

A RESOLUTION OF THE TOWNSHIP OF MOUNT OLIVE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, MODIFYING THE RESOLUTION AUTHORIZING THE RELEASE OF CASH AND PERFORMANCE BONDS, AND INSPECTION FEES TO SIEMENS HEALTHCARE DIAGNOSTICS INC. FOR SITE IMPROVEMENTS AT 62 FLANDERS-BARTLEY ROAD, BLOCK 5400, LOTS 25 & 26 AND FOR ROAD IMPROVEMENTS TO FLANDERS-BARTLEY ROAD ADOPTED BY TOWNSHIP COUNCIL ON MARCH 3, 2015

WHEREAS, Siemens Healthcare Diagnostics Inc. (“Siemens”) previously issued and submitted cash and performance bonds as follows:

Site Improvements – 62 Flanders-Bartley Road, Block 5400, Lots 25 & 26

10% Cash Bond	\$458,871.48
90% Performance Bond	<u>\$4,129,843.32</u>
Total Amount	\$4,588,714.80

Road Improvements to Flanders-Bartley Road

10% Cash Bond	\$7,331.16
90% Performance Bond	<u>\$65,980.44</u>
Total Amount	\$73,311.60

; and

WHEREAS, pursuant to Resolution adopted on March 3, 2015, annexed hereto, the Township Council released the cash and performance bonds posted by Siemens for site improvements at 62 Flanders-Bartley Road, Block 5400, Lots 25 & 26 (cash bond \$458,871.48; performance bond \$4,129,843.32) and for road improvements to Flanders-Bartley Road (cash bond \$7,331.16; performance bond \$65,980.44) in full to Siemens subject to conditions listed in that Resolution; and

WHEREAS, the March 3, 2015 resolution indicated that the bonds shall not be released until those conditions were fulfilled by Siemens to the satisfaction of the Township Engineer; and

WHEREAS, the March 3, 2015 resolution also indicated that the monies being held in escrow for inspection fees shall be released with the exception of \$5,000 which shall be retained for final inspections of landscaping and lighting shields; and

WHEREAS, pursuant to letter dated February 11, 2015, the Township Engineer had recommended that the cash and performance bonds listed hereinabove be released in full to Siemens subject to the following conditions:

1. Posting by Siemens of a 15% 2-year maintenance bond as follows:
 - a. Site Improvements: \$688,307.22
 - b. Road Improvements: \$10,996.74

2. Posting by Siemens of a cash bond in the amount of \$70,000 for the installation of thirty-three (33) trees along the East side of the privacy fence by May 30, 2015 and in accordance with the buffer plan submitted by the correspondence from Siemens dated February 3, 2015.

3. Siemens shall ensure that the row of parking lot lighting closest to the Flanders Crossing lots shall remain programmed to turn off at 10:00 p.m.
4. Siemens shall install shields on the row of lighting closest to the Flanders Crossing lots by April 15, 2015.

; and

WHEREAS, subsequent to the Township Council's adoption of the March 3, 2015 resolution, Siemens contacted the Township Engineer and notified the Township Engineer that the Developer's Agreement entered into between Siemens and the Township only required the delivery by Siemens to the Township of a maintenance bond for the municipal improvements and not the site improvements; and

WHEREAS, the Township Engineer is in agreement that, pursuant to the Developer's Agreement, Siemens is only required to deliver to the Township a maintenance bond for the municipal improvements; and

WHEREAS, the March 3, 2015 resolution adopted by Township Council required the posting by Siemens of a 15% 2-year maintenance bond for site improvements in the amount of \$688,307.22 and a 15% 2-year maintenance bond for road improvements in the amount of \$10,996.74; and

WHEREAS, the March 3, 2015 resolution adopted by Township Council should only have required the posting by Siemens of a 15% 2-year maintenance bond for road improvements in the amount of \$10,996.74.

NOW THEREFORE BE IT RESOLVED by the Township of Mount Olive, in the County of Morris and State of New Jersey, as follows:

1. The March 3, 2015 resolution is modified to remove the condition of the posting by Siemens of a 15% 2-year maintenance bond for site improvements in the amount of \$688,307.22.
2. All other terms and conditions of the March 3, 2015 resolution remain in full force and effect.

This resolution will take effect immediately upon its passage.

TOWNSHIP OF MOUNT OLIVE

JOE NICASTRO
Mount Olive Township Council President

I hereby certify the above to be a true copy of a resolution passed by the Mount Olive Township Council at a duly convened meeting held on March 31, 2015.

LISA M. LASHWAY
Mount Olive Township Municipal Clerk