



PLANNING BOARD

P.O. Box 1305
Littleton, Massachusetts 01460

Date: August 9, 2023

Town Treasurer: Robin Healy

RE: BOND FOR COUPER FARM ESTATES DEFINITIVE OPEN SPACE
SUBDIVISION

On Thursday, June 20, 2023, the Planning Board voted 5 to 0 to conditionally release the final \$40,000 bond requirement for Couper Farm Estates.

This vote conditionally released the \$40,000, with the posting of \$5,000 certified check bond as "substitute security" as outlined in point 9 of the Couper Farm Estates Roadwork Escrow Agreement dated September 21, 2017.

A total of \$5,000 in cashier's checks has been provided to the Planning Department. Disposition of the \$5,000 funds will require a vote of the Planning Board.

Signature below confirm that the \$40,000 security for Couper Farm Estates is fully released by the Planning Board.

Signed:

Date:


Mark Montanari


8/9/2023

Attached:

- (1) Planning Board Vote of July 20, 2023
- (2) Tri Party Agreement Bond "Couper Farm Estates Roadwork Escrow Agreement" dated September 21, 2017 and
- (3) Associated Irrevocable Standby Letter of Credit from Lowell Five dated 09/26/2017 for \$402,000.

Cc: Matthew Field and Lowell Five Cents Savings Bank

July 20, 2023 Planning Board Meeting video at time stamp ~ 2:13:45

Montanari: I'll entertain a motion to approve the release the \$40,000 for the tri-party agreement back to the Fields as long as they post \$5,000 in total that the Town will hold for no more than 10 days as long as we get a consultant out there and there are no problems with the road. If there is a problem with the road, then we are going to have to address the road.

Jeff Yates "I so move"

Bartlett Harvey "second"

Vote: 5 to 0

Motion carries.

**COUPER FARM ESTATES
ROADWORK ESCROW AGREEMENT**

Agreement made September 21, 2017, by and between Matthew P. Field and Michael S. Field, Trustees M&M Realty Trust, with a place of business at 442 King Street, Littleton, Massachusetts 01460 ("M&M Realty") and the Town of Littleton, through its duly constituted Planning Board, of 37 Shattuck Street, Littleton, Massachusetts 01460 (the "Town");

Whereas, the Town of Littleton, through its Planning Board, has issued a "Certificate of Decision on a Definitive Subdivision Plan; Certificate of Decision on an Open Space Development Special Permit and Site Plan Review; Certificate of Decision on an Over 55 Housing Development; Certificate of Decision on a Shared Residential Driveway" date March 16, 2017 and recorded with the Middlesex South District Registry of Deeds in Book 69973, Page 409 for the development of land located at 180 Great Road, Littleton, Massachusetts as a Open Space Definitive Subdivision containing Lots 1-25 (the "Open Space Lots") and a Over 55 Housing Development (the "Over 55 Development") (both the Open Space Lots and the Over 55 Development being collectively referred to as the "Project") pursuant to the Zoning Bylaws of the Town of Littleton and the Town's Subdivision of Land Regulations of its Planning Board (the "Decision").

Whereas the Project as approved in the Decision is shown on a plan entitled "COUPER FARM ESTATES, Open Space Definitive Subdivision and Over 55 Housing Development Special Permit", dated December 15, 2016, and revised March 17, 2017, prepared by Markey & Rubin Civil Engineering, recorded with the Middlesex South District Registry of Deeds, as Plan 409 of 2017 (the "Plan");

Whereas M&M Realty is the owner of the Property. For title see deed dated April 25, 2017, and recorded with the Middlesex South District Registry of Deeds in Book 69236, Page 270, and deed dated May 3, 2017, and recorded with Middlesex South District Registry of Deeds in Book 69236, Page 257;

Whereas M&M Realty, along with its successors and assigns, is hereinafter referred to herein as "Owner";

Whereas completion of the work needed to serve the Project is currently secured by the Couper Farm Estates Form F Covenant dated April 27, 2017 and recorded with the Middlesex South District Registry of Deeds in Book 69236, Page 244 (the "Covenant"); and

Whereas Owner wishes to obtain the release of the Open Space Lots from the Covenant prior to the completion of all work needed to serve such lots, by providing this Roadwork Escrow Agreement as a substitute form of security;

Whereas, the purpose of this Agreement is to create the financial assurance required under M.G.L. c. 41, Section 81U to guarantee Owner's completion of the roadwork and other work on


the ground necessary to service all the Open Space Lots in the manner specified by the Plan, the Decision, Town's Subdivision of Land Regulations.

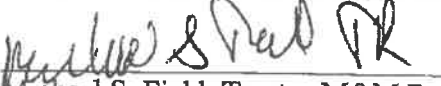
Now, therefore, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Owner and the Town, on behalf of themselves, their successors and assigns, hereby agree as follows:

