

DEC 17 1991 *gpc*

RESOLUTION NO. 91-M-68

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2 A RESOLUTION AUTHORIZING RECEIPT FROM THE  
3 OWNERS OF THE FORSYTH WOODS SUBDIVISION OF  
4 IRREVOCABLE LETTERS OF CREDIT ON THE DAY OF  
5 ALLOCATION IN THE EASTERN WASTEWATER SERVICE  
6 AREA OF WASTEWATER TREATMENT CAPACITY IN  
7 LIEU OF IMMEDIATE PAYMENT AT THAT TIME FOR  
8 SUCH CAPACITY; DEFERRING SUCH PAYMENT UNTIL  
9 TIME OF BUILDING PERMIT APPROVAL;  
10 ESTABLISHING CERTAIN PROVISIONS, TERMS AND  
11 CONDITIONS ON SUCH DEFERRAL OF PAYMENT AND  
12 RECEIPT OF LETTERS OF CREDIT; PROVIDING AN  
13 ECONOMIC IMPACT DETERMINATION; PROVIDING FOR  
14 SEVERABILITY OF PROVISIONS; AND PROVIDING AN  
15 EFFECTIVE DATE.

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PREMISES

1. The Forsyth Woods Sudivision is a proposed  
affordable housing project to consist of 41 duplex lots and  
one single-family housing lot to be constructed by Sunbreeze,  
Inc. (hereinafter "Developer") near Forsyth Road on property  
more particularly described in Exhibit "A" attached hereto,  
in an area subject to the Eastern Wastewater Service Area  
Allocation Rules.

2. The Developer wishes to apply for sewer service  
capacity in the Eastern Wastewater Service Area System on the  
next designated allocation day and to defer payment of sewer  
capital charges by submission of letters of credit in lieu of  
immediate cash payment, as provided for in the Eastern  
Wastewater Service Area Allocation Rules, codified as  
Sections 37-401 through 37-408, Orange County Code.

3. The Board of County Commissioners (hereinafter  
"Board") desires to encourage the development of affordable

1 housing in Orange County, but also wishes to preserve the  
2 fiscal integrity of its water and wastewater system, avoid  
3 premature, unnecessary rate increases, and avoid unfair cross  
4 subsidy of one group of rate payers by another.

5 4. The Board therefore wishes to allow such deferral  
6 and receipt of letters of credit to encourage such  
7 development, on the conditions that the development be for  
8 affordable housing and that such deferral does not affect the  
9 fiscal integrity of the wastewater system.

10 BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF  
11 ORANGE COUNTY:

12 Section 1. Authorization for Receipt of Letters of  
13 Credit. The Board hereby authorizes receipt from the  
14 Developer of Forsyth Woods Subdivision of irrevocable letters  
15 of credit in substantially the form shown in the attached  
16 Exhibit "A", in lieu of immediate payment for wastewater  
17 connection fees on the applicable allocation day for the  
18 Eastern Wastewater Service Area prior to the issuance of any  
19 building permits. If Orange County does not receive payment  
20 for the wastewater treatment capacity at the time indicated  
21 in Section 2 below, the letters of credit shall be  
22 collectable by Orange County in accordance with the terms  
23 contained in Exhibit "B" and the affordable housing agreement  
24 specified in Section 3 below.

25 Section 2. Deferral of Time for Payment of Charges.  
26 The Board hereby defers until the time of building permit

1 approval for the structures built in the Forsyth Woods  
2 Subdivision the payment of the wastewater connection fees  
3 applicable at that point in time for those individual  
4 structures. Prior to the actual grant of building permits  
5 for the structures in the Forsyth Woods Subdivision, the  
6 applicable charge for the wastewater connection fee required  
7 for the structure shall be paid by the Developer.

