

RESOLUTION NO. 2024-273

RESOLUTION OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE ACCEPTANCE OF SPINNAKER DRIVE

WHEREAS, Harbor View Estates, LLC ("HVE") obtained approval from the Township Planning Board for the construction of a Final Major Subdivision located at Block 326, Lot 63 under Planning Board Application No. P2004-1 OB; and

WHEREAS, a dispute arose regarding the completion of the improvements in the development covered by the Performance Bond issued by the Surety, First Indemnity of America Insurance Company, and cash posted by HVE (collectively, the "Performance Guarantee") which resulted in litigation before the Ocean County Superior Court, *i.e.*, Township of Little Egg Harbor v. Harborview Estates, LLC, et al., bearing docket number OCN-L-939-20; and

WHEREAS, Amboy Bancorporation's subsidiary company, N.R. LLC, acquired the property, and Amboy Bancorporation was a Defendant in the litigation; and

WHEREAS, the Township of Little Egg Harbor entered into a Settlement Agreement and Release with the Surety, First Indemnity of America Insurance Company, fully executed as of June 18, 2024; and

WHEREAS, as part of the settlement, the Township released the Performance Guarantee to the Surety which constituted the acceptance of the roadway in the development, Spinnaker Drive; and

WHEREAS, Amboy Bancorporation provided a Letter of Credit ("LOC") dated October 29, 2024 in the amount of \$116,340.00 to the Township pursuant to the Township's Engineer's Estimate (see attached Exhibit A, T&M Associates Engineer's Estimate – Spinnaker

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Rothstein, Mandell, Strohm,
Halm & Cipriani, P.A.
ATTORNEYS AT LAW

98 East Water Street
Toms River, NJ 08753

o: 732.363.0777
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Drive and Stormwater Basins, Harbor View Estates, Block 326, Lot 63) to assure the future completion of said improvements.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey as follows:

1. The acceptance of Spinnaker Drive in the development herein referenced was confirmed by the Township when it released the Performance Guarantee to the Surety.
2. That the Letter of Credit shall remain in effect and not be released until the Township Engineer certifies that all improvements are completed as delineated in T&M Associates Engineer's Estimate – Spinnaker Drive and Stormwater Basins, Harbor View Estates, Block 326, Lot 63, secured by LOC #199600 issued by Amboy Bank, for applicant N.R, LLC, for the beneficiary, Township of Little Egg Harbor. Completion shall be determined at the sole discretion of the Township Engineer and memorialized by approval of a Resolution by the governing body.
3. That a certified copy of this resolution be provided to the Chief Financial Officer, Amboy Bancorporation (Amboy Bank), and the Township Engineer.

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CERTIFICATION

I, KELLY LETTERA, CMC, RMC, Municipal Clerk of the Township of Little Egg Harbor do hereby certify that the foregoing resolution was duly adopted by the Township of Little Egg Harbor Township Committee at a meeting held on the **12th** day of **December, 2024**.



KELLY LETTERA, CMC, RMC
Township Clerk
Little Egg Harbor Township

IRREVOCABLE LETTER OF CREDIT # 199600

RE: Harbor View Estates (Spinnaker Drive & Storm Water Basins)
Block 326 Lot 63
Amount: \$116,340.00
Job No. LEBP-11072
Date: October 29, 2024

Attention:

Kelly Lettera, Little Egg Harbor Township Municipal Clerk
665 Radio Rd
Little Egg Harbor Township, NJ 08087

The standardized form for a Letter of Credit (Performance Guarantee) required by an approving authority pursuant to section 41 of P.L. 1975, c.291 (N.J.S.A. 40:55D-53) shall be as follows:

Block 326 Lot 63

IRREVOCABLE STANDBY LETTER OF CREDIT (Performance) # 199600

Issued by:

Name of Banking Institution: Amboy Bank
Address: 3590 Hwy. 9 South
City/State/ZIP: Old Bridge, NJ 08857
Telephone: 732-591-8700 Fax: 732-591-0638
Issue date: October 29, 2024

Expiration date and time: 2-year, subject to extension
Letter of Credit Number 199600

Beneficiary:

Name: Little Egg Harbor Township
Address: 665 Radio Rd
City/State/ZIP: Little Egg Harbor Township, NJ 08087
Telephone: 609-296-7241

Applicant:

Name: N.R., LLC
Address: 3590 Hwy 9 South
City/State/ZIP: Old Bridge, NJ 08859
Telephone: 732-591-8700

Amount: One Hundred Sixteen Thousand Three Hundred Forty and 00/100
(\$116,340) US Dollars

We hereby issue our irrevocable standby letter of credit in your favor, which is available by your draft at sight bearing our letter of credit number 199600 on October 29, 2024

