

RESOLUTION NO. 2012-585

**RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE OF
BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY,
AUTHORIZING ACCEPTANCE OF CLOSE-OUT DOCUMENTS,
RELEASE OF PERFORMANCE BONDS AND ACCEPTANCE OF
MAINTENANCE GUARANTEES FROM FORTE BUILDERS, LLC FOR
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 initiated litigation against Forte Builders, LLC ("Forte") and its bonding company seeking completion of sanitary sewer, water and site improvement facilities in the Bay Avenue Estates project (hereinafter referred to as the "project");

WHEREAS, the litigation has been successfully completed in favor of the Township, including the fact that all site improvements have been properly concluded and Forte has reimbursed the Township for litigation expenses and attorneys fees expended in the litigation; and

WHEREAS, as part of the resolution of the litigation, Forte and its bonding company have provided two (2) year maintenance guarantees for the site improvements, water and sanitary sewer facilities; and

WHEREAS, Forte has provided appropriate close-out documents in conjunction with the aforementioned improvements, all of which have been properly reviewed and found to be acceptable by the Township Attorney and Township Consulting Engineer for the project;

WHEREAS, the Township is therefore authorized, in accordance with its rules and regulations, to accept the close-out documents and Maintenance Guarantees after the improvements have been successfully installed and completed:

NOW, THEREFORE, BE IT RESOLVED, this 3rd day of December, 2012, 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 the Township Attorney and Township Consulting Engineer and accepts the close-out documents and Maintenance Guarantees posted on behalf of Forte Builders, LLC by its bonding company.

2. The Township authorizes a release of the Performance Bonds for the project.

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

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

- (a) Honorable Alfonse Cirulli, Barnegat Township Mayor;
- (b) David Breeden, Township Administrator;
- (c) Jerry J. Dasti, Esquire;
- (d) Steven Williams, P.E., Remington, Vernick & Vena;
- (e) Kathleen Janeski, CFO

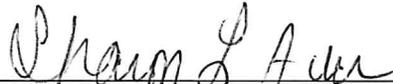
**DASTI, MURPHY
McGUCKIN, ULAKY,
CHERKOS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD
P.O. BOX 1057
FORKED RIVER, N.J. 08731

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township of Barnegat at a meeting held on November 3rd, 2012, a quorum being present and voting in the majority.



SHARON AUER, ACTING TOWNSHIP CLERK

Prepared by:

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

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Forte-Bay Avenue Estates GL-18679\Resolution auth acceptance of closeout docs.doc

**DASTI, MURPHY
McGUCKIN, ULAKY,
CHERKOS & CONNORS**

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FORKED RIVER, N.J. 08731

DASTI, MURPHY, McGUICKIN, ULAKY, CHERKOS & CONNORS

GEORGE F. MURPHY, JR. † B
JERRY J. DASTI
GREGORY P. McGUICKIN
ROBERT E. ULAKY ‡ >
RUSSELL P. CHERKOS
CHRISTOPHER J. CONNORS
CHRISTOPHER K. KOUTSOURIS T
CHRISTOPHER J. DASTI

† CERTIFIED CIVIL TRIAL ATTY
‡ MEMBER, NATIONAL ACADEMY OF
ELDER LAW ATTORNEYS, INC
B MEMBER NJ AND FLA BAR
> MEMBER NJ AND PA BAR
T MEMBER NJ AND NY BAR

A Professional Corporation
COUNSELLORS AT LAW
THE CLOCK TOWER BUILDING
620 WEST LACEY ROAD
POST OFFICE BOX 1057
FORKED RIVER, NEW JERSEY 08731

E-MAIL: forkedriver@dmmlawfirm.com

WRITER'S E-MAIL: jdasti@dmmlawfirm.com

November 5, 2012

Fed I.D. #22-3450668

TELEPHONE NUMBERS

(609) 971-1010
(609) 693-4100
(732) 349-2446
(732) 295-3000
(609) 918-1292

FACSIMILE NUMBERS

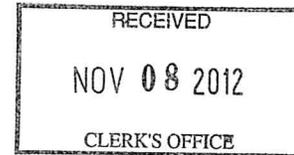
(609) 971-7093
(732) 349-1590
Real Estate: (609) 971-6176

PLEASE REFER TO:

Barneget – Bay Avenue Estates
*GL-18679

Via Email and Regular Mail
Sharon Auer, Acting Clerk
Township of Barneget
900 West Bay Avenue
Barneget, New Jersey 08005

RE: Township of Barneget v. Forte Builders, LLC and
Contractor's Affidavit
Docket No.: L-4057-10



Dear Ms. Auer:

We are pleased to enclose the original, fully executed and properly completed close-out documents from the developer, Forte Builders, LLC. The Contractor's Affidavit, Resolution of Sale, Bill of Sale and Application for Certification of Completion for the water system is acceptable. We, therefore, recommend that these close-out documents be accepted by the Township.

The Township has received the upgraded Maintenance Bonds which we believe are in the correct amount for the water, sanitary sewer and site improvements. We, therefore, recommend that the Township consider adopting the appropriate Resolution authorizing acceptance of the close-out documents and authorizing a release of the Performance Guarantees. Again, if you would like our office to prepare that Resolution for the next meeting of the Township Committee, please advise.

