

RESOLUTION NO. R2021-16

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, ALLOWING DEVELOPER OF THE WANDERING OAKS SUBDIVISION TO PROVIDE A LETTER OF CREDIT AS ASSURANCE PUBLIC IMPROVEMENTS SHALL BE CONSTRUCTED AND AUTHORIZING THE RECORDATION OF THE "FINAL PLAT" IN THE PUBLIC RECORDS OF THE COUNTY CLERK OF BURNET COUNTY, TEXAS

Whereas, City Council approved the final plat of Wandering Oaks Subdivision on March 8, 2021; and

Whereas, the developer desires to posts a letter of credit in lieu of completing construction of improvements prior to recordation of the final plat of Wandering Oaks Subdivision; and

Whereas, City Code Section 98-61(d) City Council may waive the requirement that the developer complete the improvements prior to the signing of the approved plat, contingent upon securing from the developer a guarantee, such as a letter of credit.

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

Section 1. Findings. That the recitals to this Resolution are incorporated herein for all purposes.

Section 2. Approval. Developer's provision of a letter of credit, as attached, guaranteeing completion of the improvements for Wandering Oaks Subdivision is hereby approved.


Section 3. Recordation. The final plat of the Wandering Oaks Subdivision may be recorded in the Public Records of the County Clerk of Burnet County, Texas.

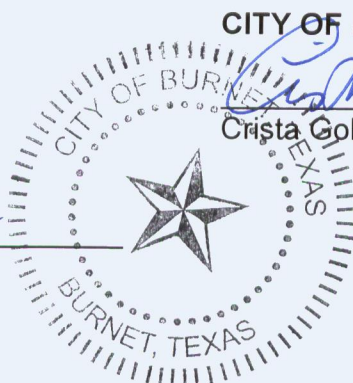
Section 4. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

Section 5. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

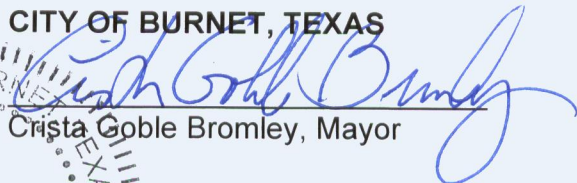
PASSED AND APPROVED this the 1th day of April, 2021.

ATTEST:


Kelly Dix, City Secretary



CITY OF BURNET, TEXAS


Crista Goble Bromley, Mayor

FIRST STATE BANK OF BURNET
P.O. BOX 965
BURNET, TEXAS 78611

IRREVOCABLE LETTER OF CREDIT #221 Date: March 29, 2021

APPLICANT: BIG LEAF, LTD
ATTN: LOUISE LARY, AUTHORIZED AGENT
605B N. WATER
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 \$83,325.00 (EIGHTY-THREE THOUSAND AND THREE HUNDRED TWENTY-FIVE 00/100'S US DOLLARS) 110% OF ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS FOR WANDERING OAK CIRCLE STATED IN EXHIBIT "A"

EXPIRATION DATE: JUNE 27, 2021

GENTLEMEN

WE HEREBY ESTABLISH OUR IRREVOCABLE STANDBY LETTER OF CREDIT NO. 221 IN YOUR FAVOR AS BENEFICIARY, UP TO THE AGGREGATE SUM OF EIGHTY-THREE THOUSAND AND THREE HUNDRED TWENTY-FIVE 00/100'S US DOLLARS, EXPIRING ON THE EXPIRATION DATE STATED ABOVE, 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. 221 ISSUED BY FIRST STATE BANK OF BURNET ARE DUE BY REASON OF BIG LEAF LTD'S FAILURE TO COMPLETE CERTAIN ELEMENTS OF THE WANDERING OAKS SUBDIVISION ROADWAY IMPROVEMENTS, EROSION & SEDIMENT CONTROL ITEMS, AND/OR DRAINAGE IMPROVEMENTS, AS REQUIRED BY THE CITY OF BURNET CODE OF ORDINANCES SAID IMPROVEMENTS BEING DESCRIBED BY THAT ENGINEER'S "OPINION OF PROBABLE CONSTRUCTION COSTS FOR THE "WANDERING OAK CIRCLE" DATED MARCH 26, 2021, 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 CURRIER 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 NON-EXTENSION OR TERMINATION OF LETTER OF CREDIT NO. 221 ISSUED BY FIRST STATE BANK OF BURNET TO THE CURRENT EXPIRATION DATE OF JUNE 27, 2021, THAT BIG LEAF LTD'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 "WANDERING OAKS CIRCLE" AS SHOWN IN EXHIBIT "A."

DRAFTS DRAWN UNDER THIS LETTER OF CREDIT MUST BE MARKED "DRAWN UNDER IRREVOCABLE STANDBY LETTER OR CREDIT NO. 221 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 78611 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:

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. 600.

***NOTE: IF THERE ARE ANY QUESTIONS IN REGARD TO ANY INFORMATION WITHING THIS LETTER OF CREDIT, PLEASE CONTACT MATT KELLEY AT FIRST STATE BANK OF BURNET (512) 756-2191.