

**BOROUGH OF RED BANK
COUNTY OF MONMOUTH
RESOLUTION NO. 15-91**

**RESOLUTION RELEASING PERFORMANCE GUARANTEE REGARDING DINA
ENTERPRISES, INC., 9-11 SPRING STREET, BLOCK 23, LOT 1**

Councilman DuPont offered the following resolution and moved its adoption:

WHEREAS, on August 14, 2013, under Resolution No. 13-194, the Borough of Red Bank accepted a performance guarantee and other required fees from Dina Enterprises, Inc. (the "Applicant"), with respect to property located at 9-11 Spring Street, Block 23, Lot 1 (the "Property") on the tax map of the Borough of Red Bank in connection with Site Plan approval granted by the Red Bank Planning Board; and

WHEREAS, the Applicant posted the following performance guarantee and inspection escrow in accordance with the aforementioned Resolution and Borough's Development Ordinances:

- a. Ten percent (10%) of the performance guarantee in the form of cash in the amount of \$7,924.00;
- b. The remaining ninety percent (90%) of the performance guarantee in the form of a Performance Bond No. 022044959 issued by the Liberty Mutual Insurance Company in the amount of \$71,316; and
- c. An inspection escrow in the amount of \$5,625.00 (the "Inspection Escrow").

WHEREAS, the Applicant determined not to pursue the installation of the site improvements, renovation and expansion of the existing building and operation of the site as a 7-Eleven retail store and the applicant's attorney has requested that the performance guarantee be released to the Applicant;

WHEREAS, the Applicant has also requested that a review escrow deficit of \$3,170.24 be deducted from the Inspection Escrow Borough Engineer as inspected the Property and has found that the Applicant has satisfactorily completed all bonded improvements and has complied with the engineering items for this project; and

WHEREAS, the Borough Engineer has reviewed the Applicant's request and has recommend the release of the performance guarantee and the payment of any outstanding review fees from the Inspection Escrow.; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank as follows:

- a. Both the cash portion of the Applicant's Performance Guarantee and Performance Bond posted by the Applicant shall be released; and
- b. The balance of any review escrow amounts due and owing from the Applicant shall be deducted from the Inspection Escrow and any remaining balance in the Inspection Escrow shall be released to the Applicant.

BE IT FURTHER RESOLVED that the Chief Financial Officer and the Director of Planning and Zoning are authorized and requested to take appropriate steps to implement this resolution; and

BE IT FURTHER RESOLVED that the Borough Clerk shall forward certified true copies of this resolution to the Borough Engineer, the Director of Planning and Zoning, the Chief Financial Officer and to the Applicant.

Seconded by Councilwoman Horgan and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Councilman Murphy	(x)	()	()	()
Councilwoman Burnham	(x)	()	()	()
Councilwoman Horgan	(x)	()	()	()
Councilwoman Schwabenbauer	(x)	()	()	()
Councilman Zipprich	()	()	()	(x)
Councilman DuPont	(x)	()	()	()

Dated: April 22, 2015