

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2013-131

Council Meeting Date: 04-01-2013

Date Adopted: 04-01-2013

TITLE: RESOLUTION AUTHORIZING THE RETURN OF ESCROW FEES AND CASH MAINTENANCE GUARANTEE TO THE GREAT ATLANTIC AND PACIFIC TEA CO., INC., BLOCK 150, LOT 22.01

Councilperson Galluccio submitted the following resolution, which was duly seconded by Councilperson Munoz.

WHEREAS, in accordance with the Borough Engineer letter dated December 21, 2010, The Great Atlantic and Pacific Tea Co., Inc. posted \$8,100.00 maintenance guarantee, which represents 15% of the engineer's estimate of the project's site work and rear parking lot improvements, for a two year period from December 21, 2010, for property located at 1260 Springfield Avenue, Block 150, Lot 22.01; and

WHEREAS, The Great Atlantic And Pacific Tea Co., Inc. requested and received approval to provide the required maintenance guarantee in the form of cash; and

WHEREAS, the Great Atlantic and Pacific Tea Co., Inc. has requested return of escrow fees in the amount of \$17.50 and the cash maintenance guarantee in the amount of \$8,100.00; and

WHEREAS, based upon final site inspection, the Borough Engineer takes no exception to the issuance of final project closeout the project known as A & P at the village Center and the return or escrow funds and cash maintenance guarantee..

NOW THEREFORE BE IT RESOLVED by the Mayor and Borough Council of the Borough of New Providence, County of Union and State of New Jersey that cash maintenance guarantee including interest in the total amount of \$8,112.61 and \$17.50 escrow fees be returned to the Great Atlantic And Pacific Tea Co., Inc.

APPROVED, this 1st day of April, 2013.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MUÑOZ	X			
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 1st day of April, 2013.

Wendi B. Barry, Borough Clerk

BOROUGH OF
NEW PROVIDENCE

SETTLED IN 1720

J. Brooke Hern, Mayor

Andrew R. Hipolit, Borough Engineer

Mark G. Demareski, Assistant Engineer

MEMORANDUM

To: Doug Marvin, Borough Administrator

From: Mark Demareski, Assistant Borough Engineer

CC: Wendi Barry, Borough Clerk (w/attachments)
Carl Woodward, Esq., Borough Attorney (w/attachments)
Andrew R. Hipolit, P.E., Borough Engineer
Keith Lynch, Construction Official

Dated: March 27, 2013

**RE: Resolution for Final Project Closeout
A&P at the Village Center (New Providence, LLC)
Project Site Plan Compliance
Springfield Avenue
Block 150, Lots 22.01
Our File No. NPP-264**

Attached is David O'Sullivan, Senior Director of Design & Building Services letter dated March 21, 2012 requesting a final project closeout for the above captioned property (Attachment 1). A two (2) year maintenance bond was requested from The Great Atlantic & Pacific Tea Company in the amount of \$8,100.00 which represents 15% of the engineer's estimate for the new A&P site work and rear parking lot improvements. David O'Sullivan requested that the Performance Guarantee be held as the Maintenance Guarantee for the two (2) year period from December 21, 2010 to December 21, 2012 (Attachment 2).

At this time, the Engineering Department takes no exceptions to the issuance of final project closeout, based on a final site inspection and review of the site plans entitled Site Plan and Grading and Utility Plan entitled, "Site and Utility Modifications to Retail Development for A&P, Block 150, Lots 22.01, Borough of New Providence, Union County, New Jersey," prepared by Darl F. Wisotsky, P.E. of Boehler Engineering Associates, LLC, consisting of two (2) sheets, dated September 30, 2009.

I hereby recommend the approval by Resolution for the return of the Escrow Fees to be released per Purchase Order #43494 in the amount of \$17.50 (Budget Account # 70--002-02045--) and the Performance Guarantee to be released per Purchase Order #43428 in the amount of \$8,112.61 (Budget Account #70—002-02044) to The Great Atlantic & Pacific Tea Company, Two Paragon Drive, Montvale, NJ, 07645.