8 Section 3. Conditions for Deferral of Payment and  
9 Receipt of Letters of Credit. The specifics concerning  
10 deferral of payment and receipt of letters of credit shall be  
11 conditioned upon the provisions set forth in a developer's  
12 affordable housing agreement between the County and the  
13 Developer/owners of the Forsyth Woods Subdivision. The  
14 developer's affordable housing agreement shall require that  
15 the wastewater connection fees be paid prior to final  
16 issuance of building permits and shall require that the  
17 revenue and maintenance fees be paid in accordance with  
18 applicable Orange County codes. The developer's affordable  
19 housing agreement shall set forth, but not be limited to,  
20 provisions concerning payment of fees, acceptance and number  
21 of letters of credit, the amount for each one, exact time and  
22 place of delivery for both payments and letters of credit,  
23 the purchase price of the housing units, the requisite income  
24 level of purchasers, and the number and size of the housing  
25 units.

26 Section 4. Economic Impact Determination. The Board  
27 does hereby determine and find, pursuant to Section 30-2,

1 Orange County Code, that sufficient information has been  
2 provided for the Board to assess the economic impact of this  
3 resolution on the development of real property in Orange  
4 County. The Board does hereby determine and find that no  
5 further economic impact statement or economic impact  
6 information is required in this matter.

7 Section 5. Severability of Provisions. If any  
8 provision of this resolution or the application thereof to  
9 any person or circumstance is held invalid, the invalidity  
10 shall not affect other provisions or applications of this  
11 ordinance which can be given effect without the invalid  
12 provisions or application, and to this end, the provision of  
13 this ordinance are declared severable.

14 Section 6. Effective Date. This Resolution shall take  
15 effect upon adoption.

16 ADOPTED THIS 17TH DAY OF DECEMBER, 1991.

17  
18 ORANGE COUNTY, FLORIDA  
19 BY: Mark Butler  
20 VICE County Chairman  
21 FOR THE COUNTY CHAIRMAN  
22 DATE: DEC 17 1991

22 ATTEST: Martha O. Haynie, County Comptroller  
23 As Clerk of the Board of County Commissioners

24 BY: Randy M. Dwyer  
25 Asst. Deputy Clerk

EXHIBIT "A"

DESCRIPTION

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 22 SOUTH, RANGE 30 EAST, ORANGE COUNTY, FLORIDA; THENCE N00°06'09"E, ALONG THE EAST LINE OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING; THENCE N89°31'25"W, PARALLEL WITH THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 27, A DISTANCE OF 294.51 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF AN ORLANDO UTILITIES RIGHT-OF-WAY; THENCE N14°42'02"W ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1355.38 FEET TO A POINT THAT IS 198.00 FEET AT A RIGHT ANGLE SOUTH OF THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE S89°18'12"E, PARALLEL WITH SAID NORTH LINE, A DISTANCE OF 410.82 FEET TO A POINT THAT IS 230.00 FEET AT A RIGHT ANGLE WEST OF THE EAST LINE OF THE SAID WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE S00°06'09"W, PARALLEL WITH SAID EAST LINE, A DISTANCE OF 400.00 FEET; THENCE S89°18'12"E, PARALLEL WITH THE AFORESAID NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 27, A DISTANCE OF 200.01 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF DEE DEE STREET, SAID POINT BEING 30.00 FEET AT A RIGHT ANGLE WEST OF THE AFORESAID EAST LINE OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE S00°06'09"W ALONG SAID RIGHT-OF-WAY LINE AND PARALLEL WITH SAID EAST LINE, A DISTANCE OF 93.51 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF KALAMBA STREET; THENCE S89°23'30"E, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 30.00 FEET TO A POINT ON SAID EAST LINE OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, RUN S00°06'09"W, ALONG SAID EAST LINE, A DISTANCE OF 300.74 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE S89°26'09"E, ALONG SAID SOUTH LINE, A DISTANCE OF 636.67 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF FORSYTH ROAD, SAID POINT BEING 30.00 FEET WEST OF THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE S00°00'02"E, PARALLEL WITH SAID EAST LINE, A DISTANCE OF 126.00 FEET; THENCE N89°26'09"W, PARALLEL WITH THE SOUTH LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 27, A DISTANCE OF 198.00 FEET; THENCE S00°00'02"E, PARALLEL WITH THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 27, A DISTANCE OF 204.40 FEET TO THE SOUTH LINE OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE N89°28'47"W, ALONG SAID SOUTH LINE, A DISTANCE OF 439.26 FEET TO THE EAST LINE OF THE WEST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 27; THENCE S00°06'09"W, ALONG SAID EAST LINE, A DISTANCE OF 180.73 FEET TO THE POINT OF BEGINNING.

