

TRIPARTITE AGREEMENT

AGREEMENT made this 22ND day of AUGUST, 2017, by and between THE TOWN OF GRAFTON PLANNING BOARD, a Massachusetts Municipal Corporation, having its principal place of business at 30 Providence Road, Grafton, Worcester County, Massachusetts (hereinafter referred to as the "Board"); and ELITE HOME BUILDERS, LLC, a Massachusetts Corporation, having a usual place of business at 1 Golden Court, Westborough, Worcester County, Massachusetts (hereinafter referenced as the "Applicant"); and WEBSTER FIVE CENTS SAVINGS BANK, a Massachusetts Banking Corporation, having a principal place of business at 100 Front Street, Worcester, Massachusetts, (hereinafter referenced as "Lender"), to secure the construction of ways and the installation of municipal services serving the subdivision shown as GRISTMILL VILLAGE on a plan entitled "GRISTMILL VILLAGE DEFINITIVE PLAN CONVENTIONAL SUBDIVISION," prepared by J.M. Grenier Associates, Inc., which plan is recorded with the Worcester District Registry of Deeds in Plan Book 922, Plan 118, which premises are owned by ELITE HOME BUILDERS, LLC (the "Subdivision").

WHEREAS, the Applicant and the Board have executed a Covenant dated June 21, 2016, and recorded with said Deeds in Book 56133, Page 277, to secure completion of the road and installation of municipal services shown on the Plan in accordance with M.G.L c.41, §81U;

WHEREAS, in accordance with G.L. c. 41 §81U, the Board requires certain performance guarantees consistent with the following:

- 1) Decision granting the Application for Approval for a Definitive Subdivision Plan dated December 1, 2015; and

WHEREAS, Applicant has executed a Construction Mortgage, Security Agreement and Assignment to the Bank dated October 14, 2016, and recorded with the Worcester County Registry of Deeds at Book 56133, Page 282.

NOW THEREFORE, the parties agree as follows:

1. The Applicant will complete the construction of Applicant's Obligations to the reasonable satisfaction of the Board and shall submit "As Built" drawings evidencing same no later than _____.

2. In order to secure performance of the Applicant's Obligations, Lender hereby agrees to withhold from the proceeds of its above mortgage the sum of \$384,000.00. Lender agrees to make these funds available pursuant to this Agreement and will not permit any withdrawal except as authorized hereunder.
3. In the event that performance of the Applicant's Obligations are not completed to the reasonable satisfaction of the Board by _____, any funds remaining undisbursed by Lender shall be immediately available to the Board for completion of said Applicant's Obligations and for payment of any legal expenses and/or accomplish completion of the said obligations.
4. Lender shall disburse the funds to the Board only upon receipt by Lender of a certified copy of a vote of the majority of the Board authorizing Lender to release funds, stating the amount of such funds being requested. Lender shall have the right to rely on said vote and shall not be obligated to make further inquiry or approval of the Applicant for its actions in reliance thereon.
5. Lender's liability hereunder will decrease as the work progresses upon receipt by the Lender of release certificates endorsed by at least three members of the Board and said releases containing original signatures. Lender shall have the right to rely on said written certificates from the Board without further inquiry and shall be relieved of liability to the Applicant and the Board for its actions in reliance thereon. Failure on the part of the Board to execute the said written releases will not relieve Lender from its agreement hereunder.
6. Until this Agreement is released the Board shall have recourse to Lender for all the undisbursed funds, notwithstanding any transfer of title, assignment, bankruptcy or imposition of lien by or against Applicant.
7. Upon completion of the Applicant's Obligations, all as reasonably satisfactory to the Board, the said Applicant and Lender shall receive a written release of their agreement hereunder from the Board.
8. Notwithstanding anything contained herein to the contrary, the Lender shall have the right at any time prior to completion of the work, to deposit the balance of undisbursed funds in a savings account in the name of the Town of Grafton, and shall be released from further liability to the Town and to the Applicant of its obligation under this Agreement.
9. Any amendments to this Agreement and to the aforesaid security shall be agreed upon, in writing, by all parties to this Agreement.
10. The Applicant shall promptly record this Agreement in the Worcester County Registry of Deeds.

IN WITNESS WHEREOF, we have hereunder set our hands and seals this 22 day of AUGUST, 2017.

APPLICANT:

ELITE HOME BUILDERS LLC

By: 
Steven Venincasa
Manager

LENDER:

WEBSTER FIVE CENTS SAVINGS
BANK

By: 
VICE PRESIDENT

Signatures of a Majority
of the Planning Board
of the TOWN OF GRAFTON

[need notary blocks]

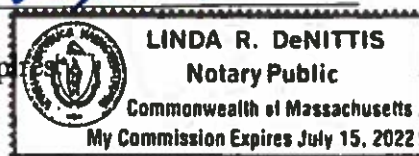
THE COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 22 day of August, 2017, before me, the undersigned notary public, personally appeared Steven F. Venincasa, the Manager and Authorized Signatory for Elite Home Builders LLC, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose and as his free act and deed as the Manager and Authorized Signatory for Elite Home Builders LLC and as the voluntary act of Elite Home Builders LLC.

Linda R. DeNittis

Notary Public
My Commission Expires:



THE COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 22 day of August, 2017, before me, the undersigned notary public, personally appeared Robert J. Kelley, Jr., Vice President/Business Loan Officer of Webster Five Cents Savings Bank, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose and as his free act and deed as Vice President/Business Loan Officer of Webster Five Cents Savings Bank and the voluntary act of Webster Five Cents Savings Bank.

Linda R. DeNittis

Notary Public
My Commission Expires:

