

**RESOLUTION 59 – 2015
RESOLUTION RELEASING AN IRREVOCABLE
LETTER OF CREDIT FOR IMPROVEMENTS
TO THE COLLEGE SQUARE SHOPPING CENTER
AT BLOCK 40.05, LOT 10**

WHEREAS, the Developer of the College Square Shopping Center at Block 40.05, Lot 10, R.D.G. Management/ACD has requested release of the Performance Guarantee for improvements to the above property; and

WHEREAS, the original of the Letter of Credit was posted on January 20, 2010, as issued by Wachovia Bank under ILOC No. SM326408W, which Guarantee was later amended by reason of the merger of Wachovia Bank with Wells Fargo Bank, N.A.; and

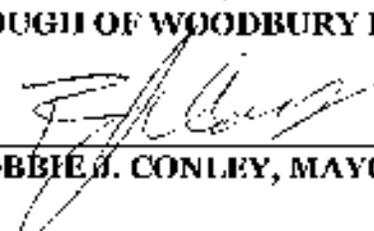
WHEREAS, an amendment to the Letter of Credit was issued and posted on September 3, 2010 which decreased the principal aggregate sum to \$286,540.38; and

WHEREAS, the Borough Engineer has inspected the improvements and recommended both the release of the Performance Guarantee and Waiver of the Maintenance Guarantee since the improvements inspected have been completed and in service for a period greater than two years;

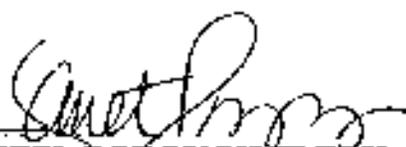
NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbury Heights, with the Mayor concurring, that the aforesaid Irrevocable Letter of Credit now listed in the name of Wells Fargo Bank, N.A., in the sum of \$286,540.38 is hereby released and discharged and the Clerk hereby authorized to return the original document to Wells Fargo Bank, together with a true copy of this Resolution, forthwith after the adoption hereof;

BE IT FURTHER RESOLVED, that based upon the Engineer's recommendations and for good cause thereon otherwise appearing, the Developer, RDG Management/ACD shall be relieved from any obligation to post a Maintenance Guarantee for site improvements installed on the aforesaid property known as the College Square Shopping Center – Phase II Project.

BOROUGH OF WOODBURY HEIGHTS

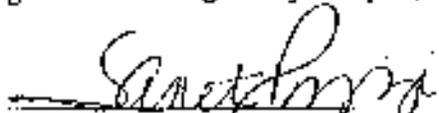
BY: 

ROBBIE J. CONLEY, MAYOR

ATTEST: 

JANET PIZZI, BOROUGH CLERK

The foregoing Resolution was duly adopted by the Borough Council of the Borough of Woodbury Heights at the Regular Meeting held on the 15th day of April, 2015.


JANET PIZZI, BOROUGH CLERK

SICKELS & ASSOCIATES, INC.

Engineers • Planners • Surveyors

March 30, 2015

Barry Lozuke, Esquire
131 Delaware Avenue
Woodbury, New Jersey 08096

Reference: Performance Bond Release
College Square Shopping Center - Block 40.05, Lot 10
State Highway Route 45 & Moore Street
Borough of Woodbury Heights, Gloucester County, New Jersey
Applicant: RBG Management/ACD
S&A File Number WH-1032-4

Dear Mr. Lozuke:

Pursuant to the Applicant's request regarding the release of the performance bond, we have conducted our final observations for the above referenced commercial property. Based on the findings of our site observation, we have noted that the condition of the completed site improvements is acceptable. As such, we would recommend final acceptance and release of the performance bond in the amount of \$286,540.58.

The Borough of Woodbury Heights requires that the Applicant post a two (2) year maintenance bond in the amount of 15% of the original performance bond. However, the majority of the improvements have been completed for the required two (2) year period. As such, we would recommend that Council consider the release of the performance bond along with the waiving of the required maintenance bond.

It should be noted that prior to the release of the performance bond, all outstanding engineering fees must be paid in full. It is our understanding that there are sufficient funds available in the escrow account to cover any outstanding balance. By copy of this letter to Mrs. Janet Pizzi, Borough Clerk, we are requesting that this matter be placed on the agenda for approval at the next available Mayor & Council meeting.

If you have any questions regarding the above matter, please feel free to contact our office at (856) 848-6800 or via e-mail (oop@sickelsassoc.com) at your earliest convenience.

Very truly yours,

SICKELS & ASSOCIATES, INC.