Your draft must be presented at the office indicated above by personal delivery or by registered or certified mail or courier and must be accompanied by (1) the original standby letter of credit and any subsequent original amendments and (2) an original statement purportedly signed by the municipal engineer of the Township of Little Egg Harbor: "The amount of this drawing under irrevocable Standby Letter of Credit No.199600 issued October 29, 2024, by Amboy Bank, represents the amount due us as a result of the failure of N.R., LLC to complete the work required, (as per the request of Jason A. Worth, the Township Engineer, for the Township of Little Egg Harbor dated September 07, 2024. I hereby certify that notice of the incompletions upon which this drawing is based was given to the applicant by registered or certified mail or by courier on _____ (date to be at least 30 days prior to the date of the engineer's statement). This certification shall be accompanied by a resolution of the Township of Little Egg Harbor governing authority endorsing the findings of the engineer and stating that the improvements have not been approved or accepted.

This letter of credit shall continue in effect until the expiration date and shall be deemed to be automatically extended for a further period of 1 year (not to exceed one year) unless written notice is given by the banking institution by registered or certified mail or by courier to the applicant and the utilities authority at least 60 days prior to the then current expiration date.

In the event of the failure of the applicant to furnish another letter of credit meeting the requirements of N.J.S.A. 40:55D-53.5 and N.J.A.C. 5:36-4.4, or other security meeting applicable legal requirements, at least 30 days prior to the expiration date of this letter of credit, the municipality may draw upon this letter of credit, to the extent allowed by law.

This letter of credit shall expire upon approval or acceptance by resolution of the municipal governing body of all improvements cited in the aforesaid Engineer's estimate or upon replacement of this letter of credit by other security meeting applicable legal requirements. Upon approval or acceptance of some, but not all, of said improvements, a reduction in the amount of this letter of credit shall be granted in accordance with N.J.S.A. 40:55D-53, provided the remaining amount shall be sufficient to secure provision of the improvements not yet approved and that the municipality may require that the remaining amount be 30 percent of the original amount.

All correspondence to the banking institution concerning this letter of credit shall be addressed to the office indicated above.

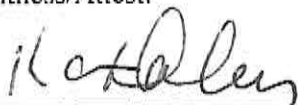
This letter of credit shall inure to the benefit of the beneficiary municipality only and no other party shall acquire any rights hereunder.

This letter of credit is subject to [Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600] or the [International Standby Practices 1998 (ISP98)], Publication No. 590. (Note: Either shall be acceptable.)

We hereby agree with you that drawings under and in compliance with the terms of this letter of credit shall be duly honored upon presentation to us.

Witness/Attest:

Amboy Bank:



Karen Daley

Karen Daley
Executive Administrative Assistant



Michael Skea, Director of OREO



ENGINEER'S ESTIMATE - SPINNAKER DRIVE AND STORMWATER BASINS

TITLE: HARBOR VIEW ESTATES

BLOCK 326 LOT 63

JOB NUMBER: LEPB-11072

BY: JAW

DATE: 9/7/2024

MUNICIPALITY: LITTLE EGG HARBOR

**1144 Hooper Avenue Suite 202
Toms River, NJ 08753**

No.	Item Description	Units	Quantity	Unit Price	Total Cost
1	Mobilization/Site Prep	L.S.	1	\$5,000.00	\$5,000.00
2	Surface Course, F.A.B.C.-1, Mix 1-5, 1.5" Th.	TON	120	\$300.00	\$36,000.00
3	Concrete Sidewalk, 4" Thick	SY	110	\$90.00	\$9,900.00
4	Stormwater Basin Maintenance, Repair and Cleaning (Basins A, B, & C)	L.S.	1	\$20,000.00	\$20,000.00
5	4' High Split Rail Fence (Basin C)	LF	500	\$40.00	\$20,000.00
6	Street Sign	UNIT	3	\$350.00	\$1,050.00
7	Painted Stop Bars and Cross Walks	UNIT	5	\$1,000.00	\$5,000.00

SUBTOTAL = \$96,950.00

TOTAL ESTIMATED CONSTRUCTION COST = \$96,950.00
PERFORMANCE GUARANTEE REQUIRED (120%) = \$116,340.00

THE ABOVE ESTIMATE IS BASED UPON THE CURRENT COST OF COMPARABLE WORK BEING PAID TO QUALIFIED CONTRACTORS IN THE PROJECT AREA. I ACCEPT NO LIABILITY OR RESPONSIBILITY FOR ANY ERRORS, OMISSIONS OR THE ADEQUACY OF ANY AMOUNTS CONTAINED HEREIN.

**JASON A. WORTH, P.E.
TOWNSHIP ENGINEER**