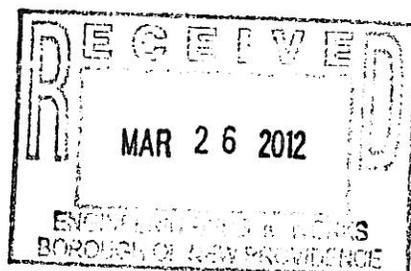
If you have any questions or require additional information, please feel free to contact me.

F:\Resolution - Planning Board\NPP264 A&P Site Plan\031313_arh_A&P Site Plan_Village Shopping Center_Escrow and Performance Bond Release.doc

ATTACHMENT 1

The Great Atlantic &
Pacific Tea Company
2 Paragon Drive
Montvale, NJ 07645

March 21, 2012



Mr. Andrew Hipolit
Asst. Borough Engineer
BOROUGH OF NEW PROVIDENCE
360 Elkwood Avenue
New Providence, NJ 07974

**Re: New A&P Supermarket,
New Providence, New Jersey
Project #OCP487**

Dear Andrew:

3/27/13
KJZ

Please be advised that A&P is requesting that the Borough of New Providence release \$8,112.60 to A&P for site work per Bohler Engineering Site Plan dated 9-30-2009 only. This release should not include any site work (i.e. Parking Lot) that is the responsibility of our Landlord, Larry Paragano.

A&P appreciates all the hard work by the Borough of New Providence in making this project a success.

We look forward to a long and continued relationship with you in the future.

Thank you.

Regards,

A handwritten signature in cursive script that reads "David O'Sullivan".

David O'Sullivan
Sr. Director of Design & Energy

**better
TOGETHER**



coming TOGETHER
working TOGETHER
winning TOGETHER

BOROUGH OF NEW PROVIDENCE PURCHASE ORDER

43428

360 ELKWOOD AVE

Plan bd-540

A&PESC

NEW PROVIDENCE, NJ 07974-1838

www.newprov.org

SIGN & RETURN TO ADDRESS ABOVE

DATE	3/22/2012
PAGE NO.	1
CHECK NO.	
TAX EXEMPT NO. 22-6002132	

VENDOR	SHIP TO
THE GREAT ATLANTIC & PACIFIC TEA CO., INC. Two Paragon Drive Montvale, NJ 07645	PLANNING BOARD MUNICIPAL CENTER 360 ELKWOOD AVE NEW PROVIDENCE, NJ 07974 Attn: DEPT OF PLANNING & DEVELOPMENT

SPECIAL INSTRUCTIONS

BRC: 000000

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
1	Refund of performance bond and interest for Planning Board File - A&P Site Improvements at the Village Center 70-002-02044 Cash	1	8,112.61	8,112.61
<h1>VOUCHER</h1> <p>SIGN AND RETURN TO DEPARTMENT TAKING DELIVERY</p>				
NO ORDER VALID UNLESS SIGNED BELOW				TOTAL → 8,112.61

CERTIFICATION OF AVAILABLE FUNDS	
 PURCHASING AGENT	 FINANCE DEPARTMENT

DEPARTMENT HEAD CERTIFICATION	
I certify that the materials and supplies have been received or the services rendered.	
AUTHORIZED SIGNATURE	DATE

APPROVAL FOR PAYMENT	
COUNCIL MEMBER	DATE
ADMINISTRATOR	DATE

VENDOR CERTIFICATION AND DECLARATION	
I do solemnly declare and certify under the penalties of the law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.	
<input checked="" type="checkbox"/> VENDOR SIGN HERE	Sr. Director TITLE
	4/20/12 DATE
13-1890974 VENDOR SOCIAL SECURITY NO. OR TAX I.D. NO.	

