

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2017-058

Council Meeting Date: 01-23-2017

Date Adopted: 01-23-2017

TITLE: RESOLUTION AUTHORIZING RETURN OF MAINTENANCE BOND TO
FITNESS FACTORY HEALTH CLUB & MARKET

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

WHEREAS, Fitness Factory Health Club & Market has requested return of their maintenance bond, for a 2012 Board of Adjustment application for a use variance, in the amount of \$72,871.17; and

WHEREAS, the Director of Planning and Development advises all required fees and expenses have now been paid; and

WHEREAS, the Director of Planning and Development recommends the release of maintenance bond for the 2012 Board of Adjustment application for a use variance.

NOW THEREFORE BE IT RESOLVED by the Mayor and Council of the Borough of New Providence that the maintenance bond in the amount of \$72,871.17 posted by Fitness Factory Health Club & Market, be returned to said applicant.

APPROVED, this 23rd day of January, 2017.

RECORD OF VOTE

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

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 23rd day of January, 2017

Wendi B. Barry, Borough Clerk

B O R O U G H O F
NEW PROVIDENCE

SETTLED IN 1720

Al Morgan, Mayor

Keith J. Lynch, Director
Planning and Development

Deborah A. Timko, Technical Assistant

January 20, 2017

Wendi Barry, Borough Clerk
Borough of New Providence
Municipal Center
360 Elkwood Avenue
New Providence, NJ 07974

Re: Fitness Factory Health Club & Market
Maintenance Bond Release Recommendation
598 Central Avenue
Block 222, Lot 1
Borough of New Providence
Union County, New Providence
Board of Adjustment Application: ZBA 2012-26
Maser File No. NPZ-399

Dear Ms. Barry:

The Applicant for the above-referenced project completed the improvements on the subject property. The performance guarantee and cash portion of the performance guarantee was released in December 2014. Release of the performance guarantee was contingent upon posting of a Maintenance Bond in the amount of \$72,871.17 to remain in place for two (2) years. Such bond was posted and the applicant is now requesting release of the Maintenance Bond.

I take no exception to the release of the Maintenance Bond.

Sincerely,



Keith Lynch
Director, Planning and Development

cc: Mandelbaum & Krukpnick, LLC, Applicant

THE SERVICE INSURANCE COMPANY, INC.

80 Main Street, Suite 330
West Orange, New Jersey 07052
973-731-7650 (P) 973-731-7889 (F)

TERM: 12/12/2014-12/12/2016

BOND NO. 34941

MAINTENANCE BOND

The undersigned declare that we, MANDELBAUM & KRUPNICK, LLC as Principal, and THE SERVICE INSURANCE COMPANY, INC., 80 MAIN STREET, WEST ORANGE, NJ 07052 as Surety are held and firmly bound unto BOROUGH OF NEW PROVIDENCE as Obligee in the sum of SEVENTY TWO THOUSAND EIGHT HUNDRED SEVENTY ONE DOLLARS AND 17/100 CENTS (\$72,871.17), to be paid to BOROUGH OF NEW PROVIDENCE to which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors.

The condition of this obligation is such that whereas the Principal has entered into an agreement for PROPOSED FITNESS FACTORY HELATH CLUB & MARKET, BLOCK: 222, LOT: 1, 598 CENTRAL AVENUE, BOROUGH OF NEW PROVIDENCE, UNION COUNTY, NEW JERSEY

The condition of this obligation is such that whereas the Principal, MANDELBAUM & KRUPNICK, LLC, had performed a certain site improvements contract and the Obligee approved such construction work performed under the original site plan agreement, then at the sole option of the surety, the surety agrees to replace, repair or pay for any defects at the depreciated value, not exceeding this bond amount for a period of TWO (2) YEARS from the date of final acceptance, as per the letter dated December 9th, 2014 by Paul S. Niehoff, provided such defects, according to reasonable construction and engineering standards, are the result of defective or inferior materials or workmanship, then this obligation shall be void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no modifications, deletions or additions in or to the terms of said agreement or drawings or specifications therefore, shall in any way affect its obligations on this Bond. Bond condition: It is understood that all work had been inspected and fully accepted by a qualified representative of the Obligee, prior to the effective date of this bond and that there where no known defects prior to this bond being issued.

