

**VILLAGE OF WINDSOR  
BOARD RESOLUTION 2018-59**

**PHASE 1 LETTER OF CREDIT REGARDING BEAR TREE FARMS**

**WHEREAS**, Bear Tree Farms, Inc. (“Developer”) has requested a reduction in its letter of credit for certain infrastructure associated with Phase 1 (“Phase 1 Letter of Credit”) of the residential subdivision known as the Plat of Bear Tree Farms (“Plat”) and has simultaneously requested approval of Phase 2 of the Plat; and

**WHEREAS**, as is customary 60-days prior to the end of the term of a letter of credit, the Village received a 60-day notice from Developer’s Lender indicating that it did not intend to renew the Phase 1 Letter of Credit; and

**WHEREAS**, the Village cannot allow the Phase 1 Letter of Credit to terminate because the Developer has failed to complete certain work required in Phase 1 to the satisfaction of either the Village or Dane County Land and Water Resources, and that failure resulted in a Notice of Default to Developer on or about August 3, 2017, as required by the Development Agreement executed by the Town of Windsor and Developer in 2015 (“Original Development Agreement”); and

**WHEREAS**, the work that has not been satisfactorily completed relates to the stormwater management basins associated with Phase 1 which basins are not operating in the field as designed, and the failure is due in part to errors in the soil tests that were the basis of the design for the stormwater management basins described in the original stormwater management report; and

**WHEREAS**, on or about July 8, 2018, the Developer submitted an updated Stormwater Management Report that is satisfactory to the Village, and that provides for corrections to the stormwater management facilities required in Phase 1; and

**WHEREAS**, the updated Stormwater Management Report has neither been approved by the Capital Area Regional Planning Commission (CARPC) nor have erosion control and stormwater management permits been issued by the Dane County Water and Land Resources Department, both of which are required before the Developer can proceed with necessary corrections to the Phase 1 stormwater management facilities; and

**WHEREAS**, the Village Engineer has reviewed the Public Improvements for Phase 1 other than the stormwater management facilities, and has no objection to those Public Improvements, all as set forth in the memorandum from the Village Engineer which is attached hereto and incorporated by reference; and

**WHEREAS**, the Developer and Village have not yet reached a mutual agreement as to how to proceed with development of the remainder of the Plat; and

**WHEREAS**, following review and consideration of the Developer’s request and the Village Engineer’s recommendation, the Village Board resolves to proceed as set forth herein.

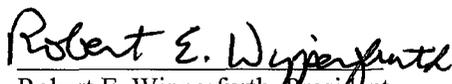
**NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Village Board of the Village of Windsor as follows:

1. The Phase 1 Letter of Credit may be reduced by \$470,500.00 because the Village Engineer has no objection to Phase 1 Public Improvements other than the stormwater management facilities.

2. Both the Village and Dane County have determined that the stormwater management facilities constructed by the Developer are deficient and do not operate as designed. The Village Board finds that the Developer was notified of this default under the Original Development Agreement on or about August 3, 2017, and nearly one year later has not cured the default. Furthermore, Developer does not yet have the approvals or permits necessary to cure the default prior to expiration of the Phase 1 Letter of Credit.
3. The Village, in conjunction with Dane County Water and Land Resources, shall draw on the Phase 1 Letter of Credit in an amount up to \$369,500.00, on or about September 16, 2018 and prior to the September 26, 2018 expiration of the Phase 1 Letter of Credit, unless the Village Administrator has the following documents in hand on or before September 16, 2018:
  - a. A fully executed replacement Development Agreement for Bear Tree Farms approved by the Village Board and in a form suitable for recording; and
  - b. An original replacement letter of credit in an amount: (i) sufficient to serve as surety for the Public Improvements approved in the replacement Development Agreement for Bear Tree Farms; and, (ii) sufficient to satisfy both Dane County Water and Land Resources and the Village Engineer with respect to the stormwater management facilities, which amount is currently set by Dane County Water and Land Resources as \$369,500.00. As set forth on the attached memorandum, the Village Engineer has determined that the total amount needed for the Public Improvements in the anticipated replacement Development Agreement and regarding the stormwater management facilities is \$2,460,115.00.
4. The Village Administrator shall provide a copy of this Village Board Resolution 2018-59 to Dane County Water and Land Resources, Developer and Developer's Lender.

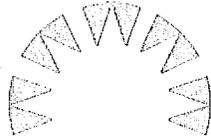
The above and foregoing Resolution was duly adopted at a meeting of the Village Board of the Village of Windsor on August 2, 2018, by a vote of 5 in favor and 0 opposed.

**VILLAGE OF WINDSOR**

  
Robert E. Wipperfurth, President

Attested by:  
  
Christine Capstran, Clerk

**Incorporated by Reference:**  
Exhibit A Village Engineer's Memorandum



# Windsor

Growing Forward

## Memorandum

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To: Windsor Village Board

CC: Tina Butteris, Administrator  
Jamie Rybarczyk, Deputy Administrator  
Constance Anderson, Village Attorney

From: Kevin Richardson, Village Engineer

Date: July 30, 2018

Re: Bear Tree Farms Letter of Credit Phase 2A, 2B, Community Park, Phase 1 infiltration Pond

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Bear Tree Farms Inc.'s Bank (Wisconsin River Bank) has given the Village notice they will not be renewing the letter of credit (LOC) for Phase 1 construction of subdivision improvements.

The current LOC is in the amount of \$840,000.00; the Village of Windsor and Dane County Land and Water Resources are the beneficiaries of the LOC. The Dane Co. portion of the LOC is \$369,500.00 and Dane Co. has stated that it will not will not reduce its portion of the LOC until Dane Co. is satisfied that the storm water facilities are functioning as designed. Windsor's portion of the LOC for other Public Improvements is \$470,500.00; the work covered by Windsor's portion of the LOC has been completed.

Bear Tree Farms Inc. has requested approval of Phase 2 Public Improvements for the Bear Tree Farms Plat. Public Improvements to the Community Park and remedial work in the Phase 1 infiltration pond is required for approval of Phase 2. Listed in the table below are the estimated costs prepared by the developer's engineer for these improvements. I have reviewed the estimates and have no objections.

<b>Improvements</b>		
Community Park O.L. 3 (san. sewer, storm water and grading)		204,712
Phase 2A (roads, sanitary sewer, water, storm water etc.)		716,375
Phase 2B (roads, sanitary sewer, water, storm water etc.)		821,092
Subtotal		1,742,179
	20%	348,436
Village Letter of Credit Amount		2,090,615
Dane County Land and Water Resources LOC Pond Remediation		369,500
Total Letter of Credit Required		\$2,460,115