

RESOLUTION 16-2024

**EAST WHITELAND TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

**A RESOLUTION AUTHORIZING THE RELEASE OF CERTAIN SANITARY SEWER
IMPROVEMENT BONDS FOR THE KNICKERBOCKER DEVELOPMENT**

WHEREAS, Toll Mid-Atlantic LP Company, Inc. (“Developer”) is the record owner of Unit 1 within a condominium known as “Knickerbocker Condominium” comprising 176.7 acres +/- in East Whiteland Township and being Chester County UPI No. 42-4-42 (the “Property”);

WHEREAS, Developer is constructing a residential development consisting of two-hundred eighty (280) twin homes and townhomes within Unit 1 of the condominium (UPI No. 42-4-42), together with other improvements located outside of Unit 1 (the “Project”);

WHEREAS, Developer is installing its required improvements in accordance with (i) East Whiteland Township Resolution No. 2022-35, and (ii) certain plans prepared by D.L. Howell & Associates, Inc., dated November 10, 2021, last revised November 6, 2023 and recorded on November 17, 2023 in the Chester County Recorder of Deeds as Plan No. 21210, and (iii) a certain Land Development and Financial Security Agreement for the Knickerbocker Development – Phase 1, by and between Developer and East Whiteland Township, dated September 7, 2023 and recorded on November 17, 2023 in the Chester County Recorder of Deeds in Deed Book 11138, page 312 (the “Phase 1 LDA”), and (iv) a certain Land Development and Financial Security Agreement for the Knickerbocker Development – Phase 2, by and between Developer and East Whiteland Township, dated September 7, 2023 and recorded on November 17, 2023 in the Chester County Recorder of Deeds in Deed Book 11138, page 408 (the “Phase 2 LDA”);

WHEREAS, as required by the Phase 1 LDA, Developer provided the Township with Liberty Mutual Insurance Company Performance Bond No. 019089829 in the amount of \$607,430.23 to ensure the completion of sanitary sewer improvements associated with Phase 1 of the Project (the “Phase 1 Sewer Bond”);

WHEREAS, as required by the Phase 2 LDA, Developer provided the Township with Liberty Mutual Insurance Company Performance Bond No. 019089828 in the amount of \$336,506.39 to ensure the completion of sanitary sewer improvements associated with Phase 2 of the Project (the “Phase 2 Sewer Bond”);

WHEREAS, Section A.2 in both the Phase 1 LDA and Phase 2 LDA provides that the Township shall release the financial security for sanitary sewer improvements to Developer upon receipt of written notice from Aqua Pennsylvania, Inc. (“Aqua”) indicating the need for Developer to post financial security with Aqua for such sanitary sewer improvements;

WHEREAS, by letter dated October 10, 2023, Aqua notified Developer that Aqua is requiring Developer to post financial security for the sanitary sewer improvements that are to be constructed as part of Phase 1 of the Project;

WHEREAS, by letter dated November 8, 2023, Aqua notified Developer that Aqua is requiring Developer to post financial security for the sanitary sewer improvements that are to be constructed as part of Phase 2 of the Project; and

WHEREAS, having been directed by Aqua to post financial security for the Phase 1 and Phase 2 sanitary sewer improvements, the Developer has requested that Township release the Phase 1 Sewer Bond and the Phase 2 Sewer Bond, and the Township desires to release the same.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of East Whiteland Township hereby authorizes the release and return of the Phase 1 Sewer Bond and Phase 2 Sewer Bond to the Developer, subject to the following conditions:

1. Developer shall provide Township with written documentation showing that it has provided Aqua with the required financial security to ensure completion of the Phase 1 and Phase 2 sanitary sewer improvements.

2. If, at any time, Aqua releases its financial security for the Phase 1 and/or Phase 2 sanitary sewer improvements before such improvements have been completed by Developer and approved by Aqua, then the Township may require that Developer re-post financial security to the Township to ensure the completion of the then-remaining sanitary sewer improvements for Phase 1 and/or Phase 2 and the terms of the Phase 1 LDA and/or Phase 2 LDA, as applicable, shall apply to such improvements.

3. No provision hereof shall be construed to prohibit the Township from requiring Developer to provide financial security to the Township to ensure the construction of the sanitary sewer improvements required for any future phase of the Project, unless Aqua requires that Developer post financial security for such sanitary sewer improvements with Aqua.

4. No provision hereof shall be construed to prohibit the Township from requiring Developer to provide financial security to the Township to ensure the construction of the proposed Lapp Road pump station and related sanitary sewer improvements, unless Aqua requires that Developer post financial security for such improvements with Aqua.

RESOLVED and ADOPTED this 10th day of JANUARY, 2024.

Attest:

**EAST WHITELAND TOWNSHIP
BOARD OF SUPERVISORS**

Steven C. Brown

Scott Lambert

Steven Brown
Township Manager

By:

Scott Lambert
Chairperson

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