CONTAINING 15.753 ACRES, MORE OR LESS.

EXHIBIT "B"

[BANK LETTERHEAD]

IRREVOCABLE LETTER OF CREDIT

\_\_\_\_\_, 19\_\_

LETTER OF CREDIT NO: \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_, 19\_\_

Orange County, Florida  
c/o its Board of County Commissioners  
Attn: Michael Chandler  
201 S. Rosalind Avenue  
Orlando, Florida 32801

Commissioners:

At the request and for the account of our customer, \_\_\_\_\_ (the customer), we hereby establish this irrevocable letter of credit in your favor.

We hereby irrevocably authorize you to draw on us in accordance with the terms and conditions hereinafter set forth, by a single draft in the form of Exhibit 1 attached hereto, in an amount not exceeding \$\_\_\_\_\_ for payment of the \_\_\_\_\_ due and owing to you pursuant to that certain \_\_\_\_\_ Agreement (the "Agreement") between you and \_\_\_\_\_ (the customer) dated \_\_\_\_\_, 19\_\_.

The draft drawn under this Letter of Credit must state on its face "Drawn under \_\_\_\_\_ Bank Irrevocable Letter of Credit No. \_\_\_\_\_ issued \_\_\_\_\_, 19\_\_" and shall be accompanied by this Letter of Credit and a written and completed certificate signed by the County Chairman or her authorized designee of the Board of County Commissioners (the "Board") and attested by the Orange County Comptroller, which certificate shall be in the form of Exhibit 2 attached hereto (the "Certificate"). Presentation of such draft, this Letter of Credit and the Certificate shall be made at our offices located \_\_\_\_\_ at \_\_\_\_\_, Florida.

Demand for payment may be made by you under this Letter of Credit prior to the expiration hereof at any time during the business hours of \_\_\_\_\_ Bank at such Bank's address set forth above on a Business Day (as hereinafter

defined). If demand for payment is made by you hereunder on a Business Day, and provided that such demand for payment and the documents presented in connection therewith conform to the terms and conditions hereof, payment shall be made to you of the amount demanded in immediately available funds not later than \_\_\_\_\_ Bank's close of business on the next succeeding Business Day. As used herein "Business Day" shall mean any day other than a Saturday, Sunday, or a day on which banking institutions in the State of Florida are authorized or required by law to be closed.

If the demand for payment made by you hereunder does not conform to the terms and conditions of this Letter of Credit, \_\_\_\_\_ Bank will give you prompt notice that the purported negotiation was not effected in accordance with the terms and conditions of this Letter of Credit, stating the reasons therefor, and that \_\_\_\_\_ Bank is holding any documents at your disposal or is returning the same to you, as it may elect. Upon being notified that the purported negotiation was not effected in accordance with this Letter of Credit, you may attempt to correct such non-conforming drawing prior to the expiration date hereof if, and to the extent that, you are entitled (without regard to the provisions of this sentence) and able to do so.

This Letter of Credit shall expire at the close of business at \_\_\_\_\_ Bank's aforesaid address on the earlier to occur of the following dates: (i) the date on which the \_\_\_\_\_ have been paid in full or (ii) the date on which the drawing hereunder has been made, but in no event shall this Letter of Credit expire on a date beyond \_\_\_\_\_, 19\_\_\_\_. This Letter of Credit shall be promptly surrendered to \_\_\_\_\_ Bank by you upon such expiration.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, amended, amplified, or limited by reference to any document, instrument, or agreement referred to herein (except the Uniform Customs hereinafter referenced) or in which this Letter of Credit is referred to or to which this Letter of Credit relates herein by reference any document, instrument, or agreement.