IN WITNESS WHEREOF, the Principal and Surety have duly executed this Bond under seal this 12TH day of DECEMBER, 2014.

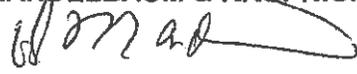
SURETY EMBOSSED CORPORATE SEAL MUST APPEAR ON BOND FORM AND POWER OF ATTORNEY



WITNESS



WITNESS

MANDELBAUM & KRUPNICK, LLC


PRINCIPAL

THE SERVICE INSURANCE COMPANY, INC.


JAMES S. BURGER, PRESIDENT

BOND NO. 349411

THE SERVICE INSURANCE COMPANY, INC.
POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, That THE SERVICE INSURANCE COMPANY, INC., 280 Main Street #330, West Orange, NJ 07052, a corporation of the State of New Jersey, pursuant to authority granted by Article VIII, Section 7 of the By-Laws of said Company, which reads as follows: "CONTRACTS: The Board of Directors may authorize any officers, to execute any surety bond instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances."

Does hereby nominate, constitute and appoint Glen T. Burger and James S. Burger, its true and lawful agents and Attorney(s)-in-Fact, to make, execute, seal and deliver for, and on its behalf as surety, and its act and deed: any and all bond undertakings, and consents to surety; no one bond to exceed an aggregated penal sum liability of \$5,000,000.00 (Five Million Dollars).

Does hereby nominate, constitute and appoint _____ of _____ Insurance Agency as its true and lawful agents ("Outside Agents") and Attorney(s)-in-Fact to make, execute and deliver a Consent of Surety on behalf of the Company, to any Obligor for a payment and/or performance bond not to exceed an aggregated penal sum liability of \$5,000,000 (Five Million Dollars).

Does hereby nominate, constitute and appoint said Outside Agents as its true and lawful Attorney in Fact to make, execute, seal and deliver for and on its behalf (i) bid bonds not to exceed \$100,000 in face amount and (ii) any and all other bond undertakings not to exceed \$1,000,000 in aggregate penal sum liability. Said Outside Agents shall obtain prior approval confirmed in writing from the Company with a bond number provided by the Company's home office prior to issuing any bonds. Said Outside Agents by executing the attached bond, hereby represent and warrant under oath that the Company has granted him/her prior approval and furnished the bond number for the attached bond, which has been logged and recorded at the Company's home office. The Company shall not cover, honor or pay any claims for unauthorized bonds, and the Obligor may confirm the validity of the attached bond on receipt by contacting the Company in writing at 973-731-7889 (fax) or glburger@serviceinsurancecompany.com.

IN WITNESS WHEREOF, the said Treasurer and President have hereunto subscribed their names and affixed the Corporate Seal of the said The Service Insurance Company, Inc., this 4th day of November, A.D. 2013

THE SERVICE INSURANCE COMPANY, INC.

BY: 
GLEN T. BURGER, TREASURER

BY: 
JAMES S. BURGER, PRESIDENT

STATE OF NEW JERSEY)
CITY OF WEST ORANGE)

On this 4th day of November, A.D. 2013, before me subscribed a Notary Public of the State of New Jersey, duly commissioned and qualified, came the above named Treasurer and President of The Service Insurance Company, Inc., to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledge the execution of the same, and being by me duly sworn severally and each for himself deposed the said, that they are the said officers of the Company aforesaid, and that the seal is affixed to the preceding instruments, is the Corporate Seal of said Company, and that the Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

MARIA E CERQUEIRA
ID #2360557
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires June 04, 2017


Notary Public in the State of New Jersey

CERTIFICATE

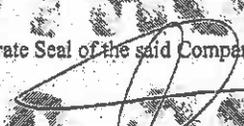
I, the undersigned, President of The Service Insurance Company, Inc. The Company, do hereby certify that the original Power of Attorney in which the forgoing is full, true and correct copy, is in full force and effect on the date of this certificate, and I do further certify that the President who executed the said Power of Attorney was specially authorized by the Board of Directors to appoint any Attorney in Fact as provided in Article VIII, Section 7, of the By-Laws of The Service Insurance Company, Inc.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Service Insurance Company, Inc.

