

A RESOLUTION OF THE TOWNSHIP OF MOUNT OLIVE, IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY, AUTHORIZING THE RELEASE OF PERFORMANCE GUARANTEES AND CASH BONDS POSTED BY AIG BAKER FOR THE ITC CROSSINGS SHOPPING CENTER PROJECT

WHEREAS, AIG Baker Mount Olive, LLC (“AIG Baker”), in accordance with (1) the Developer’s Agreements with the Township of Mount Olive (the “Township”) dated September 28, 2000, relative to the ITC Crossings Shopping Center Project (the “Project”), and (2) the Road Construction Agreement with the Township also dated September 28, 2000, was required to post performance guarantees in the form of cash escrows, surety bonds, and letters of credit to guarantee installation of all infrastructure improvements and to provide payment security for vendors who supplied materials used in the construction of the Connector Road for the Project; and

WHEREAS, AIG Baker was also required to post certain two-year maintenance bonds upon completion of portions of the ITC Project; and

WHEREAS, the cash escrows, surety bonds, letters of credit, and maintenance bonds posted with the Township of Mount Olive are described with their present values, inclusive of accumulated interest through March 21, 2016 on any cash escrows:

I. Preliminary Developer’s Agreement AIG/FTZ South (Parcels A&B)

Cash Posted:	\$548,061.00
Cash Returned:	\$200,286.36
Cash Balance:	\$395,231.93

II. Final Developer’s Agreement AIG/FTZ South (Connector Road)

Cash (Connector Road):	\$610,253.60
Surety Bond (Connector Road): #76SB103368745	\$1,974,874.00

Cash (Monuments):	\$15,989.07
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Surety Bond (Parcel A): #76SB103368746	\$1,354,613.76
Maintenance Bond (Parcel A): #103994204	\$225,876.00

Surety Bond (Parcel B): #76SB103368747	\$1,775,358.00
Maintenance Bond (Parcel B): #103994205	\$295,893.00

III. ITC South (Link Road)

Cash:	\$31,384.03
Surety Bond: #76SB103368749	\$250,864.56
Maintenance Bond: #103994206	\$41,810.00

IV. ITC South (Goldmine Road)

Cash:	\$30,821.23
Surety Bond (Goldmine Road): #76SB103368748	\$246,358.80
Maintenance Bond: #104033765	\$41,060.00

V. AIG Road Construction Agreement (RCA Cash Escrow)

Cash:	\$803,739.12
Surety Letter of Credit Posted:	\$2,250,000.00
Surety LOC Reduced To: #76SB103801092	\$500,000.00

WHEREAS, the Township Engineer made an inspection of the Project in August 2002 and January 2003, and determined that significant portions of the infrastructure work for which the performance guarantees were requested had been satisfactorily completed, as set forth in the Township Engineer's letter of January 10, 2003; and

WHEREAS, the Township Council relies upon the advice and recommendation of the Township Engineer; and

WHEREAS, Vollers Excavating & Construction, Inc. ("Vollers"), a site contractor working for AIG Baker, filed with the Township a Municipal Mechanics Lien on April 25, 2002 and an Amended Municipal Mechanics Lien on May 1, 2003 with respect to the ITC Project (collectively, the "Municipal Liens"); and

WHEREAS, on July 23, 2002, Vollers filed an action against the Township of Mount Olive in the Superior Court of New Jersey, Morris County, Law Division, docket no. MRS-L-2454-02 (the "Action"), alleging, *inter alia*, lien and trust claims relating to the ITC Project; and

WHEREAS, Connell Foley LLP has reported to the Township of Mount Olive that the Action has been amicably settled by way of a Confidential Settlement Term Sheet entered into between Vollers and, AIG Baker, and other affiliated entities, insurers and sureties of the parties, and that Vollers has agreed to dismiss the Action against the Township with prejudice and without cost and expense; and

WHEREAS, the Honorable W. Hunt Dumont, J.S.C., has entered an Order, on Friday, April 1, 2016, reinstating the Action and lifting the Status Quo Ante Order that previously restricted the ability of the Township to release the cash escrows and surety bonds (the "Order");

WHEREAS, pursuant to the terms of the Order, Judge Dumont has ordered the Township to: (1) release the cash escrows to AIG Baker and the Connell Foley Escrow Account; (2) return the bonds and any other performance guarantees to AIG Baker and the Connell Foley Escrow Account, and (3) hold Vollers's discharge of the Municipal Liens in escrow with its attorneys, Dorsey & Semrau, until the cash escrows, bonds and other performance guarantees are delivered to AIG Baker and the Connell Foley Escrow Account.

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

In accordance with Judge Dumont's Order, and following confirmation of the receipt of Vollers's signed Discharge of the Municipal Liens by Dorsey & Semrau, the CFO and the Township Clerk are authorized and directed to take the following action:

- I. Preliminary Developer's Agreement AIG/FTZ South (Parcels A&B)
 - a) Issue a check jointly to AIG Baker and the Connell Foley LLP Trust Account in the amount of \$395,231.93, together with all accrued interest, subject to the Township's administrative charge.
- II. Final Developer's Agreement AIG/FTZ/South (Connector Road)
 - a) Issue a check for \$610,253.60 (for Connector Road) jointly to AIG Baker and the Connell Foley LLP Trust Account, together with accrued interest, subject to the Township's administrative charge.
 - b) Issue a check for \$15,989.07 (for Monuments) jointly to AIG Baker and the Connell Foley LLP Trust Account for certain concrete monuments for the Project, together with all accrued interest, subject to the Township's administrative charge.
 - c) Release all surety bonds for Connector Road, Parcel A and Parcel B to AIG Baker and the Connell Foley Trust Account.
 - d) Release all maintenance bonds to AIG Baker and the Connell Foley Trust Account.
- III. ITC South (Link Road)
 - a) Issue a check for \$31,384.03 jointly to AIG Baker and the Connell Foley Trust Account, together with all accrued interest, subject to the Township's administrative charge.
 - b) Release all surety bonds to AIG Baker and the Connell Foley Trust Account.
 - c) Release all maintenance bonds to AIG Baker and the Connell Foley Trust Account.

IV. ITC South (Goldmine Road)

- a) Issue a check for \$30,821.23 jointly to AIG Baker and the Connell Foley LLP Trust Account, together with all accrued interest, subject to the Township's administrative charge.
- b) Release all surety bonds to AIG Baker and the Connell Foley Trust Account.
- c) Release all maintenance bonds to AIG Baker and the Connell Foley Trust Account.

V. AIG Road Construction Agreement (RCA Cash Escrow)

- a) Issue a check for \$803,739.12 jointly to AIG Baker and the Connell Foley LLP Trust Account, together with all accrued interest, subject to the Township's administrative charge.
- b) Release all surety bonds and Letter of Credit to AIG Baker and the Connell Foley Trust Account.

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 April 5, 2016.

Michelle Masser, Mount Olive Township
Township Clerk