

RESOLUTION

**RESOLVING CERTAIN LITIGATION AND ACCEPTING CERTAIN PUBLIC IMPROVEMENTS,
INCLUDING THE RIGHTS OF WAY AT COLONIAL WOODS NORTH AND EXTENSION OF NANCE
ROAD AND PUBLIC EASEMENTS SHOWN ON THE FILED MAP ENTITLED
“FINAL PLAT-BLOCK 173, LOT 2AND BLOCK 172.29, LOT 40.02, COLONIAL WOODS NORTH,
TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY”**

WHEREAS, RNC Developers Inc., (“Developer”) entered into a Developer’s Agreement with the Township of West Orange (“Township”) by Resolution No. 18-09 dated January 20, 2009; and

WHEREAS, a cash performance bond in the amount of \$178,620.00 was submitted to the Township by the Developer to guarantee completion of certain site improvements to be performed in accordance with the preliminary and final major subdivision approval from the Planning Board of the Township and said approval was memorialized by resolution adopted by the Board on August 7, 2003; and

WHEREAS, the Township Engineer has determined that the public improvements associated with this project have been completed; and

WHEREAS, the Township Engineer recommended a Maintenance Bond in the amount of \$117,964.44, and for the time period of two (2) years from the date of acceptance of the improvements by the Township; and

WHEREAS, the Township Engineer recommends that a payment to the Township of \$23,275.00 be accepted from the Developer to be used solely for the planting of trees that, with the consent of the respective property owners, were not planted in the development; and

WHEREAS, the Developer commenced certain litigation captioned RNC Developers Inc. v. Township of West Orange in the Superior Court of New Jersey, Law Division: Essex County, Docket No. ESX-L-1577-24 (the “Litigation”) which was settled subject to the Council approval of the terms set forth in this Resolution.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of West Orange, in the County of Essex and State of New Jersey, as follows:

1. All the public improvements within the rights of way of Colonial Woods North and extension of Nance Road and public easements shown on the filed map entitled “**FINAL PLAT-BLOCK 173, LOT 2AND BLOCK 172.29, LOT 40.02, COLONIAL WOODS NORTH, TOWNSHIP OF WEST ORANGE, ESSEXCOUNTY, NEW JERSEY**” and filed in the office of the Clerk of Essex County on July 30, 2007 as Filed Map No. 4518 are, as of December 6, 2023, hereby accepted by the Township of West Orange.

2. A cash Maintenance Bond in the amount of \$117,964.44 and Tree Payment in the amount of \$23,275.00 shall be deducted from the cash bond currently held by the Township in the amount of \$178, 620.00. The Maintenance Bond will be held until December 5, 2025 in accordance with N.J.S.A. 40:55D-53(a)(2)(b).
3. Therefore, the performance bond's remaining balance of \$37,380.56 is hereby released to RNC Developers, Inc.
4. The Litigation shall be resolved by dismissal of Plaintiff's claims with prejudice and the Township's counterclaim without prejudice and the payment of \$20,000 to RNC in accordance with N.J.S.A. 40:55D-53(e)(2). The Developer asserts a balance of \$7,699.20 remains in its inspection escrow accounts. The Developer will provide cancelled checks or other documents to support it's claim to these funds. If the matter is not amicably resolved, the Court retained jurisdiction to resolve the inspection escrow amount by letter submissions.

BE IT FURTHER RESOLVED that the Township Clerk is hereby directed to transmit certified copies of this resolution to the following individuals and entities RNC Developers Inc. , Township Engineer, Chief Financial Officer, and Township Attorney.

Karen J. Carnevale, R.M.C., Municipal Clerk

Bill Rutherford, Council President

Adopted: October 29, 2024

I hereby certify funds are available from Account: _____
\$57,380.56

John Ditinyak, Chief Financial Officer