

RESOLUTION 070124

**A RESOLUTION
TO APPROVE AN IRREVOCABLE CASH DEPOSIT AGREEMENT
BETWEEN HANOVER TOWNSHIP AND THE VILLAGE OF BARTLETT
FOR THE WILLIAM TIKNIS CAMPUS EXPANSION**

BE IT RESOLVED by the Supervisor and Board of Town Trustees (hereinafter, collectively, the "Board") of Hanover Township, Cook County, Illinois, as follows:

SECTION ONE: APPROVAL. That the Irrevocable Cash Deposit Agreement between Hanover Township and the Village of Bartlett (hereinafter, the "Agreement"), a copy of which is attached hereto and incorporated herein by this reference, for the provision of a cash bond in the amount of \$108,112.60 (the "Bond") in connection with the William Tiknis Campus Expansion, is hereby approved.

SECTION TWO: AUTHORIZATION. The Township Supervisor and the Township Clerk of Hanover Township are hereby authorized to sign and attest, respectively, the Agreement and to issue the Bond on behalf of Hanover Township.

SECTION THREE: SEVERABILITY. If any section, paragraph, or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

SECTION FOUR: REPEALER. All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION FIVE: **EFFECTIVE DATE.** This Resolution shall be in full force and effect upon its passage and approval.

ROLL CALL VOTE: Supervisor McGuire and Trustees Essick, Beattie, Martinez, and Noyola

AYES: 4 *Supervisor McGuire and Trustees Beattie, Martinez, and Noyola*

NAYS: 0

ABSENT: 1 *Trustee Essick*

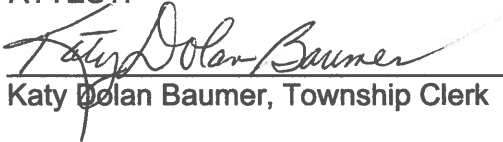
PASSED: July 2, 2024

APPROVED: July 2, 2024



Brian P. McGuire, Township Supervisor

ATTEST:

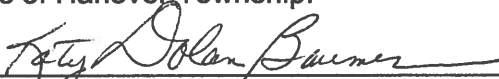


Katy Dolan Baumer, Township Clerk



CERTIFICATION

I, the undersigned, do hereby certify that I am the Township Clerk of Hanover Township, Cook County, Illinois, and that the foregoing is a true, complete and exact copy of resolution 070124, enacted on July 2, 2024, and approved on July 2, 2024, as the same appears from the official records of Hanover Township.


Katy Dolan Baumer, Township Clerk

Public Improvements until they are completed and accepted by the Village corporate authorities and a maintenance guaranty has been deposited with the Village in accordance with the Subdivision Ordinance; and

WHEREAS, the PICA, and the Subdivision Ordinance, and the terms and conditions of each of them, are hereby incorporated herein by this reference as though fully set forth herein and are collectively referred to herein as the "Village Approvals".

PART I – CASH PERFORMANCE BOND

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE such that if the Principal shall well, truly, promptly and faithfully perform all the undertakings, covenants, terms, conditions, and agreements of said Principal under the Village Approvals, including, but not limited to: (1) cause the Public Improvements to be constructed and maintained in a good and workmanlike manner with materials of good quality in strict accordance with the Plans and the Subdivision Ordinance; (2) complete construction on or before the completion date required under the PICA; (3) provide, perform and complete properly and in the manner specified in the PICA and the Subdivision Ordinance, all necessary work, labor, services, transportation, equipment, materials, apparatus, machinery, tools, fuels, gas, electric, water, waste disposal, information data and other means and items necessary for the construction, installation and completion of the Public Improvements; (4) procure and furnish all permits, licenses and other governmental approvals and authorizations necessary in connection therewith and all costs incidental thereto; (5) pay all applicable federal, state, county and local taxes; (6) cause a maintenance guaranty in the form of a separate cash deposit, a Standby Letter of Credit (Maintenance), or a Maintenance Bond to be deposited with the Village, or continue to hold a portion of the cash deposit made hereunder equal to the Maintenance Amount (hereinafter defined) in accordance with the Subdivision Ordinance; (7) to do all other things required of the Principal by the Village Approvals, or any of them; and (8) to provide, perform and complete all of the foregoing in full compliance with, and as required by and pursuant to the Village Approvals, or any of them; all of which are herein referred to as the "Principal's Obligations" whether or not any of the work enters into and becomes a component part of the Public Improvements contemplated, then this Obligation shall be null and void; otherwise, it shall remain in full force and effect.