1. This Agreement is hereby approved by the Town in lieu of a cash bond as the financial guarantee required under M.G.L. c. 41, Section 81U and the Decision to complete the roadwork and ground work necessary to service the Open Space Lots in accordance with the Plan, the Town's Subdivision of Land Regulations and the Decision (the "Roadwork").
2. This Agreement shall be binding on the Owner, and all of the terms, provisions and conditions herein contained will run with the Property in perpetuity.
3. For purposes of this Agreement, the parties agree that the total cost of the Roadwork is determined to be at or near \$402,000.
4. Owner has established a Line of Credit with Lowell Five Cents Savings Bank. Lowell Five Cents Savings Bank hereby agrees to issue a Letter of Credit in favor of the Town in the amount of \$402,000, secured by the Line of Credit (the "Letter of Credit" or "Roadwork Fund"). The Roadwork Fund shall be used exclusively for the completion of the Roadwork. This provision is intended to ensure that Owner will have available to it sufficient financial resources to complete the Roadwork.
5. The Town may draw upon the Roadwork Fund for completion of the Roadwork.
6. Upon completion of Project milestones, the Owner may have the Town's consultant inspect the Roadwork. If the remaining cost to complete the Roadwork is determined by the Town's consultant to be less than the amount of the Roadwork Fund, the Bank may reduce the Roadwork Fund to equal the remaining cost to complete the Roadwork.
7. Nothing contained herein shall be construed so as to create any obligation on the part of the Town to perform, or arrange for the performance of, the Roadwork or otherwise provide any funding for such work.
8. This Agreement may only be terminated by agreement of the parties hereto, or their respective successors or assigns or upon such time at the Roadwork is complete. Upon termination of this agreement, the Letter of Credit shall be terminated, but only upon the satisfaction of any and all obligations of Owner to the Town.
9. This Roadway Escrow Agreement does not affect the Over 55 Development, which shall remain subject to the terms of the Covenant until all work is completed or substitute security satisfactory to the Planning Board has been provided.

Executed under seal as of the date first above written.

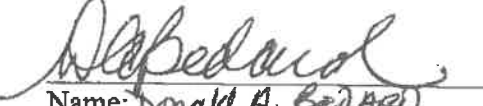
Owner:


Matthew P. Field, Trustee M&M Realty Trust


Michael S. Field, Trustee M&M Realty Trust

Escrow Agent:

Lowell Five Cents Savings Bank


Name: Donald A. Bedard
Title: EVP

In Witness Whereof, we have set our hands and seals this 21st day of September, 2017.

Approved:
Littleton Planning Board

By:


_____ ED MULLED, CHAIR

Chair


_____ JAMIE CRUZ, VICE CHAIR


_____ RICHARD CROWLEY

Signatures of a majority of members

SEPT. 21, 2017
Date



(3)
Donald A. Bedard
Executive Vice President
Chief Lending Officer

IRREVOCABLE STANDBY LETTER OF CREDIT

Date: 09/26/2017

From: *The Lowell Five Cent Savings Bank
30 International Place
Tewksbury, MA 01876*

Beneficiary: *Planning Board
Town of Littleton, MA
37 Shattuck Street
Littleton, MA 01460*

Re: *Irrevocable Letter of Credit No. 10-17*

Customer: *Field Development Company and
M & M Realty Trust
442 King Street
Littleton, MA 01460*

Amount: \$402,000.00

Name of Project: *Couper Farm Estates – Roadwork Escrow Agreement*

Dear Members of the Town of Littleton Planning Board:

Upon the application of our customer, The Lowell Five Cent Savings Bank hereby extends and issues this irrevocable obligation, Letter of Credit No. 10-17 to honor any and all documentary demands for payments and drafts drawn upon this Bank and signed by an authorized representative of the Town of Littleton in any amount not to exceed *Four Hundred Two Thousand and 00/100 (402,000.00) Dollars*. It is understood that the improvements guaranteed by this Irrevocable Letter of Credit includes the following:

Completion of Roadwork as documented in the “Couper Farm Estates Roadwork Escrow Agreement” dated September 21, 2017.

The Lowell Five Cent Savings Bank will honor any and all demands for payments and drafts drawn upon this Bank and signed by an authorized representative of the Town of Littleton in any amount not to exceed *Four Hundred Two Thousand and 00/100 (\$402,000.00) Dollars*, provided that each draft is accompanied by a documentary demand for payment containing a statement as follows:

“This demand for payment is made under the terms of an Irrevocable Letter of Credit No. 10-17 issued by The Lowell Five Cent Savings Bank as of September 26, 2017, in the principal sum of *Four Hundred Two Thousand and 00/100 (\$402,000.00) Dollars*. I, the undersigned authorized representative; do hereby certify that Field Development Company and M & M Realty Trust have failed to complete the construction of the roadwork at Couper Farm Estates, Littleton, MA.”

It is agreed and understood by the issuer of this Letter of Credit that it shall be issued and remain in force until the expiration date of 09/26/18 or called by the Town of Littleton; however, that such term shall automatically be extended for successive additional one (1) year terms unless the Lowell Five Cent Savings Bank gives written notice of expiration, by certified mail, return receipt requested, or by Fedex or similar overnight delivery service, not less than thirty (30) days prior to any such expiration date, in which case this Letter of Credit shall expire as of 12:01 a.m. local time on the immediately following anniversary hereof.

If called, the funds so forwarded by The Lowell Five Cent Savings Bank to the Town Treasurer shall be used exclusively for the purpose of completing the improvements, which are guaranteed by this Letter of Credit. Any funds not needed by the Town to complete the improvements required shall be returned to The Lowell Five Cent Savings Bank.

This Letter of Credit is neither assignable nor transferable without the written consent of the issuer.

Except as otherwise expressly stated herein, this Letter of Credit is subject to the “Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500” and is also subject to “Article 5 of the Uniform Commercial Code, RSA 382-A:5”. In the event of any conflict between Publication No. 500 and said Article 5, Article 5 shall control.

We hereby undertake and guaranty that all requests for payments made in compliance with this Letter of Credit shall be paid upon presentment.

Lowell Five Cent Savings Bank

By: 

Donald A. Bedard, Executive Vice President