

RESOLUTION

WHEREAS, on August 29, 2010, a fire was reported inside the Dollar Tree store located within the Township of West Orange (the "Township"), West Orange Plaza shopping center located at 235 Prospect Avenue, West Orange, New Jersey, 07052 (the "Property"); and

WHEREAS, when the fire occurred, no alarm was activated;

WHEREAS, Township Fire Department and Police Department personnel responded to the fire; and

WHEREAS, subsequent to the fire, Township fire officials reviewed and inspected the fire suppression and alarm equipment within and around the Dollar Tree; and

WHEREAS, the Dollar Tree store and twelve (12) other stores within the Property are linked to one main fire protection system through, among other things, a series of standpipes and risers within the K-Mart store; and

WHEREAS, Apex Fire Protection, Inc. ("Apex") is a fire sprinkler subcontractor which operates in the State of New Jersey, and is the entity charged with overseeing the fire sprinkler system within the K-Mart store; and

WHEREAS, upon inspection of the Property subsequent to the fire, and review of fire inspection reports submitted to the Township by Apex in or about December 2009, the Township Fire Department issued thirteen (13) Notices of Violation and Orders to Pay Penalty to Apex, six (6) notices having been received by Apex on or about September 15, 2010, and an additional seven (7) notices having been received by Apex on or about September 27, 2010; and

WHEREAS, the Township cited Apex for violations of the New Jersey Uniform Fire Code, specifically N.J.A.C. 5:70-2.12(b)9(i) for the filing of false statements of its prior inspections, and N.J.A.C. 5:70-3.907.15 for failure to properly maintain the fire safety system within and around the Dollar Tree store and adjacent properties; and

WHEREAS, Apex appealed the thirteen (13) Notices of Violation and Orders to Pay

Penalty to the Township's Construction Board of Appeals, by way of appeals dated September 30, 2010 and October 12, 2010; and

WHEREAS, the Township Attorney's office and Fire Official worked to resolve the issues between the Township and Apex; and

WHEREAS, the Township and Apex have agreed to enter into a mutual release and settlement of all claims, with Apex agreeing to withdraw and dismiss its appeals to the Township's Construction Board of Appeals and any other appeals; and

NOW, BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange, that in consideration of the mutual benefits conferred in the settlement agreement between the Township and Apex, and subject to the terms and conditions stated therein, the Township is authorized to resolve the Notices of Violation and Orders to Pay Penalty as issued against Apex;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Orange, that the mutual release and settlement between the Township and Apex is approved and shall be executed by the Mayor;

BE IT FURTHER RESOLVED, that a true copy of this Agreement remain on file with the Township Clerk for inspection by the public.

Karen J. Carnevale
Township Clerk

Sal M. Anderton
Council President

Adopted: May 17, 2011