Oliver A. Pesta
Senior Construction Technician

(14)

Copy To: Mayor and Council Members

Janet Pizzi, Borough Clerk/Administrator (via e-mail only)
Viski Holmstrom, Director of Finance and Revenue (via e-mail & regular mail)
Anne Deek, Planning Board Secretary (via e-mail only)
Rick Middleton, Supt., Public Works Department (via e-mail only)
Christian Romano, Construction Code Official (via e-mail only)
American Commercial Developers, LLC, Applicant
Patricia Owens, Sickels & Associates, Inc. (via e-mail only)
Kim Croft, Sickels & Associates, Inc. (via e-mail only)

EMP\PROJECTS\Woodbury Heights\WH-1032 (College Sq)\Performance Bond Release 03.30.15.doc

Sherwood Mews • 833 Kings Highway
Woodbury, New Jersey 08096-3110
(856) 848-6800 FAX (856) 848-8520
www.sickelsassoc.com

**RESOLUTION 102 - 2010
RESOLUTION AUTHORIZING AMENDMENT
TO LETTER OF CREDIT FOR THE
COLLEGE SQUARE SHOPPING CENTER - PHASE II
PROJECT**

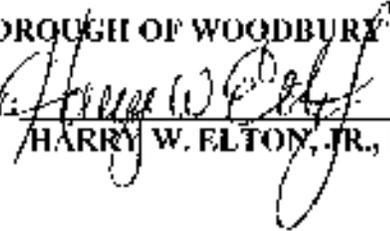
WHEREAS, the Borough has heretofore approved and received a Letter of Credit guaranty site improvements for the College Square Shopping Center - Phase II Project, such surety issued by Wachovia Bank, N.A. bearing No. SM236408W; and

WHEREAS, Wachovia Bank and Wells Fargo Bank, N.A. have merged and now operate under the name of Wells Fargo Bank, N.A.; and

WHEREAS, an Amendment to the Letter of Credit was issued on September 3, 2010 and forwarded to the Borough for consent, which consent document has been reviewed and approved by the Solicitor:

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Woodbury Heights, with the Mayor concurring, that the Amendment to the standby Letter of Credit dated September 3, 2010 is hereby accepted and the Administrator is hereby authorized to sign and deliver same to Wells Fargo Bank, N.A. on behalf of the Borough with the original, sealed copy thereof to be retained by the Borough.

BOROUGH OF WOODBURY HEIGHTS

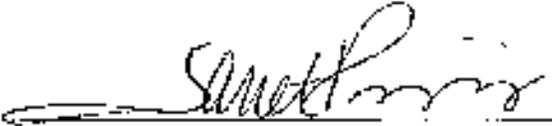
BY: 
HARRY W. ELTON, JR., MAYOR

ATTEST:


JANET PIZZI, BOROUGH CLERK

NOTICE

The foregoing Resolution was duly adopted by the Borough Council of the Borough of Woodbury Heights at a Regular Meeting held on the 15th day of September, 2010.


JANET PIZZI, BOROUGH CLERK

**WELLS
FARGO**

AMENDMENT TO IRREVOCABLE STANDBY LETTER OF CREDIT
09/03/10

BENEFICIARY:
BOROUGH OF WOODBURY HEIGHTS
500 ELM AVENUE
WOODBURY HEIGHTS, NJ 08997

LETTER OF CREDIT NO. SM236408W

GENTLEMEN:

WE HEREBY AMEND OUR ABOVE-REFERENCED LETTER OF CREDIT ISSUED IN YOUR FAVOR FOR THE ACCOUNT OF DIETZ & WATSON, INC. AS FOLLOWS:

-THE LETTER OF CREDIT AMOUNT IS DECREASED BY USD 668,594.22 TO A NEW AGGREGATE TOTAL OF USD 286,540.38.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

THIS AMENDMENT IS TO BE ATTACHED TO THE ORIGINAL LETTER OF CREDIT AND BECOMES AN INTEGRAL PART THEREOF.

SINCERELY,
WELLS FARGO BANK, N.A.

Angie Mendonca
AUTHORIZED SIGNATURE - EVO2/DDS

THE ORIGINAL OF THIS LETTER OF CREDIT AMENDMENT CONTAINS AN EMBOSSED SEAL OVER THE AUTHORIZED SIGNATURE.

ON MARCH 20, 2010 WACHOVIA BANK, NATIONAL ASSOCIATION AND WELLS FARGO BANK, N.A. MERGED. THE NAME OF THE NEWLY MERGED BANK IS WELLS FARGO BANK, N.A.

CONSENT TO THIS AMENDMENT IS REQUIRED FOR IT TO BECOME EFFECTIVE.

PLEASE DATE AND SIGN BELOW AND RETURN A COPY TO US AT OUR OFFICE LOCATED AT 401 LINDEN STREET, MAILCODE D4004-017, WINSTON-SALEM, NC 27101, ATTN: STANDBY LETTER OF CREDIT DEPT. OR FAX TO 336-735-0950.

