR AS BENEFICIARY, BY ORDER OF LANGLEY HOMES, INC., UP TO THE AGGREGATE SUM OF, FORTY EIGHT THOUSAND, SEVENTY ONE AND 54/100'S US DOLLARS (US \$48,071.54), EXPIRING ON THE EXPIRATION DATE STATED ABOVE, EXCEPT AS FURTHER STATED, AT THE COUNTERS OF FIRST STATE BANK OF BURNET, AVAILABLE BY PAYMENT AGAINST YOUR DRAFT(S) DRAWN ON US AT SIGHT ACCOMPANIED BY:

1. A STATEMENT DATED AND SIGNED BY AN AUTHORIZED OFFICIAL OF THE CITY OF BURNET, SIGNING AS SUCH AND SWORN TO BEFORE A NOTARY PUBLIC STATING THAT:
 - A. "WE HEREBY CERTIFY THAT THE FUNDS DRAWN UNDER LETTER OF CREDIT NO. 220 ISSUED BY FIRST STATE BANK OF BURNET ARE DUE BY REASON OF LANGLEY HOMES, INC.'S FAILURE TO EFFECT REPAIRS AS REQUIRED BY THE CITY OF BURNET'S SUBDIVISION ORDINANCE TO THOSE ELEMENTS BEING DESCRIBED BY THAT ENGINEER'S "OPINION OF PROBABLE CONSTRUCTION COSTS FOR WESTFALL VILLAGE

Maintenance Letter of Credit

SUBDIVISION, PHASE 1" DATED SEPTEMBER 9, 2020, SIGNED BY MARCUS HORNER, P.E.;" AND THAT AT LEAST TEN (10) BUSINESS DAYS IN ADVANCE OF THIS PRESENTATION OF THE SIGHT DRAFT FOR PAYMENT, THE CITY OF BURNET HAS PROVIDED TO THE APPLICANT, BY COURIER SERVICE OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, NOTICE OF THE CITY OF BURNET'S INTENTION TO DRAW FUNDS ON THIS LETTER OF CREDIT," OR

- B. "WE HEREBY CERTIFY THAT WE HAVE RECEIVED A NOTICE OF NONEXTENSION OR TERMINATION OF LETTER OF CREDIT NO. 220 ISSUED BY FIRST STATE BANK OF BURNET TO THE CURRENT EXPIRATION DATE OF SEPTEMBER 15, 2021, THAT LANGLEY HOMES, INC'S. OBLIGATIONS TO THE CITY REMAIN OUTSTANDING AND THAT WE HAVE NOT RECEIVED A REPLACEMENT LETTER OF CREDIT IN A FORM ACCEPTABLE TO US;" AND

2. THE ORIGINAL OF THIS LETTER OF CREDIT.

SPECIAL CONDITIONS:

PARTIAL DRAWINGS ARE ACCEPTABLE, AND ONLY SUCH AMOUNT AS NECESSARY TO COMPLETE REPAIRS TO THE ITEMS SPECIFIED BY THE ENGINEER'S "OPINION OF PROBABLE CONSTRUCTION COSTS FOR WESTFALL VILLAGE SUBDIVISION PHASE 1" AS SHOWN IN EXHIBIT "A."

DRAFTS DRAWN UNDER THIS LETTER OF CREDIT MUST BE MARKED "DRAWN UNDER IRREVOCABLE STANDBY LETTER OR CREDIT NO. 220 ISSUED BY FIRST STATE BANK OF BURNET."

WE HEREBY REPRESENT TO YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED UPON PRESENTATION AT OUR OFFICE AT P.O. BOX 10, BURNET, TEXAS, BY COURIER OR CERTIFIED MAIL, ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED ABOVE.

PLEASE MAIL ALL DRAWINGS AND CORRESPONDENCE IN CONNECTION WITH THIS STANDBY LETTER OF CREDIT TO OUR OFFICE:

Maintenance Letter of Credit

FIRST STATE BANK OF BURNET
P.O. BOX 10
BURNET, TEXAS 78611

THIS LETTER OF CREDIT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS WITHOUT REGARD TO PRINCIPLES OR CONFLICT OF LAWS, AND SHALL BE PERFORMABLE IN BURNET COUNTY, TEXAS.

VERY TRULY YOURS,

FIRST STATE BANK OF BURNET

BY: 
MATT KELLEY, PRESIDENT

ACCEPTED
CITY OF BURNET

BY: _____
DAVID VAUGHN, CITY MANAGER

DATE:

EXCEPT SO FAR AS IS OTHERWISE EXPRESSLY STATED, THIS DOCUMENTARY CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 2007 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION No. 690.

***NOTE: IF THERE ARE ANY QUESTIONS IN REGARD TO ANY INFORMATION WITHIN THIS LETTER OF CREDIT, PLEASE CONTACT MATT KELLEY AT (512) 756-2191 OR mkelley@fsbburnet.com.

