

RESOLUTION NO. 2023-134

**RESOLUTION OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE RELEASE OF PERFORMANCE GUARANTEES POSTED BY K. HOVNANIAN AT LITTLE EGG HARBOR TOWNSHIP II, LLC FOR PHASES 1, 2, 4, 5, 6, 7, 9 AND 10 AT FOUR SEASONS AT HARBOR BAY**

**WHEREAS**, the Township of Little Egg Harbor required the posting of Performance Guarantees by K. Hovnanian at Little Egg Harbor Township II, LLC, in accordance with a Settlement Agreement and Release executed on May 12, 2022 (“Settlement Agreement”); and

**WHEREAS**, K. Hovnanian at Little Egg Harbor Township II, LLC posted the following Performance Guarantees in accordance with said Settlement Agreement and Release:

- **Phase 1:** A bond, #0423139, originally dated July 7, 2006 and most recently modified by rider dated March 16, 2012, issued by International Fidelity Insurance Company in amount of \$632,626.52 and a cash bond in the amount of \$70,291.84.
- **Phase 2:** A bond, #0423140, originally dated July 7, 2006 and most recently modified by rider dated February 22, 2012, issued by International Fidelity Insurance Company in the amount of \$161,880.93 and a cash bond in the amount of \$17,986.77.
- **Phase 4:** A bond, #104877075, originally dated February 2, 2007 and most recently modified by rider dated November 6, 2013, issued by Travelers Casualty and Surety Company of America in the amount of \$307,718.19 and a cash bond in the amount of \$34,190.91.
- **Phase 5:** A bond, #104877076, originally dated February 2, 2007 and most recently modified by rider dated June 23, 2015, issued by Travelers Casualty and Surety Company of America in the amount of \$199,370.16 and a cash bond in the amount of \$22,152.40.
- **Phase 6:** A bond, #104877077, originally dated February 2, 2007 and most recently modified by rider dated October 2, 2017, issued

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Rothstein, Mandell, Strohm,  
Halm & Cipriani, P.A.  
ATTORNEYS AT LAW

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by Travelers Casualty and Surety Company of America in the amount of \$438,334.74 and a cash bond in the amount of \$48,703.86.

- **Phase 7:** A bond, #104877078, originally dated February 2, 2007 and most recently modified by rider dated September 28, 2017, issued by Travelers Casualty and Surety Company of America in the amount of \$279,256.01 and a cash bond in the amount of \$31,028.45.
- **Phase 9:** A bond, #104877079, originally dated February 2, 2007 and most recently modified by rider dated June 23, 2015, issued by Travelers Casualty and Surety Company of America in the amount of \$276,056.91 and a cash bond in the amount of \$30,672.99.
- **Phase 10:** A bond, #104877080, originally dated February 2, 2007 and most recently modified by rider dated January 22, 2014, issued by Travelers Casualty and Surety Company of America in the amount of \$201,044.70 and a cash bond in the amount of \$22,338.30; and

**WHEREAS**, the Township Engineer has inspected the site and has determined that all repairs to site improvements have been completed in substantial compliance with the Settlement Agreement and Release and recommends release of the Performance Guarantees conditioned upon posting by K. Hovnanian at Little Egg Harbor Township II, LLC of a Basin C/D Settlement Surety Bond in the amount of \$200,000.00, as well as the payment of any outstanding fees due the municipality including, but not limited to, engineering and attorneys' fees, as well as reimbursement for the costs of any outstanding construction inspection fees.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey as follows:

1. That the governing body does hereby authorize the release of the Performance Guarantees posted by K. Hovnanian at Little Egg Harbor Township II, LLC in accordance with said Settlement Agreement and Release:

**Phase 1:** A bond, #0423139, originally dated July 7, 2006 and most recently modified by rider dated March 16, 2012, issued by International Fidelity

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Insurance Company in amount of \$632,626.52 and a cash bond in the amount of \$70,291.84.

**Phase 2:** A bond, #0423140, originally dated July 7, 2006 and most recently modified by rider dated February 22, 2012, issued by International Fidelity Insurance Company in the amount of \$161,880.93 and a cash bond in the amount of \$17,986.77.

**Phase 4:** A bond, #104877075, originally dated February 2, 2007 and most recently modified by rider dated November 6, 2013, issued by Travelers Casualty and Surety Company of America in the amount of \$307,718.19 and a cash bond in the amount of \$34,190.91.

**Phase 5:** A bond, #104877076, originally dated February 2, 2007 and most recently modified by rider dated June 23, 2015, issued by Travelers Casualty and Surety Company of America in the amount of \$199,370.16 and a cash bond in the amount of \$22,152.40.

**Phase 6:** A bond, #104877077, originally dated February 2, 2007 and most recently modified by rider dated October 2, 2017, issued by Travelers Casualty and Surety Company of America in the amount of \$438,334.74 and a cash bond in the amount of \$48,703.86.

**Phase 7:** A bond, #104877078, originally dated February 2, 2007 and most recently modified by rider dated September 28, 2017, issued by Travelers Casualty and Surety Company of America in the amount of \$279,256.01 and a cash bond in the amount of \$31,028.45.

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**Phase 9:** A bond, #104877079, originally dated February 2, 2007 and most recently modified by rider dated June 23, 2015, issued by Travelers Casualty and Surety Company of America in the amount of \$276,056.91 and a cash bond in the amount of \$30,672.99.

**Phase 10:** A bond, #104877080, originally dated February 2, 2007 and most recently modified by rider dated January 22, 2014, issued by Travelers Casualty and Surety Company of America in the amount of \$201,044.70 and a cash bond in the amount of \$22,338.30.

