

RESOLUTION NO. 2008-641

RESOLUTION OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, ACCEPTING PERFORMANCE SURETY BOND SUBMITTED ON BEHALF OF D&F BARNEGAT DEVELOPMENTS, LLC AND JW BUILDING OF BARNEGAT, INC.

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (the "Township"), has been advised by the Township Solicitor that Performance Surety Bonds (Bond No. SUR0000102 and SUR0000101) have been submitted to the Township by Argonaut Insurance Company on behalf of D&F Barnegat Developments, LLC and JW Building of Barnegat, Inc.; and

WHEREAS, the bonds have been submitted to insure proper installation of sanitary sewer facilities (Bond SUR0000102 in the amount of \$276,561.00) and water facilities (Bond No. SUR0000101 in the amount of \$593,606.00) (hereinafter collectively referred to as the "bonds"); and

WHEREAS, the bonds have been submitted on behalf of the developer to replace cash guarantees previously posted with the Township in the same amounts, in addition to the required ten (10%) percent of cash guarantees submitted for each of the proposed improvements, more specifically \$30,729.00 representing the ten (10%) percent cash guarantee for the sanitary sewer facilities and \$69,956.00 representing the cash guarantee for the water facilities; and

WHEREAS, the Township has been advised by the Township Solicitor that each of the proposed performance surety bonds are acceptable as to form and content, and therefore the Township should accept the bonds and release to the aforementioned developers the previously posted cash guarantees in the amount of \$276,561.00 and \$593,606.00; and

WHEREAS, replacement of the surety bonds is permitted, and in accordance with the provisions of the New Jersey Municipal Land Use Law and the Township Land Use Ordinances:

NOW, THEREFORE, BE IT RESOLVED, this 15th day of December, 2008, by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

1. The Township accepts the recommendations of its professional staff and accepts the two (2) aforementioned performance surety bonds. The Township further directs the Township CFO to return to the developer the cash performance guarantees previously posted for which these performance bonds have been submitted in replacement thereof, but continue retaining the ten (10%) percent cash surety in the amount of \$30,729.00 (sanitary sewer facilities) and \$69,956.00 (water facilities).

2. The Township authorizes and directs the Mayor, Township Clerk, Township Administrator and Township CFO to execute any and all necessary documents in order to implement the intent of this Resolution.

3. A certified copy of this Resolution shall be forwarded by the Township Clerk to the following:

- (a) Honorable Jeffrey Melchiondo, Mayor;
- (b) David Breeden, Township Administrator;
- (c) Kathleen Janeski, CFO;
- (d) Laurence Rothstein, Esq., Attorney for developer; and
- (e) Jerry J. Dasti, Esq.

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township Committee of the Township of Barnegat at a regular meeting held on December 15, 2008, a quorum being present and voting in the majority.

KATHLEEN T. WEST, Township Clerk

Prepared by:

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CHERKOS & CONNORS
Forked River, New Jersey 08731