

Item #3:
Resolution Further Reducing LOC For Sunset Grove

**VILLAGE OF LONG GROVE
RESOLUTION NO. 2010-R-___**

**A RESOLUTION AUTHORIZING THE FURTHER REDUCTION OF
A LETTER OF CREDIT FOR SUNSET GROVE**

WHEREAS, pursuant to Section 15 of the “Redevelopment Agreement between the Village of Long Grove and Sunset Grove Development Project Corp. (Sunset Grove Project)” dated March 25, 2008, as it may be amended from time-to-time (“**Redevelopment Agreement**”), the Village of Long Grove requires an irrevocable letter of credit as security to the Village for the performance by Sunset Grove LLC (“**Developer**”) of Developer’s obligations to construct and complete the Public Improvements and Private Improvements (as defined in the Redevelopment Agreement); and

WHEREAS, the Developer provided to the Village “Letter of Credit No. 620266800-501,” in the amount of \$3,913,543.72, to secure certain public improvements required pursuant to the Redevelopment Agreement, (“**Letter of Credit**”); and

WHEREAS, based on the recommendation of the Village Engineer, on May 25, 2010, the Village Board passed Resolution No. 2010-R-20, authorizing a reduction in the Letter of Credit to the amount of \$3,888,293.33; and

WHEREAS, based on the recommendation of the Village Engineer, on June 22, 2010, the Village Board passed Resolution No. 2010-R-24, authorizing the further (second) reduction in the Letter of Credit to the amount of \$3,804,131.33; and

WHEREAS, based on the recommendation of the Village Engineer, on July 27, 2010, the Village Board passed Resolution No. 2010-R-28, authorizing the further (third) reduction in the Letter of Credit to the amount of \$3,778,077.83 (the “**Reduced Amount**”); and

WHEREAS, based on the recommendation of the Village Engineer, on September 14, 2010, the Village Board passed Resolution No. 2010-R-33, authorizing the further (fourth) reduction in the Letter of Credit subject to the issuance of the TIF Bonds, various elements of the improvements for which the Letter of Credit was required will have been satisfactorily secured via a cash deposit with the Lake County Division of Transportation, thereby warranting a further partial reduction in the Letter of Credit to the principal amount of \$2,402,243.66 (the "**Reduced Amount**"); and

WHEREAS, the Developer is now requesting that the Letter of Credit be further reduced (fifth) to more accurately reflect the work that remains to be completed and performed; and

WHEREAS, based on the recommendation of the Village Engineer as set forth in Exhibit A attached hereto, various elements of the improvements for which the Letter of Credit was required have been satisfactorily completed and approved by the Village, thereby warranting a partial reduction in the Letter of Credit from \$2,402,243.66 to the principal amount of \$2,282,124.91;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, LAKE COUNTY, ILLINOIS, THAT:

Section 1: Recitals. The recitals set forth above are incorporated as a part of this Resolution by this reference.

Section 2: Reduction of Letter of Credit. The Letter of Credit in the Reduced Amount of \$2,402,243.66 shall be and is hereby reduced to the amount of \$2,282,124.91; provided, however, that such reduction shall not be effective unless and until the TIF Bonds have been issued. The Village Manager and Village Treasurer are hereby authorized and directed to take such action as may be necessary consistent with this Resolution.

Section 3: Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS 28TH DAY OF SEPTEMBER, 2010.

AYES: () Trustees

NAYS: ()

ABSENT: ()

APPROVED THIS 28TH DAY OF SEPTEMBER, 2010.

Village President, Maria Rodriguez

ATTEST:

Village Clerk, Karen Schultheis

EXHIBIT A
VILLAGE ENGINEER RECOMMENDATION

#9760743_v2

ESI

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Excellence, Service, Integrity
NAPERVILLE • CHARLESTON
CHICAGO • ELIZABETH

September 21st, 2010

Mr. David Lothspeich
3110 RFD Old McHenry Road
Long Grove, IL 60047

RE: Sunset Groves Payout 8
ESI Project Number 04-026-018-01 BG# 72

Dear Dave,

This letter is regarding the recent request by Sunset Groves LLC to release funds from the Construction Loan Account pursuant to the RDA which effectively reduces the performance guarantee. Jack Shum of Lakewood sent an 8th request for reduction via mail on September 10th, 2010. This request included the following:

- Cover Letter from Lakewood Real Estate Solutions describing the requested amount of reduction in each section dated September 8th, 2010
- Excel spreadsheet organized to match our breakdown of items showing what items have been completed to what percentage in order to back-up the current payment request.
- Application and certification for reduction in the performance letter of credit signed by Lakewood and Manhard certifying that this calculation is correct and is requesting 84,600 in payment. 1,385,432.19 completed minus 1,263,500.94 previously paid
- Application and certificate for payment from Countryside Industries in the amount of \$6,387.03-current, and 9,007.65 from previous submittal
- Invoice from Peerless Fence for 8' high wood fence in the amount of \$9,000
- Invoice from Alright Concrete for construction of the loading dock in the amount of \$48,000
- Invoice from Bell Land Improvements in the amount of \$3,290.25
- Invoice from J and S Construction in the amount of \$3,470.50
- Invoice from J and S Construction in the amount of \$98,056.59 for sanitary sewer construction
- Topo as built exhibit entitled Concrete Slab Verification Exhibit, created by Manhard Consulting, Ltd dated 9-10-10
- Topo Building pad Verification exhibit, created by Manhard Consulting, Ltd dated 8-25-10, and received 9-8-10

Based on these documents Lakewood Real Estate Solutions has completed an application for payment to the Village of Long Grove in the amount of \$121,931.25 (\$2,729,429.61 less previous amount of \$2,613,217.11).

Subject to the accuracy of the information provided we recommend approval of \$120,118.75 as the amount reduced at this time which is 98.5% of the requested reduction. The small difference in the amount requested and the amount recommended for payment is the percentage complete for the bio-swale seed mix. The area currently stated to be 75% complete is currently being used in the SWPPP plan for Sunset Groves and portions of the area have not been seeded and blanketed with new material. Our

reduction makes the percentage complete 50% instead of the 75% requested in reduction 8. Additionally For future improvements that will be inspected by Lake County Public Works Department we request that there is documentation that they have inspected and approved these items.

With approval of this payment / performance guarantee reduction it will leave \$2,282,124.91 in the account as Performance Guarantee which we believe to be reasonable and appropriate based on the remaining work.

Sincerely,
ESI Consultants, Ltd

A handwritten signature in black ink that reads "Brian Witkowski". The signature is written in a cursive style with a small "es" at the end.

Brian Witkowski, P.E.
Enforcement Officer

Attachment

CC: Jack Shum, Sunset Groves LLC
Vic Filipini, Holland and Knight
Joseph Chiczewski / File, ESI Consultants

ESI

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