

**RESOLUTION NO. #2010-386**

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF  
THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN,  
STATE OF NEW JERSEY, DECLARING A DEFAULT BY  
FORTE BUILDERS LLC AND BOND SAFEGUARD  
INSURANCE COMPANY WITH REGARD TO SITE  
IMPROVEMENTS WHICH NEED TO BE INSTALLED IN  
CONJUNCTION WITH THE BAY AVENUE ESTATES  
PROJECT.**

**WHEREAS**, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (hereinafter referred to as the "Township") has accepted a site improvement performance bond from Bond Safeguard Insurance Co. (hereinafter referred to as the "bonding company") which Bond is dated October 25, 2006 (Bond # 5022252) on behalf of the Developer of Bay Avenue Estates (hereinafter referred to as the "project"), Forte Builders, LLC ("Forte"); and

**WHEREAS**, the Township has been advised by its consulting engineer for this project that numerous site improvements had not been completed; and

**WHEREAS**, the Township, through its representatives, has notified on numerous occasions both the bonding company and Forte of its obligation to complete the site improvements or run the risk that the project and the performance bond will be declared in default; and

**WHEREAS,** both Forte and the bonding company have refused to complete the site improvements, and therefore the Township is left with no alternative but to declare the default in the project and the performance bond so that the site improvements can be completed in order to best protect the health, safety and welfare of the neighbors in and around the project.

**NOW, THEREFORE, BE IT RESOLVED,** this 7th day of September, 2010 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 declares a default in the performance of the project and in the performance bond issued by the bonding company in as much as both Forte Builders, LLC and the bonding company have failed to complete all required site improvements.
2. The Township authorizes and directs the Mayor, Township Clerk, Township Administrator and Township professional staff to execute any and all necessary documents in order to implement the intent of this resolution.
3. A copy of the Resolution shall be forwarded by the Township Clerk to the following:
  - a. Honorable Jeffrey Melchiondo, Mayor
  - b. David Breeden, Township Administrator
  - c. Jerry J. Dasti, Esq.

- d. Kathleen Janeski, Township CFO
- e. Remington, Vernick and Vena, Attn: Wayne McVicar
- f. Forte Builders, LLC
- g. Bond Safeguard Insurance Company, Attn: David Morgan

### **CERTIFICATION**

I certify that the foregoing Resolution was duly adopted by the Township of Barnegat at a regular meeting held on September 7, 2010, a quorum being present and voting in the majority.

**KATHLEEN WEST, TOWNSHIP CLERK**

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,  
CHERKOS & CONNORS  
Forked River, New Jersey 08731

DASTI, MURPHY  
McGUCKIN, CHERKOS  
& CONNORS  
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