AMENDMENT ACCEPTED IN ITS ENTIRETY

09/15/2010
DATE

8570-845-2830
PHONE NUMBER

AMENDMENT REJECTED IN ITS ENTIRETY

Harry W. Elton, Jr.
AUTHORIZED SIGNATURE
BOROUGH OF WOODBURY HEIGHTS

HARRY W. ELTON, JR.
PRINTED NAME OF AUTHORIZED SIGNER

Together we'll go far



WACHOVIA

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER SM236408W

LETTER OF CREDIT AMOUNT	ISSUE DATE	EXPIRY DATE
USD 955,134.60	01/20/10	10/31/10

BENEFICIARY:
BOROUGH OF WOODBURY HEIGHTS
500 ELM AVENUE
WOODBURY HEIGHTS, NJ 08097

APPLICANT:
DIETZ & WATSON, INC.
LOT 40 05, BLOCK 1B
5701 TACONY STREET
PHILADELPHIA, PA 19135

WE HEREBY ISSUE OUR IRREVOCABLE STANDBY LETTER OF CREDIT IN YOUR FAVOR, WHICH IS AVAILABLE BY YOUR DRAFT AT SIGHT BEARING OUR LETTER OF CREDIT NUMBER SM236408W ON WACHOVIA BANK, NATIONAL ASSOCIATION, 401 LINDEN STREET, WINSTON-SALEM, NC 27101, ATTENTION: STANDBY LETTER OF CREDIT DEPARTMENT.

YOUR DRAFT MUST BE PRESENTED AT THE OFFICE INDICATED ABOVE BY PERSONAL DELIVERY OR BY REGISTERED OR CERTIFIED MAIL OR COURIER AND MUST BE ACCOMPANIED BY (1) THE ORIGINAL STANDBY LETTER OF CREDIT AND ANY SUBSEQUENT ORIGINAL AMENDMENTS AND (2) AN ORIGINAL STATEMENT PURPORTEDLY SIGNED BY THE MUNICIPAL ENGINEER OF BOROUGH OF WOODBURY HEIGHTS STATING: "THE AMOUNT OF THIS DRAWING UNDER IRREVOCABLE STANDBY LETTER OF CREDIT NO. SM236408W, ISSUED 01/20/10 BY WACHOVIA BANK, NATIONAL ASSOCIATION, REPRESENTS THE AMOUNT DUE US AS A RESULT OF THE FAILURE OF DIETZ & WATSON, INC. TO COMPLETE, IN WHOLE OR IN PART THE REQUIRED SITE IMPROVEMENTS AS DETAILED IN THE MUNICIPAL RESOLUTION OF APPROVAL AND IN THAT CERTAIN ENGINEER'S ESTIMATE ENTITLED "IMPROVEMENT BOND ESTIMATE - COLLEGE SQUARE SHOPPING CENTER - PHASE II" PREPARED BY THE TOWNSHIP ENGINEERS - SICKELS & ASSOCIATES, INC. AND DATED NOVEMBER 03, 2009. I HEREBY CERTIFY THAT NOTICE OF THE INCOMPLETIONS UPON WHICH THIS DRAWING IS BASED WAS GIVEN TO THE APPLICANT BY REGISTERED OR CERTIFIED MAIL OR BY COURIER ON (INSERT DATE AT LEAST 30 DAYS PRIOR TO THE DATE OF THE MUNICIPAL ENGINEER'S STATEMENT)." THIS CERTIFICATION SHALL BE ACCOMPANIED BY A RESOLUTION OF THE MUNICIPAL GOVERNING BODY ENDORSING THE FINDINGS OF THE ENGINEER AND STATING THAT THE IMPROVEMENTS HAVE NOT BEEN APPROVED OR ACCEPTED.

THIS LETTER OF CREDIT SHALL BE DEEMED TO BE AUTOMATICALLY EXTENDED ANNUALLY FOR PERIODS OF ONE YEAR UNLESS WRITTEN NOTICE IS GIVEN BY THE BANKING INSTITUTION BY REGISTERED OR CERTIFIED MAIL OR BY COURIER TO THE APPLICANT AND THE MUNICIPALITY, AT LEAST 60 DAYS PRIOR TO THE THEN-CURRENT EXPIRATION DATE.

IN THE EVENT OF THE FAILURE OF THE APPLICANT TO FURNISH ANOTHER LETTER OF CREDIT MEETING THE REQUIREMENTS OF N.J.S.A. 40:55D-53.5 AND N.J.A.C. 5:36-4.3, OR OTHER ACCEPTABLE SECURITY, AT LEAST 30 DAYS PRIOR TO THE EXPIRATION DATE OF THIS LETTER OF CREDIT, THE MUNICIPALITY MAY, TO THE EXTENT ALLOWED BY LAW, DRAW UPON THIS LETTER OF CREDIT TO PAY THE COST OF ANY INCOMPLETIONS.

CONTINUED ON NEXT PAGE WHICH FORMS AN INTEGRAL PART OF THIS
IRREVOCABLE STANDBY LETTER OF CREDIT

WACHOVIA BANK