A. Completion Date. The Public Improvements shall be completed as required under the PICA.

B. Owner, for value received, hereby stipulates and agrees that no changes, modifications, alterations, omissions, deletions, additions, extensions of time, or forbearances on the part of the Village, the Developer, or either of them to the other in or to the terms of the Village Approvals, or any of them, and/or any other of the Principal's Obligations; in or to the schedules, Plans, drawings, specifications; in or to the method or manner of performance of the Work in connection with the Public Improvements; in or to the manner of the payment therefor; or in or to Village furnished facilities, equipment, service, property or sites shall in any way release the Owner or its successors, or assigns, or affect the obligations of the Owner on this Bond, all notice of any and all of the foregoing

changes, modifications, alterations, deletions, additions, extensions of them, or forbearances and notice of any defaults by the Developer being hereby waived by the Owner.

C. Upon the default of the Owner with respect to the undertakings, covenants, terms, conditions, agreements, Village Approvals and/or the Principal's Obligations, and written notice of that default by the Village to the Owner ("Notice"), the Owner shall promptly remedy the default within the applicable cure period as set forth herein, otherwise, the Village may elect, at its option and in its sole and absolute discretion, to complete the work using a completing contractor selected by the Village and pay from the monies on deposit with the Village for the reasonable cost to complete the work, and perform the Principal's Obligations under the Village Approvals, including the reimbursement to itself, or to pay directly from the monies on deposit pursuant to the terms hereof, the costs of satisfying said Principal's Obligations up to the Penal Sum.

D. This Bond shall remain in full force and effect until the Public Improvements and the other Principal's Obligations are in fact completed, regardless of whether any notice of the Principal's failure to complete the Principal's Obligations, including, without limitation, the Public Improvements has been served on the Developer and the Owner, or either of them, or upon any of their respective successors in interest. Notwithstanding the foregoing, this Bond may be replaced with other acceptable security pursuant to the terms and conditions of the PICA.

E. In the event of a default under the PICA, or of any of the Principal's Obligations, if said default is not cured within the Cure Period after notice of default has been given, the Village shall have the right to draw down on the Cash Bond and use the funds on deposit to complete the Public Improvements and to hold 15% of the Penal Sum to cover the Principal's maintenance obligations to maintain, repair, correct, and replace any damaged or defective Public Improvements, and to pay for said maintenance, repair and replacement work, and to satisfy any of the Owner's Obligations, without the consent of the Owner.

F. The Village shall have no obligation to actually incur any expense or correct any deficient performance of the Principal in order to be entitled to the proceeds on the Bond.

G. Owner hereby grants to the Village a security interest and first lien upon the funds on deposit with the Village which are hereby pledged to the Village to secure the Principal's Obligations. The monies deposited hereunder shall not be subject to the claims of any creditor of the Owner through legal process, bankruptcy, operation of law or otherwise, or be subject to assignment, alienation, other pledge, attachment, execution, or levy, garnishment or hypothecation, except for persons, firms, entities, contractors or subcontractors that furnished labor and/or material in connection with the Public Improvements that have perfected a claim under the Public Construction Bond Act as provided in Part II of this Cash Bond.