VOUCHER - SIGN AT (X) AND RETURN FOR PAYMENT (SEE CONDITIONS ON REVERSE SIDE)

BOROUGH OF NEW PROVIDENCE PURCHASE ORDER

43494

360 ELKWOOD AVE

Bd of Adj-704

A&PESC

NEW PROVIDENCE, NJ 07974-1838

www.newprov.org

SIGN & RETURN TO ADDRESS ABOVE

DATE:	4/4/2012
PAGE NO.:	1
CHECK NO.:	
TAX EXEMPT. NO. 22-6002132	

VENDOR	SHIP TO
THE GREAT ATLANTIC & PACIFIC TEA CO., INC. Two Paragon Drive Montvale, NJ 07645	MUNICIPAL CENTER 360 ELKWOOD AVENUE NEW PROVIDENCE, N.J. 07974

SPECIAL INSTRUCTIONS

BRC: 000000

ITEM NO.	ITEM DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT
1	Return Escrow Fee to the Great Atlantic & Pacific Tea Company for Site Improvements at the Village Center 70-002,02045	1	17.50	17.50

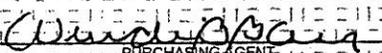
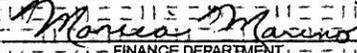


BOROUGH OF
NEW PROVIDENCE
SETTLED IN 1710

VOUCHER
SIGN AND RETURN TO DEPARTMENT TAKING DELIVERY

NO ORDER VALID UNLESS SIGNED BELOW

TOTAL **17.50**

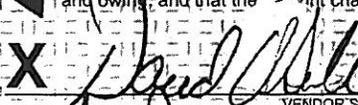
CERTIFICATION OF AVAILABLE FUNDS
 PURCHASING AGENT
 FINANCE DEPARTMENT

DEPARTMENT HEAD CERTIFICATION
 I certify that the materials and supplies have been received or the services rendered.

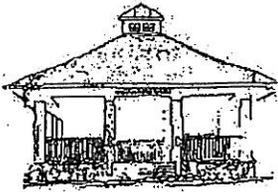
AUTHORIZED SIGNATURE _____ DATE _____

APPROVAL FOR PAYMENT
 COUNCIL MEMBER _____ DATE _____
 ADMINISTRATOR _____ DATE _____

VENDOR CERTIFICATION AND DECLARATION
 I do solemnly declare and certify under the penalties of the law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons within the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.

X  VENDOR SIGN HERE
 TITLE
 2/26/2013 DATE
 13-1890974 VENDOR SOCIAL SECURITY NO. OR TAX ID. NO.

ATTACHMENT 2



BOROUGH OF
NEW PROVIDENCE
SETTLED IN 1720

ENGINEERING DEPARTMENT

John A. Thoms, Mayor

Andrew R. Hipolit, P.E., Borough Engineer

Mark G. Demareski, Asst. Borough Engineer

December 22, 2010

David O'Sullivan
Sr. Director of Design & Building Services
The Great Atlantic & Pacific Tea Company, Inc.
2 Paragon Drive
Montvale, NJ 07645

Re: **A & P at the Village Center (New Providence, L.L.C.)**
Project Compliance
Block 150, Lot 22.01
Springfield Avenue
Our File No. NPP-264

Dear Mr. O'Sullivan:

Pursuant to our December 21, 2010 correspondence where we recommended release of the Performance Guarantee, you advised us that A & P posted cash (\$64, 817.21) rather than a bond. With this understanding, we take no exception to your request of deducting \$8,100.00 from the \$64, 817.21 to cover the Maintenance Guarantee, which will remain with the Borough for two (2) years. Therefore, we recommend release of the remaining balance of \$56,717.21.

Thank you for your attention to this matter. If you have any further questions, please do not hesitate to call me.

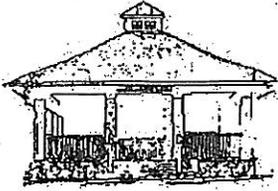
Very truly yours,

Andrew R. Hipolit, P.E.
Borough Engineer

ARH/egm

CC: Mayor and Council (via Clerk)
Wendi B. Barry, Borough Clerk
Linda Fitzpatrick, Planning Board Secretary
Keith Lynch, Building Official

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BOROUGH OF
NEW PROVIDENCE
SETTLED IN 1720