This Letter of Credit is transferable in its entirety (but not in part) to any transferee who has succeeded you as owner or operator of the Orange County Water and Wastewater System (as defined in the Agreement) without necessity on your part of notifying us. However, presentation of the draft for drawing on this Letter by a transferee shall be accompanied by

certificate of the Orange County Chairman stating the effective date of the transfer and the transferee's name and address.

Only you (or a transferee as permitted by the terms of this Letter of Credit) may make a drawing under this Letter of Credit. Upon the payment to you or your account of the amount specified in the demand for payment hereunder, we shall be fully discharged on our obligation under this Letter of Credit, and we shall not thereafter be obligated to make any further payments under this Letter of Credit to you.

We hereby agree with you that the draft and certificate presented in compliance with the terms of this Letter of Credit will be duly honored upon presentation to \_\_\_\_\_ Bank.

This Letter of Credit shall be governed by the law in effect in the State of Florida and by the provisions of the Uniform Customs and Practice for Documentary Credits (1983 Revision), International Chamber of Commerce Publication No. 400 (the "Uniform Customers").

Communications and notices with respect to this Letter of Credit shall be in writing and shall be addressed to \_\_\_\_\_ Bank at its office specified above.

Very truly yours,

\_\_\_\_\_ Bank

By: \_\_\_\_\_  
Vice President



EXHIBIT 1  
SIGHT DRAFT

\_\_\_\_\_, Florida

\_\_\_\_\_  
Date

For Value Received

Pay to Orange County, Florida

U.S. \_\_\_\_\_ Dollars (U.S. \$ \_\_\_\_\_).

Drawn under \_\_\_\_\_ Bank Irrevocable Letter  
of Credit No. \_\_\_\_\_ issued \_\_\_\_\_, 19\_\_.

To: [Insert name and address

of the bank]  
\_\_\_\_\_  
\_\_\_\_\_

ORANGE COUNTY, FLORIDA

By: \_\_\_\_\_  
Orange County Chairman

Attest:

\_\_\_\_\_  
Orange County Comptroller

[County Seal]

EXHIBIT 2

[Insert name and address

of the bank]

\_\_\_\_\_ Date

Re: \_\_\_\_\_ Bank Irrevocable Letter of Credit  
No. \_\_\_\_\_, issued \_\_\_\_\_, 19\_\_

Gentlemen:

Pursuant to the Letter of Credit identified above (which defines the terms used herein), Orange County, Florida, hereby certifies to you that:

1. A draft in the amount of \$\_\_\_\_\_ is being presented to you herewith pursuant to the Letter of Credit.
2. The \_\_\_\_\_ as defined by and payable by the customer pursuant to the Agreement remain unpaid by the customer and are currently due and owing to Orange County.
3. [Orange County has received application from \_\_\_\_\_ for a building permit for a dwelling unit the capacity for which no final payment has been made. Orange County has obtained necessary federal and state construction permits and approvals and has sent written notice to the Developer of the County's readiness to provide permanent Treatment and Effluent Disposal Capacity via the \_\_\_\_\_ Plant, all as contemplated under Subsection \_\_\_\_\_ of the Agreement.]

OR

[The Letter of Credit expires within 15 days of this date.]

[NOTE: The certificate may have one or both of the above assertions in paragraph no. 3.]

EXHIBIT 2  
(Continued)

IN WITNESS WHEREOF, the undersigned have executed and delivered this Certificate as of the \_\_\_ day of \_\_\_\_\_, 19\_\_.

ORANGE COUNTY, FLORIDA

By: \_\_\_\_\_  
Orange County Chairman

Attest:

\_\_\_\_\_  
Orange County Comptroller

[County Seal]