

BOROUGH OF RED BANK

COUNTY OF MONMOUTH

RESOLUTION NO. 11-44

**RESOLUTION AUTHORIZING RELEASE OF ORIGINAL PERFORMANCE GUARANTEES
AND ACCEPTANCE OF NEW PERFORMANCE GUARANTEES REGARDING
PRESBYTERIAN HOME AT RED BANK, INC.,
40 RIVERSIDE AVENUE, BLOCK 7, LOTS 12.03 & 16**

Mr. Murphy offered the following resolution and moved its adoption:

WHEREAS, the Zoning Board of Adjustment of the Borough of Red Bank approved Application No. Z6378, submitted by American Estates of Red Bank, n/k/a The Presbyterian Home at Red Bank, Inc. as successor by merger to American Estates of Red Bank (the "Developer"), with respect to the property located at 40 Riverside Avenue, Block 7, Lots 12.03 & 16 on the tax map of the Borough of Red Bank (the "Project Premises"); and

WHEREAS, the aforesaid Zoning Board of Adjustment Resolution required the Developer to comply with the Planning and Development Regulations of the Borough Red Bank, with respect to the Developer's posting of performance guarantees and escrow payments to pay for inspections by the Borough Engineer; and

WHEREAS, by letter dated December 5, 2007 the Borough Engineer provided an estimate of the necessary performance guarantees and other fees required for the proposed development of the Project Premises in accordance with §25-7.1 of the Borough of Red Bank's Planning and Development Regulations; and

WHEREAS, the Developer has posted the following performance guarantees and other required fees as recommended by the Borough Engineer:

- a. Ten Percent (10%) of the performance guarantee in the form of cash in the amount of \$62,240.00;
- b. The remaining Ninety Percent (90%) of the performance guarantee in the form of Performance Surety Bond No. 55407 issued by The American Southern Insurance Company, in the amount of \$560,120.00; and
- c. An inspection fee in the amount of \$25,930.00; and

WHEREAS, by Resolution No. 08-254, the Mayor and Council of the Borough of Red Bank authorized and directed the Director of the Borough's Planning and Zoning Department to accept the aforementioned funds posted by the Developer as the performance guarantee and inspection escrow, respectively, for the Developer's project; and

WHEREAS, the Developer submitted an amended site plan application No. Z9053 that was approved by Resolution dated June 17, 2010; and

WHEREAS, by letter dated December 8, 2010, the Borough Engineer provided an estimate of the necessary performance guarantees and other fees required for the proposed development of the Project Premises pursuant to the amended site plan in accordance with §25-7.1 of the Borough of Red Bank's Planning and Development Regulations; and

WHEREAS, Borough Engineer further found that since the performance bond posted under application no. Z6378 exceeds the amount of the bond required for the work under the amended site plan, the existing performance bond could be transferred to the new application. In addition, the Borough Engineer found that any reduction in the amount of the bond as a result of the amended site plan was permitted and should be requested in writing; and

WHEREAS by letter dated January 28, 2011, the Developer requested release of the original performance bond and original cash portion of the performance guarantees in light of its posting of a new performance bond and cash portion of the guarantee in the amounts required in accordance with the Borough Engineer's estimates; and

WHEREAS, by letter dated February 10, 2011, the Borough Engineer reviewed the Developer's request for the release of its original performance guarantees and the proposed substitute performance guarantees and had no objection to the release of the original performance guarantees given that the new performance guarantees would cover the remaining improvements at the Project Premises; and

WHEREAS, the Developer has posted the following new performance guarantees as approved by the Borough Engineer:

a. Ten Percent (10%) of the performance guarantee in the form of cash in the amount of \$47,130.00; and

b. The remaining Ninety Percent (90%) of the performance guarantee in the form of Performance Surety Bond No. 1000884321 issued by The United States Surety Company, in the amount of \$424,190.00; and

c. An inspection fee in the amount of \$19,640.00.

WHEREAS, the Director of the Borough's Planning and Zoning Department has requested authorization to accept the aforementioned new performance guarantees, and the inspection escrow fee on behalf of the Borough, and the release of the original performance guarantees posted pursuant to application No. Z6378;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Red Bank that it does hereby authorize and direct the Director of the Borough's Planning and Zoning Department to accept the aforementioned new performance guarantees posted by the Developer as the performance guarantees and inspection for application No. Z9053, and for the release of the original performance guarantees posted by the Developer for application No. Z6378.

BE IT FURTHER RESOLVED that the Clerk forward a certified true copy of this resolution to The Presbyterian Home at Red Bank, Inc. and to the Borough Engineer.

Seconded by Mr. Zipprich and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Ms. Lewis	(x)	()	()	()
Mr. Zipprich	(x)	()	()	()
Mr. DuPont	()	()	()	(x)
Ms. Horgan	(x)	()	()	()
Ms. Lee	(x)	()	()	()
Mr. Murphy	(x)	()	()	()

Dated: February 14, 2011