ENGINEERING DEPARTMENT

John A. Thoms, Mayor

Andrew R. Hipolit, P.E., Borough Engineer

Mark G. Demareski, Asst. Borough Engineer

December 21, 2010

David O'Sullivan
Sr. Director of Design & Building Services
The Great Atlantic & Pacific Tea Company, Inc.
2 Paragon Drive
Montvale, NJ 07645

Re: **A & P at the Village Center (New Providence, L.L.C.)**
Project Compliance
Block 150, Lot 22.01
Springfield Avenue
Our File No. NPP-264

Dear Mr. O'Sullivan:

We are in receipt of your request to release the Performance Guarantee for the above referenced matter. We have conducted a final site inspection and reviewed conditions in the Resolution to verify the completeness of site improvements.

Based on this work, all site improvements have been completed. Therefore, we recommend release of the remaining Performance Guarantee, provided that all invoices from professionals working on this project have been paid and a Maintenance Bond has been posted. N.J.S. 40:55D-53 allows the amount of the Maintenance Bond to be 15% of the site improvements. The estimated cost of the improvements was \$54,000.00. Therefore, a Maintenance Bond shall be posted in the amount of **\$8,100.00 for a period of two (2) years.**

It is our understanding that you are requesting release of the escrow account as well. We recommend that the Borough retain \$500.00 in escrow until the Maintenance Guarantee period has expired. This remaining escrow will cover Borough expenses if maintenance issues arise during the two (2) year period.

Very truly yours,

Andrew R. Hipolit, P.E.
Borough Engineer

ARH/egm

CC: Mayor and Council (via Clerk)
Wendi B. Barry, Borough Clerk
Linda Fitzpatrick, Planning Board Secretary
Keith Lynch, Building Official

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360 Elkwood Avenue • New Providence • New Jersey • 07974
908-665-1400 • 908-665-9272 (Fax)
www.newprov.org

70 DEVELOPERS ESCROW
 002 APPRN EXCLUDED FROM CAPS
 02044 A & P - VILLAGE SHOP CENTER- PERF BOND-BOA

Date	Vendor ID	Transaction	Description	Reference	Modified Budget	Encumbrance	Payment	Balance
01/01/10		Balance transferred		70--002-02044-	64,800.00			64,800.00
12/31/10		Balance transferred		70--002-02044-	(64,800.00)			0.00
01/01/11		Balance transferred		70--002-02044-	64,800.00			64,800.00
01/20/11	A&PESC	Purchase order	Return of portion of Performance Guarantee Funds as per letter of Andrew Hipolit, PE dated 12/22/10 for A&P (new bldg), Village Shopping Center	40502		56,717.21		8,082.79
02/28/11	A&PESC	Check	THE GREAT ATLANTIC & PACIFIC TEA CO., INC	2754			56,717.21	8,082.79
12/31/11		Balance transferred		70--002-02044-	(8,082.79)			0.00
01/01/12		Balance transferred		70--002-02044-	8,082.79			8,082.79
03/19/12		Budget Offsets	Accumulated interest-close out account	632	29.82			8,112.61
12/31/12		Balance transferred		70--002-02044-	(8,112.61)			0.00
01/01/13	A&PESC	Purchase order	Refund of performance bond and interest for Planning Board File - A&P Site Improvements at the Village Center	43428		8,112.61		(8,112.61)
01/01/13		Balance transferred		70--002-02044-	8,112.61			0.00
Total					64,829.82	64,829.82	56,717.21	0.00
Total					64,829.82	64,829.82	56,717.21	0.00

Date	Vendor ID	Transaction	Description	Reference	Modified Budget	Encumbrance	Payment	Balance
Total		A & P - VILLAGE SHOP CENTER-PERF BOND-BOA			64,829.82	64,829.82	56,717.21	0.00
Total		APPRN EXCLUDED FROM CAPS			64,829.82	64,829.82	56,717.21	0.00
Total					64,829.82	64,829.82	56,717.21	0.00
Total		DEVELOPERS ESCROW			64,829.82	64,829.82	56,717.21	0.00
Total		Report			64,829.82	64,829.82	56,717.21	0.00