

TOWNSHIP OF MOORESTOWN

RESOLUTION NO. 57-2013

**AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE FOR
MILLER ESTATES (BLOCK 8600, LOTS 2.01 THROUGH 2.05)**

WHEREAS, the initial performance guarantee was submitted by the developer, Nutmeg Development Corporation, in the form of Performance Bond No. S05819 dated December 14, 2001 from First Indemnity of America Insurance Company in the amount of \$249,821.12 and in the form of cash in the amount of \$27,646.80, for a total of \$276,467.92 for the project known as Miller Estates, also known as Block 8600, Lots 2.01 through 2.05 on the Tax Maps of the Township of Moorestown; and

WHEREAS, the initial performance guarantee was reduced to \$116,043.00 via Township Council Resolution No. 27-2005 on January 10, 2005; and

WHEREAS, the project was sold to Ackerman & Pratt a/k/a Wharton Acres LLC; and

WHEREAS, Wharton Acres LLC submitted a performance guarantee in the form of a Performance Bond No. B988 160 12551 dated November 15, 2005 from American Southern Insurance Company in the amount of \$104,438.70 and a cash bond was transferred to Account No. 44-00-75 for the total reduced bond amount of \$116,043.00; and

WHEREAS, Wharton Acres LLC has requested a release of the total performance guarantee submitted for that project; and

WHEREAS, the Planning Board Engineer, Christopher Noll, PE of Environmental Resolutions, Inc., has inspected the improvements completed to date, and has indicated in a letter dated December 13, 2012 that all improvements have been completed as shown on the approved plans and recommends a release of the performance guarantee upon posting of a maintenance guarantee and an inspection escrow; and

WHEREAS, the developer has submitted the required Maintenance Bond No. B98816025264 dated December 31, 2012 from American Southern Insurance Company in the amount of \$34,558.50; and

WHEREAS, the developer has posted a maintenance inspection escrow in the amount of \$1,727.93 as recommended by the Township Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey, that it hereby releases the above-referenced performance guarantee as recommended.

BE IT FURTHER RESOLVED by the Township Council that this release of the applicant's bonding obligation be conditioned upon the payment of all fees incurred by the municipality to the Township Engineer or other professionals in connection with any inspection and report concerning the improvements covered by said bond; and if there be a sufficient sum held in escrow by the Township of Moorestown for the purpose of paying for said inspections and report, said escrow may be utilized for that purpose and in the absence of a sufficient escrow said fees shall be paid by the obligor directly, pursuant the N.J.S.A. 40:55D-53(h).

VOTE:

JORDAN
CHIACCIO
NEWCOMER
NAPOLITANO
GARWOOD

Certified to be a true and correct copy of a resolution adopted by the Township Council of the Township of Moorestown at its meeting on January 28, 2013.

Patricia L. Hunt, Township Clerk