Resolved: "That the facsimile or mechanically reproduced signature of the Company President, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the Corporate Seal of the said Company, this 12 day of December, 2014.

COMPANY EMBOSSED CORPORATE SEAL MUST APPEAR ON BOND FORM AND POWER OF ATTORNEY


JAMES S. BURGER, PRESIDENT

THE SERVICE INSURANCE COMPANY
(Statutory Basis)
**STATEMENT OF ADMITTED ASSETS,
 LIABILITIES SHAREHOLDER'S EQUITY
 AS OF DECEMBER 31, 2013**

ADMITTED ASSETS

Cash & Cash Equivalents & Short Term Investments	2,723,645
Common Stocks	185,226
Bonds	7,569,596
Interest Income Receivable	91,800
Premiums & Agents Balances	489,441
Amounts Receivable from Reinsurers	271,331
Current Federal Income Tax Recoverable	135,625
Electronic Data Equipment	14,299
Net Deferred Tax Asset	52,019
TOTAL ADMITTED ASSETS	11,512,982

LIABILITIES & SHAREHOLDER'S EQUITY

LIABILITIES

Losses & Loss Adjustment Expenses	774,462
Other Expenses	281,792
Taxes, licenses & fees	33,754
Federal Income Tax	-
Unearned Premiums	760,089
Amounts Withheld or Retained by Company for Accounts of Others	3,746,724
Miscellaneous	123,473

Total Liabilities **5,720,294**

SHAREHOLDER'S EQUITY

Common stock, par value \$20.00 per share	
50,000 shares authorized issued, 32,000 shares outstanding as of December 31, 2013	1,000,000
Gross Paid-in & Contributed Surplus	839,198
Unassigned funds (surplus)	4,992,090
Treasury Stock	(1,038,600)
Total Shareholder's Equity	6,792,688

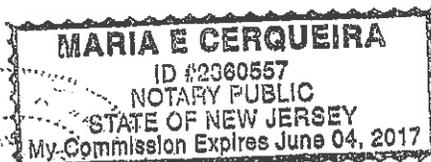
TOTAL LIABILITIES & SHAREHOLDER'S EQUITY **11,512,982**

STATE OF NEW JERSEY)
) SS
 COUNTY OF ESSEX)

I, James S. Burger, President of Service Insurance Company, Inc., do hereby certify that the above is a true statement of the assets, liabilities of said Corporation as of December 31, 2013.

 James S. Burger, President

STATE OF NEW JERSEY)
) SS
 COUNTY OF ESSEX)



Subscribed and sworn before me, a Notary Public, State of New Jersey, in the County of Essex, this 8th day of May, 2014.

Maria E. Cerqueira

 Notary Public

NEW PROVIDENCE

SETTLED IN 1720

J. Brooke Hern, Mayor

Andrew R. Hipolit, Borough Engineer

Margaret Koontz, Administrative Assistant

December 9, 2014

VIA E-MAIL

Wendi Barry, Borough Clerk
Borough of New Providence
Municipal Center
360 Elkwood Avenue
New Providence, New Jersey 07974

Re: Proposed Fitness Factory Health Club & Market
Performance Guarantee Release Recommendation
Block 222, Lot 1
598 Central Avenue
Borough of New Providence
Union County, New Jersey
Our File No. NPZ-399

Dear Ms. Barry:

The Applicant for the above-referenced project has completed the improvements on the subject property and is requesting release of the performance guarantee. Maser has provided part-time, as needed inspection services throughout the construction. We take no exception to the release of the performance guarantee. According to our records the release would include \$58,296.94 (plus interest) in the form of cash and \$582,969.36 in the form of a bond.

Prior to formal release of the performance guarantee the Applicant is required to submit a Maintenance Bond in the amount of \$72,871.17. The bond must remain in place for a period of two (2) years.

To: Margaret Koontz
Re: Our File No. NPZ-399

December 9, 2014
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Thank you for your kind attention in this matter. Please do not hesitate to contact me should you have any questions.

Very truly yours,



Paul S. Niehoff, P.E., P.P., C.M.E.
Senior Associate

PSN/cb

cc: Planning Board (via Secretary)
Margaret Koontz, Board Secretary (via e-mail)
Keith Lynch, Building Official (via e-mail)
Mandelbaum & Krupnick, LLC, Applicant

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