

**CITY OF COLOGNE
RESOLUTION NO. 24-01
RESOLUTION APPROVING REDUCTION OF LETTER OF CREDIT**

WHEREAS, the City of Cologne, Minnesota (the “**City**”) and Loomis Development, LLC (the “**Developer**”) are parties to a Developer’s Agreement (the “**Agreement**”) regarding the development of certain improvements related to the Winkler Crossing 5th Addition to the City of Cologne; and

WHEREAS, pursuant to the Agreement, Developer has maintained a letter of credit (the “**Security**”) in the original amount of \$1,436,170 as security for its faithful performance of its obligations under the Agreement; and

WHEREAS, the Agreement allows for the reduction of the total amount of the Security upon request of the Developer based on the value of the completed work, subject to the approval of the City Engineer and the City Council to an amount not less than twenty-five percent (25%) of the original amount of the Security prior to the Developer’s completion and the City’s acceptance of all work required by the Agreement; and

WHEREAS, pursuant to the Agreement, Developer has also maintained an additional security in a lesser amount (the “**Additional Security**”), which is additional to the Security; and

WHEREAS, the Additional Security may not be reduced or released prior to the Developer’s completion and the City’s acceptance of all work required by the Agreement; and

WHEREAS, the Developer has requested a reduction of the Security based on the amount of work which has been completed and the amount of work which remains to be completed; and

WHEREAS, the City Engineer has reviewed the request, and has determined that the cost of work remaining under the Agreement amounts to \$247,126.15; and

WHEREAS, the City Engineer has, in a letter attached hereto as EXHIBIT A, recommended approving a reduction in the Security to twenty-five percent (25%) of the original amount of the Security, which is \$359,042.50.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLOGNE, MINNESOTA, THAT:

1. The recitals above and the exhibits therein referenced are hereby incorporated and adopted as findings of fact;
2. That the Developer has demonstrated that it is eligible for a reduction in the Security for the Winkler Crossing 5th Addition Developer’s Agreement;
3. That the Developer may provide a replacement letter of credit, identical to the original Security with respect to form and terms, except in the reduced amount of \$359,042.50; and
4. Upon receipt of the replacement letter of credit, the City Clerk is directed to return the original Security to Developer for cancellation.

[Approval And Signature Page to Follow]

Adopted and approved by the City Council of the City of Cologne on a vote of 4 ayes and 0 nays effective on the 16th day of January, 2024.

Approved:



Matt Lein
Mayor

Attested:



Michelle Morrison
City Clerk

M/ Bruss

Lein yes Szaroletta yes Kells absent

S/ Lenzen

Bruss yes Lenzen yes

Exhibit A



Real People. Real Solutions.

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Bolton-Menk.com

January 11, 2024

City of Cologne
Attn: Michelle Morrison
1211 Village Parkway
PO Box 120
Cologne, MN 55322

RE: Winkler Crossing 5th Addition
Letter of Credit Reduction Request No 1- Revised

Dear Ms. Morrison:

We have reviewed the Letter of Credit reduction requested by Loomis Development in their letter dated December 15, 2023, together with the estimated amount of work remaining on the project as of this writing.

The amount of work remaining in the bid is \$247,126.15. (excluding lighting and signage). The Letter of Credit amount is $\$247,126.15 \times 1.25 = \$308,907.69 + \$40,000 = \$348,907.69$. Including the additional security of \$40,000.

The original Letter of Credit amount for construction is \$1,436,170. The Developers Agreement limits the reduction of the Letter of Credit to 25% of the original amount until completion of the project, plus the additional \$40,000 security. Thus, we recommend the Letter of Credit can be reduced to \$359,042.50 ($\$1,436,170 \times 0.25$), plus the additional \$40,000 security.

We are available to discuss this matter at your convenience.

Respectfully Submitted,
Bolton & Menk, Inc.

John K. Swanson

cc: Jake Saulsbury, P.E.
Cristophe Morschen

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