2. That the release of the aforementioned Performance Guarantees is conditioned upon the posting by K. Hovnanian at Little Egg Harbor Township II, LLC of a Basin C/D Settlement Surety Bond in the amount of \$200,000.00, as well as the payment of any outstanding fees due the municipality, including, but not limited to, engineering and attorneys' fees, as well as reimbursement for the costs of any outstanding construction inspection fees.

3. That a certified copy of this Resolution be forwarded to the Chief Financial Officer, the Township Engineer and K. Hovnanian at Little Egg Harbor Township II, LLC.

### CERTIFICATION

I, **KELLY LETTERA**, Municipal Clerk of the Township of Little Egg Harbor, do hereby certify that the foregoing resolution was duly adopted by the Township of Little Egg Harbor Township Committee at a meeting held on the 13<sup>th</sup> day of April, 2023.



**KELLY LETTERA, RMC**  
Township Clerk  
Little Egg Harbor Township

**rmshc**

Rothstein, Mandell, Strohm,  
Halm & Cipriani, P.A.  
ATTORNEYS AT LAW

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| YOUR GOALS. OUR MISSION.

TO: Kelly Lettera, Township Clerk  
FROM: Jason A. Worth, P.E., Township Engineer  
DATE: March 21, 2023

REF: T&M FILE NO. LEHT-00531  
REQUEST FOR RELEASE OF PERFORMANCE GUARANTEES  
FOUR SEASONS AT HARBOR BAY - PHASES 1, 2, 4, 5, 6, 7, 9, AND 10  
TOWNSHIP OF LITTLE EGG HARBOR, OCEAN COUNTY, NJ

Dear Ms. Lettera:

The Township has received a request from K. Hovnanian at Little Egg Harbor Township II, LLC, for Release of the Performance Guarantees for the above referenced phases of the Four Seasons at Harbor Bay project, in accordance with the Settlement Agreement and Release signed May 12, 2022. Four Seasons at Harbor Bay is a planned retirement community consisting of 387 age-restricted single-family homes, located along the eastern side of Route 539 and north of Frog Pond Road. A review of our files indicates that K. Hovnanian at Little Egg Harbor Township II, LLC posted Performance Guarantees for each phase with the Township Clerk's office to assure the complete installation of bonded site improvements as set forth in the Performance Guarantee Estimates prepared by Charles J. Rooney, P.E., Planning Board Engineer.

The Performance Guarantees consist of the following:

- Phase 1: A bond, #0423139, dated March 16, 2012, issued by International Fidelity Insurance Company in amount of \$632,626.52 and a cash bond in the amount of \$70,291.84.
- Phase 2: A bond, #0423140, dated February 22, 2012, issued by International Fidelity Insurance Company in the amount of \$161,880.93 and a cash bond in the amount of \$17,986.77.
- Phase 4: A bond, #10487707, dated November 6, 2013, issued by Travelers Casualty and Surety Company of America in the amount of \$307,718.19 and a cash bond in the amount of \$34,190.91.
- Phase 5: A bond, #104877076, dated February 8, 2013, issued by Travelers Casualty and Surety Company of America in the amount of \$199,370.16 and a cash bond in the amount of \$22,152.40.
- Phase 6: A bond, #104877077, dated February 2, 2007, issued by Travelers Casualty and Surety Company of America in the amount of \$438,334.74 and a cash bond in the amount of \$48,703.86.
- Phase 7: A bond, #104877078, dated February 2, 2007, issued by Travelers Casualty and Surety Company of America in the amount of \$279,256.01 and a cash bond in the amount of \$31,028.45.
- Phase 9: A bond, #104877079, dated January 22, 2014, issued by Travelers Casualty and Surety Company of America in the amount of \$276,056.91 and a cash bond in the amount of \$30,672.99.
- Phase 10: A bond, #10477080, dated January 22, 2014, issued by Travelers Casualty and Surety Company of America in the amount of \$201,044.70 and a cash bond in the amount of \$22,338.30.



TO:  
FROM:  
DATE:  
REF:

Kelly Lettera, Township Clerk  
Jason A. Worth, P.E., Township Engineer  
March 21, 2023  
T&M FILE NO. LEHT-00531  
REQUEST FOR RELEASE OF PERFORMANCE GUARANTEE  
FOUR SEASONS AT HARBOR BAY – PHASES 1, 2, 4, 5, 6, 7, 9, AND 10  
TOWNSHIP OF LITTLE EGG HARBOR, OCEAN COUNTY, NJ

At the request of the developer and Township, this office has conducted construction observation of site improvements and repairs to ascertain the status of the completed improvements covered by the bond and the Settlement Agreement and Release. It is our determination that all repairs have been completed in substantial compliance with the Settlement Agreement and Release.

In accordance with the Municipal Land Use Law, Township Ordinance, and the Settlement Agreement and Release the governing body must either approve, partially approve or reject the improvements on the basis of the report of the Township Engineer. Accordingly, it is our recommendation to the Township Committee that the request for Release of the Performance Guarantees be granted.

The Mayor and Township Committee must act on the applicant's request for Release of the Performance Bond no later than 45 days after receipt of the notice and must notify the applicant of their decision in writing by certified mail. By copy of this letter to Melanie Appleby, Township Attorney, we recommend that she prepare a resolution suitable for adoption by the Mayor and Committee at its next regular meeting.

The Release of the Performance Guarantees shall be conditioned upon the following:

1. K. Hovnanian at Little Egg Harbor Township II, LLC posting a Basin C/D Settlement Surety Bond in the amount of \$200,000.00.

Should the Committee have any question regarding any of the above, please feel free to contact me at your convenience.

cc: Township Committee  
Rodney Haines, Township Administrator/CFO  
Melanie Appleby, Township Attorney