EXHIBIT A

**ENGINEERS OPINION OF PROBABLE CONSTRUCTION COST
FOR WESTFALL VILLAGE SUBDIVISION PHASE 1**

ROADWAY IMPROVEMENTS

DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
EXCAVATION	920	CY	\$ 4.00	\$ 3,680.00
EMBANKMENT	920	CY	\$ 6.00	\$ 5,520.00
PREPARE SUBGRADE	3,050	SY	\$ 4.00	\$ 12,200.00
6" FLEX BASE	328	CY	\$ 65.00	\$ 18,015.79
2" HMAC	2,745	SY	\$ 25.00	\$ 68,625.00
CURB	1830	LF	\$ 10.00	\$ 18,300.00
4' SIDEWALK	813	SY	\$ 32.00	\$ 26,026.67
18" CMP	154	LF	\$ 65.00	\$ 10,010.00
SAFETY END TREATMENTS 24"	2	EA	\$ 1,050.00	\$ 2,100.00
ROADWAY IMPROVEMENTS				\$ 164,477.46

EROSION & SEDIMENT CONTROL ITEMS

DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
STABILIZED CONSTRUCTION ENTRANCE	0	SY	\$ 12.50	\$ -
STAGING AREA/ CONCRETE WASHOUT PIT	0	EA	\$ 1,250.00	\$ -
SILT FENCE	0	LF	\$ 2.50	\$ -
REVEGETATION	17,816	SY	\$ 0.75	\$ 13,362.00
EROSION & SEDIMENT CONTROL ITEMS				\$ 13,362.00

WATER SERVICE EXTENSION

DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
PIPE, PVC C900, DR18 - 8"	1335	LF	\$ 40.00	\$ 53,400.00
CONNECTION TO EXISTING WATER MAIN	1	EA	\$ 2,500.00	\$ 2,500.00
TRENCH SAFETY, ALL DEPTHS	1335	LF	\$ 1.00	\$ 1,335.00
GATE VALVES, 8" DIAMETER	7	EA	\$ 1,750.00	\$ 12,250.00
FIRE HYDRANTS	3	EA	\$ 3,500.00	\$ 10,500.00
AIR / VACUUM RELEASE VALVES	1	EA	\$ 1,500.00	\$ 1,500.00
SERVICE LONG DOUBLE	4	EA	\$ 2,250.00	\$ 9,000.00
SERVICE LONG SINGLE	2	EA	\$ 1,750.00	\$ 3,500.00
SERVICE SHORT DOUBLE	4	EA	\$ 1,500.00	\$ 6,000.00
SERVICE SHORT SINGLE	2	EA	\$ 1,050.00	\$ 2,100.00
PRESSURE TEST	1	LS	\$ 1,500.00	\$ 1,500.00
LEAKAGE TEST	1	LS	\$ 300.00	\$ 300.00
SYSTEM STERILIZATION	1	LS	\$ 500.00	\$ 500.00
WATER SERVICE EXTENSION				\$ 104,385.00

SEWER SERVICE EXTENSION

DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
WASTEWATER LINE CONNECTION TO MH	1	EA	\$ 2,500.00	\$ 2,500.00
TRENCH SAFETY, ALL DEPTHS	2,380	LF	\$ 1.00	\$ 2,380.00
PIPE, 8" SDR-26 PVC GRAVITY	2,380	LF	\$ 42.00	\$ 99,980.00
MANHOLE 0 TO 8' DEPTH	6	EA	\$ 4,500.00	\$ 27,000.00
MANHOLE 6 TO 8' DEPTH	2	EA	\$ 5,000.00	\$ 10,000.00
MANHOLE OVR 8' DEPTH	1	EA	\$ 6,000.00	\$ 6,000.00
DOUBLE SERVICE	9	EA	\$ 3,000.00	\$ 27,000.00
SINGLE SERVICE	2	EA	\$ 1,500.00	\$ 3,000.00
SEWER SERVICE EXTENSION				\$ 177,840.00


**ENGINEERS OPINION OF PROBABLE CONSTRUCTION COST
FOR WESTFALL VILLAGE SUBDIVISION PHASE 1**

WATER QUALITY / DRAINAGE FEATURES

DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
EXCAVATION	1,365	CY	\$ 4.00	\$ 5,460.37
EMBANKMENT	1,365	CY	\$ 6.00	\$ 8,190.56
OUTLET FEATURES	1	LS	\$ 7,000.00	\$ 7,000.00
WATER QUALITY / DRAINAGE FEATURES				\$ 20,650.93

SUMMARY OF IMPROVEMENTS

ROADWAY IMPROVEMENTS	\$ 164,477.46
EROSION & SEDIMENT CONTROL ITEMS	\$ 13,362.00
WATER SERVICE EXTENSION	\$ 104,385.00
SEWER SERVICE EXTENSION	\$ 177,840.00
WATER QUALITY / DRAINAGE FEATURES	\$ 20,650.93
TOTAL ESTIMATED COST	\$ 480,715.38



NOTE: ESTIMATED QUANTITIES AND COST ARE BASED ON INFORMATION PROVIDED BY CONTRACTOR.