In the event that you have any further questions, or we can be of additional assistance, please do not hesitate to contact our office.

Very truly yours,

A handwritten signature in black ink, appearing to read "JERRY J. DASTI".

JERRY J. DASTI

JJD/lh
Enclosures

Cc: David Breeden, Township Administrator (w/encls.) *via email*
Steven Williams, PE, Remington & Vernick (w/encls.) *via email* - steven.williams@rve.com

CONTRACTOR'S AFFIDAVIT

STATE OF NEW JERSEY}
:SS.
COUNTY OF OCEAN}

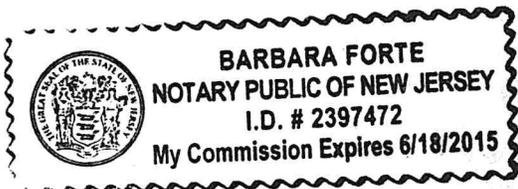
WAYNE FORTE of full age, being duly sworn, according to law upon his oath disposes and says that:

- 1. I am an officer of FORTE BUILDERS LLC a Corporation of the State of NJ, said Corporation being the owner of the property designated in BARNEGAT TWP attached hereto and made a part thereof.
2. I do hereby state and represent that all subcontractors and material men who have supplied any labor and/or material on the aforementioned property have been or are being paid in full in accordance with an agreement entered into between the above mentioned Corporation and the supplier of contract, and that no stop notice, mechanics' notice of intention and/or mechanics' lien or any other lien has been filed against the aforesaid premises, which would adversely affect the easement granted to the Township of Barnegat.

Wayne Forte

Sworn to and subscribed to
Before me this 23 day of October, 2012

Barbara Forte



RESOLUTION OF SALE

Be it resolved that the transaction referred to, being herewith approved, WAYNE FORTE ^{WRP} President and MEMBER LLC ^{WRP} Secretary of this Corporation ^{WRP} and they are hereby direct, authorized and empowered to execute, acknowledge and deliver such documents, instruments and papers and perform such acts as may be legally, properly and reasonably required or necessary for the purpose of:

I, WAYNE FORTE ^{WRP} MEMBER LLC ^{WRP} Secretary of a Corporation of FORTE BUILDERS LLC ^{WRP} certify that the foregoing is a true copy of a Resolution as it appears in the records of the Corporation and as was duly and legally adopted at a meeting of the Board of Directors of the Corporation called for that purpose and held on 10/23/12 ^{WRP} pursuant to and in accordance with the Certificate of Incorporation and By-laws thereof; that it has not been modified, amended or rescinded and is in full force and effect as of the date hereof.

Dated: 10/23/12

Wayne Forte
President MEMBER

Attest: Dorlene Forte
Secretary

BILL OF SALE

Know all men by these presents:

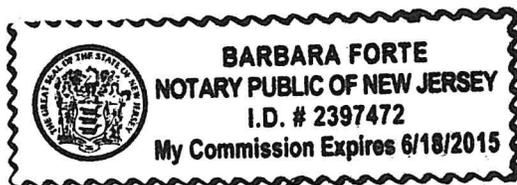
That FORTE Builders LLC, for and in consideration of the Township of Barnegat, Barnegat, New Jersey granting to FORTE Builders LLC for the installation of water mains. The aforesaid FORTE Builders LLC does hereby convey and transfer all of its right, title and interest in and to said water mains and all the appurtenances connected thereto for the operation of said water mains to the aforesaid Township of Barnegat.

The said FORTE Builders LLC does hereby warrant and represent that all equipment, materials, and labor have been paid for in full.

To have and to hold the same unto the Township of Barnegat forever; and FORTE BUILDERS LLC covenants and chattels unto the Township of Barnegat against all and every person or persons, except as otherwise herein stated.

All the terms, covenants and conditions herein contained shall be for and shall be for and shall insure to the benefit of and shall bind the respective parties hereto, and their legal representatives, successors and assigns. In all references herein to any parties, persons, entities or corporations the use of any particular gender or the plural or singular number is intended to include the appropriate gender of number as the text of the within instrument may require.

In witness whereof, WAYNE FORTE has caused this instrument to be signed by its proper corporate officers and its corporate seal to be affixed, this 23 day of OCTOBER in the year 2012.



Barbara Forte

EXHIBIT D

Certification of Completion No. _____

TOWNSHIP OF BARNEGAT

Application for Certification of Completion
For
Water system Facilities

1. Applicant's name: FORTE Builders LLC
Address: 1767 Whitesville Rd Phone: (908) 783-9092
TOMS RIVER NJ 08755
2. Name and address of present owner if other than above:
NA
3. Final Application No.: _____
Date of approval: _____
4. Dates of construction:
Starting: 2006 Finishing: 2011
5. Have as-built plans for the construction been submitted to the Township Engineers? Yes No
6. Have the legal documents been drawn up and received by the Township, transferring interest in the water system facilities to the Township? Yes No

Wayne Forte 10/23/12
Signature of Applicant Date

For Official Use Only

Date received: _____

Township Engineer's Remarks: _____

EXHIBIT D

Date as-built plans received: _____

Date conveyance of facility received: _____

Action of the TOWNSHIP OF BARNEGAT

Remarks: _____

Approved: _____ Disapproved: _____

Certificate of Completion granted: _____
(date)

Township Clerk: _____