

## RESOLUTION

**WHEREAS**, the Municipal Land Use Law (N.J.S.A. 40:55D-53) permits the Township of Ocean to accept certain improvements and to release performance guarantees posted by developers when said improvements have been certified as complete by the Township Engineer; and

**WHEREAS**, the Township Council did authorize and enter into a Developer's Agreement with Beyda Associates dated November 16, 1998 for property located at Block 13, Lot 20, 248 Norwood Avenue; and

**WHEREAS**, Beyda Associates posted performance guarantees totaling \$14,473.50 by way of Performance Bond Number S04628 issued by First Indemnity of America Insurance Company, Parsippany, NJ in the amount of \$13,026.15 and cash in the amount of \$1,447.35; and

**WHEREAS**, the Township Council granted a reduction of the performance guarantees to \$5,204.63 by Resolution dated August 18, 1999; and

**WHEREAS**, 248 Norwood Ave., LLC purchased the property from Beyda Associates in 2001 and posted \$500.00 towards inspection fees on August 3, 2001; and

**WHEREAS**, an Assignment of the Developer's Agreement was never entered into between the Township of Ocean and 248 Norwood Ave., LLC, which results in Beyda Associates still being responsible for the improvements; and

**WHEREAS**, the Township has made numerous unsuccessful attempts to contact representatives from 248 Norwood Ave., LLC to facilitate the transfer of all documents into the name of 248 Norwood Ave., LLC from Beyda Associates; and

**WHEREAS**, in order to facilitate the release of the performance guarantee, 248 Norwood Ave., LLC, as the owner of said property, is required to complete all outstanding items, as determined by the Township Engineer, however, they have failed to make any attempt to perform the required work; and

**WHEREAS**, the Township Clerk is in receipt of a letter from Beyda Associates requesting release of the performance guarantees and requesting the Township finish the work that needs to be done and he would be responsible for any costs associated with said work; and

**WHEREAS**, the Township has agreed to perform all outstanding work that is the responsibility of Beyda Associates as calculated by a representative of the Township Engineer, Gregory S. Blash, P.E. by letter dated January 13, 2010; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Council of the Township of Ocean in the County of Monmouth, that it hereby authorizes and approves the full release of performance guarantees subject to the following conditions first being met:

1. The remaining inspection fees of \$456.50, posted by Beyda Associates, to be used towards the completion of the site improvements.
2. The cash portion of the performance guarantee in the amount of \$520.46, posted by Beyda Associates, to be used towards the completion of the site improvements.
3. The receipt of \$231.29, from Beyda Associates, to be deposited with the Township to cover any shortfall in the inspection accounts for this property.

**BE IT FURTHER RESOLVED** that a copy of this resolution certified to be a true copy be forwarded to the following:

1. Director of Finance
2. Director of Community Development
3. Township Engineer
4. Construction Official
5. Beyda Associates
6. 248 Norwood Ave., LLC

**CERTIFICATION**

*I hereby certify that this is a true copy of a resolution passed by the Township of Ocean Governing Body at their meeting held on **February 10, 2010.***

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Vincent Buttiglieri, RMC/CMC  
Township Clerk

| <b>Record of Vote</b>    | <b>Deputy Mayor<br/>Hiers</b> | <b>Councilman<br/>Garofalo</b> | <b>Council-woman<br/>Schepiga</b> | <b>Councilman<br/>Siciliano</b> | <b>Mayor<br/>Larkin</b> |
|--------------------------|-------------------------------|--------------------------------|-----------------------------------|---------------------------------|-------------------------|
| <b>Motion To Approve</b> |                               |                                |                                   |                                 |                         |
| <b>Motion to Second</b>  |                               |                                |                                   |                                 |                         |
| <b>Approved</b>          |                               |                                |                                   |                                 |                         |
| <b>Opposed</b>           |                               |                                |                                   |                                 |                         |
| <b>Not Voting/Recuse</b> |                               |                                |                                   |                                 |                         |
| <b>Absent/Excused</b>    |                               |                                |                                   |                                 |                         |