

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; and

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 at the Property; and

WHEREAS, Telgian Corporation (“Telgian”) is a fire alarm system testing and inspection company which operates in the State of New Jersey; and

WHEREAS, K-Mart is a wholly owned subsidiary of Sears Holdings Corporation (“Sears”), a retail corporation, and is thus overseen by Sears; and

WHEREAS, Telgian was the entity hired by Sears to oversee the fire alarm system within and around the K-Mart store at the Property; and

WHEREAS, upon inspection of the Property subsequent to the fire, and review of fire system inspection reports prepared by Telgian on or about March 10, 2009 and June 15, 2010, thirteen (13) Notices of Violation and Orders to Pay Penalty were issued by the Township Fire Department to Telgian, and were provided to Telgian by letter dated October 13, 2010; and

WHEREAS, the Township provided Sears with five (5) Notices of Violation and Orders to Pay Penalty, via hand delivery of same to a K-Mart store manager; and

WHEREAS, the Township cited Telgian and Sears for violations of the New Jersey Uniform Fire Code, specifically N.J.A.C. 5:70-2.12(b)9(i), for filing with the Township false statements of prior fire safety 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, K-Mart store, and adjacent properties; and

WHEREAS, Telgian 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 October 29, 2010; and

WHEREAS, the Township Attorney's office worked to resolve the issues between the Township, Telgian, and Sears; and

WHEREAS, the Township, Telgian, and Sears have agreed to a mutual release and settlement of the claims arising out of the Notices of Violation and Orders to Pay Penalty issued to Telgian and Sears, with Telgian agreeing to concurrently withdraw and dismiss its appeals to the Township's Construction Board of 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, Sears and Telgian, 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 Telgian and Sears, upon the execution of the settlement agreement;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Orange, that the mutual release and settlement between the Township, Telgian and Sears 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