

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2012-147

Council Meeting Date: 05-14-2012

Date Adopted: 05-14-2012

TITLE: RESOLUTION AUTHORIZING RETURN OF ESCROW FUNDS AND SITE PERFORMANCE BOND TO TD BANK

Councilperson Lesnewich submitted the following resolution, which was duly seconded by Councilperson Cucco.

WHEREAS, TD Bank (formally Commerce Bank) has requested return of their escrow funds and performance bond, for a 2007 Planning Board application for preliminary and final site plan approval, in the amounts of \$3,028.38 and \$43,212.56; and

WHEREAS, the Borough Engineer has advised that the applicant received Planning Board approval, confirmed by Resolution 2007-9; and

WHEREAS, the Borough Engineer advises all required fees and expenses have now been paid; and

WHEREAS, the Borough Engineer recommends the release of escrow funds and site performance bond for the 2007 Planning Board application for preliminary and final site plan approval.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of New Providence that escrow funds and site performance bond in the amounts of \$3,028.38 and \$43,212.56 posted by TD Bank (formally Commerce Bank), be returned to said applicant.

APPROVED, this 14th day of May, 2012.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
CUCCO	X			
GALLUCCIO	X			
GENNARO	X			
LESNEWICH	X			
MUÑOZ			X	
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 14th day of May, 2012.

Wendi B. Barry, Borough Clerk

MEMORANDUM

To: Doug Marvin, Borough Administrator

From: Mark Demareski, Assistant Borough Engineer *MD*

CC: Wendi Barry, Borough Clerk (w/attachment)
Keith Lynch, Director of Planning and Development
Andrew R. Hipolit, P.E., Borough Engineer

Dated: May 9, 2012

**RE: Resolution for Final Project Closeout
TD Bank (Formally Commerce Bank)
Project Site Plan Compliance
80 South Street
Block 150, Lot 3 & 4
Our File No. NPP-144**

Attached is Barbara Roth, Officer / Development Services Coordinator dated April 2, 2012 requesting a final project closeout for the above captioned property. A two (2) year maintenance bond was also received from TD Bank in the amount of \$53,679, which represents 15% of the engineer's estimate for the new site work and parking lot improvements and shall be held for two (2) years from the project acceptance date of September 30, 2011.

Per discussion with Barbara Roth and their TD Bank's contractor, Anthony J. Marrazzo, Project Manager Damon G. Douglas Company, the Engineering Department takes no exceptions to the issuance of project closeout, based on a final site inspection and review of the site plans entitled, "Preliminary & Final Major Site Plan Proposed Bank, Block 150, Lot 2 and 3, Borough of New Providence, Union County, New Jersey," prepared by Darl F. Wisotsky, P.E. of Boehler Engineering Associates, LLC, consisting of eleven (11) sheets, dated September 14, 2007.

I hereby recommend the approval for the return of the following to be released per Purchase Order # 43784 for the Planning Board Review Fees in the amount of \$103.98 (Budget Account # 70--002-02023--), Purchase Order # 43786 for the Professional Engineering Escrow to be released in the amount of \$2,294.40 (Budget Account # 70--002-02030--) and Purchase Order # 43785 for the Performance Bond to be released in the amount of \$43,212.56 (Budget Account # 70--002-02031--) to Barbara Roth, TD Bank, U.S. Real Estate Department, 9000 Atrium Way, Mount Laurel, NJ 08054.

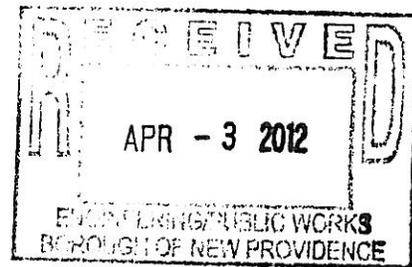
If you have any questions or require additional information, please feel free to contact me.



Bank

America's Most Convenient Bank®

US Real Estate Department
12000 Horizon Way
Mount Laurel, NJ 08054
Phone: (856) 470 - 3330
Fax : (856) 470 - 3224



TRANSMITTAL

TO : Mr. Andrew R. Hipolit, P.E.
Borough Engineer
Borough of New Providence
360 Elkwood Avenue
New Providence, NJ 07974

FROM : Barbara A. Roth, Officer/Development Services Coordinator

SUBJECT : TD Bank – New Providence Maintenance Letter of Credit

DATE : April 2, 2012

REMARKS : PER REQUEST FOR YOUR REVIEW PLEASE COMMENT REPLY ASAP

COMMENTS: ENCLOSED PLEASE FIND THE FOLLOWING FOR THE ABOVE-REFERENCED PROJECT:

Original Irrevocable Letter of Credit (Maintenance) #20005204, dated 3/30/2012 in the amount of \$53,679.00, listing the Borough of New Providence as the beneficiary.
This is a Two Year Maintenance Bond submitted in order to obtain release of the Performance Guarantee. Per the attached letter dated 2/2/2012, all site improvements have been completed to the satisfaction of Maser's Site Inspector and with the acceptance of the enclosed Maintenance bond, the Performance Guarantee will be released to TD Bank.
Thank you.

If you have any questions, or need additional information, please contact me at the number above.

Thank you,
Barbara Roth



Bank

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TD Bank, N.A.
6000 Atrium Way
Mount Laurel, NJ 08054
T: 888-751-9000 F: 856-533-6545
www.tdbank.com

Block(s) 150 **Lot(s)** 3 & 4

IRREVOCABLE STANDBY LETTER OF CREDIT (MAINTENANCE)

ISSUED BY: TD BANK, N. A.
6000 Atrium Way
Mt. Laurel, NJ 08054
Telephone: 856-533-6562
Fax: 856-533-6545

ISSUE DATE: March 30, 2012

EXPIRATION DATE AND TIME: March 30, 2013 at 3:00 PM

LETTER OF CREDIT NO. 20005204

BENEFICIARY: Borough of New Providence
360 Elkwood Avenue
New Providence, NJ 07974

APPLICANT: TD Bank N.A.
6000 Atrium Way
Mount Laurel, NJ 08054

AMOUNT: Fifty-Three Thousand Six Hundred Seventy-Nine and 00/100 USD (\$53,679.00)

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 No. 20005204 on TD Bank, N. A.

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 the following:

1. The original Standby Letter of Credit and any subsequent original amendments.
2. An original statement purportedly signed by the Engineer of Borough of New Providence stating:

"The amount of this drawing under Irrevocable Standby Letter of Credit No. 20005204, issued by TD Bank, N. A. represents the amount due us as a result of the failure of TD Bank N.A. to take necessary corrective action to repair defects in functioning, materials or quality of work in the required site improvements as detailed in the municipal resolution of approval and in that certain Engineer's Estimate entitled "New Providence Engineering Department Site Construction Punchlist" prepared by Andrew R. Hipolit, Borough Engineer and dated April 21, 2008. I hereby certify that notice of the defects upon which this drawing is based was given to the applicant by registered or certified mail or by courier on _____."

This certification shall be accompanied by a resolution of the municipal governing body endorsing the engineer's findings.



Bank

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www.tdbank.com

March 30, 2012
Irrevocable Letter of Credit No. 20005204
Page-2

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 one (1) year unless written notice is given by TD Bank by registered or certified mail or by courier to the applicant and the municipality at least sixty (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 thirty (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.

All correspondence to Commerce Bank, N. A. 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.

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.

Very truly yours,

TD BANK, N. A.

Witness/Attest:

Darleen M. Strieffler
Vice President

Diane Ruch
Assistant Vice President