

RESOLUTION 2024-065

RESOLUTION OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY RELEASING THE PERFORMANCE GUARANTY FOR THE HIGH GATE AT CHATHAM SUBDIVISION

WHEREAS, the Planning Board granted preliminary and final approval to Fenix-Chatham I, LLC and Fenix-Chatham II, LLC (collectively, the “Developer”) for the project commonly known as High Gate at Chatham Subdivision, at the property located at Block 33, Lots 1, 1.01, 1.02, 14, 14.01, 17, & 20, Block 32, Lot 2.01, and Block 9, Lots 1 & 1.01 (the “Project”); and

WHEREAS, said approvals required, in accordance with the requirements of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the developer's agreement between the Developer and the Township, the posting of a performance guaranty to secure completion of the public improvements that were part of the Project; and

WHEREAS, the original total performance guaranty posted by the Developer consisted of Performance Bond No. 0595809 in the sum of \$971,614.06, and a cash portion in the sum of \$107,957.12 for a total of \$1,079,571.18; and

WHEREAS, the Developer originally posted Bond No. 0595809 issued on December 4, 2013 by the International Fidelity Insurance Company; and

WHEREAS, said bond was released and returned to International Fidelity upon the condition that International Fidelity issue a replacement bond acceptable to the Township, pursuant to Resolution 2016-215; and

WHEREAS, Bond No. NRIFSU 0595809 issued on November 1, 2016 as submitted by Fenix-Chatham I, LLC Fenix-Chatham II, LLC Long View at Chatham, LLC c/o Ronald Gunn in the amount of \$971,614.06, issued by International Fidelity Insurance Company was accepted by the Township; and

WHEREAS, as set forth by Township Engineer, John K. Ruschke, P.E. (the “Township Engineer”) in his letter dated April 20, 2017 the public improvements were substantially completed to the extent that the performance guaranty was reduced to the amount of \$323,871.35, to cover the remaining work described by the engineer's report, with the performance bond being reduced to \$215,914.23 and the cash portion remaining in the sum of \$107,957.12 for a total of \$323,871.35; and

WHEREAS, in a letter dated January 29, 2024, the Township Engineer set forth that the remaining performance guarantee in the sum of \$323,871.35 may be returned to the Developer upon the conditions that a maintenance guarantee in the amount of \$161,935.68 (15% of original performance guarantee amount of \$1,079,571.18) be provided to the Township in accordance with resolutions of the Planning Board adopted on June 4, 2012 and May 16, 2022, which will be released two years after the adoption of this resolution in accordance with Township Code Section 30-61.4.i., and payment of any/all outstanding fees and costs owed by the Developer to the Township in connection with the Project.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, that in accordance with the letter of the Township Engineer dated January 29, 2024, the performance guaranty posted by the Developer is hereby released, upon the conditions that a maintenance guarantee in the amount of \$161,935.68 (15% of original performance guarantee amount of \$1,079,571.18) be provided to the Township in accordance with resolutions of the Planning Board adopted June 4, 2012 and May 16, 2022, which will be released two years after the adoption of this resolution in accordance with Township Code Section 30-61.4.i., and payment of any/all outstanding fees and costs owed by the Developer to the Township in connection with the Project.

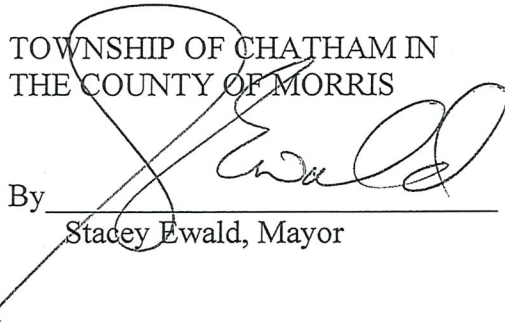
Adopted: February 27, 2024

Attest:



Gregory J. LaConte, Clerk

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

By 

Stacey Ewald, Mayor