H. **Maintenance Security.** Upon satisfaction of the Owner's other obligations required for acceptance of the Public Improvements by the Corporate Authorities under the PICA and the Subdivision Ordinance, the Cash Bond may be reduced to 15% of the actual total cost of the Public Improvements based on contracts on file with the Village Clerk, otherwise reduced to 15% of the Penal Sum (the "Maintenance Amount") as security for the performance of the Owner's maintenance obligations under the PICA and the and the Subdivision Ordinance which shall constitute the "Maintenance Cash Bond." The Maintenance Cash Bond shall continue to be held by the Village in escrow until the last to occur of (a) the date that is the end of the Maintenance Period set forth in the PICA, or (b) the date that is one (1) year after the proper correction of any defect or deficiency in the Public Improvements pursuant to the PICA and payment of the cost of correction. If the Village is required to draw on the Maintenance Cash Bond by reason of the Principal's failure to fulfill its obligations under this Agreement, the PICA, the Subdivision Ordinance or the Village Approvals, then the Principal shall within ten (10) days thereafter cause the Maintenance Cash Bond to be increased to its full original amount.

I. **Reductions.** The aggregate amount of the Cash Bond may be reduced only for completed categories of the Public Improvements work as those categories and time schedule are described in subparagraphs (i) through (viii) inclusive of paragraph A of Part I of this Agreement, but only after direction by the Village, either to reflect a reduction in the total amount of the deposit required to 110% of the bid amount based on executed contracts on file with the Village Clerk, or to reimburse the Owner for payment of Public Improvement work satisfactorily completed, but in no event shall any such reduction for work completed cause the remaining balance of the Cash Bond to be reduced below 150% of the amount certified by a licensed engineer retained by the Owner as to the value of the remaining work, and as confirmed by the Village Engineer, nor reduced below the Maintenance Amount, and further provided that all Public Improvements have been completed for which a reduction is sought has been fully paid for as evidenced by owner's sworn statements, general contractor's sworn statements and applicable lien waivers furnished to the Village. No reduction of the Cash Bond shall be allowed until the Village Attorney has approved of owner's sworn statement(s), contractor's sworn statements, partial or final waivers of lien, as may be appropriate, and any additional documentation that the Village Attorney may reasonably request to demonstrate satisfactory completion of the Public Improvement(s) in question and full payment therefor of all contractors, subcontractors, and material suppliers of every tier performing such work or furnishing such materials. After acceptance of the Public Improvements by the Corporate Authorities and reduction of the Cash Bond to the Maintenance Amount (hereinafter defined), said Maintenance Cash Bond shall not be reduced by reason of any cost incurred by the Principal to satisfy its obligations under this Agreement, and shall not be released until the Maintenance Period and any extension thereof for repair and/or replacement work, has expired, and the Owner have furnished sworn statements and lien waivers from the Developer evidencing that all maintenance, repair and replacement work during the Maintenance Period and extension thereof, if any, has been fully paid.

J. **Replenishment of Cash Bond.** If at any time the Village determines that the Cash Bond is not, or may not be, sufficient to pay in full the remaining unpaid cost of all Public Improvements and all unpaid Village fees, or that the funds remaining in the

Maintenance Cash Bond are not, or may not be, sufficient to pay all unpaid costs of correcting any and all defects and deficiencies in the Public Improvements, then, within ten (10) days after a demand by the Village, the Principal shall deposit additional funds with the Village to increase the amount of the Cash Bond to an amount determined by the Village to be sufficient to cover said deficiency and pay the unpaid costs and fees, otherwise the Village may draw down the entire remaining balance of the Cash Bond and pursue any deficiency from the Owner.

K. In the event the Owner fails to perform its obligations under this Agreement, the PICA, the Subdivision Ordinance and the Village Approvals, or under any of them, the Village shall provide a notice of such default to the Owner, and the Owner shall have thirty (30) days (the "Cure Period") to cure any such default. In the event any and all defaults set forth in the notice of default are not cured within the Cure Period, the Village may use the funds held pursuant to the Irrevocable Cash Deposit Agreement to pay for the completion and maintenance of the Public Improvements, and after completion thereof, for the payment of labor and material provided by subcontractors and material suppliers with respect to the Public Improvements, as provided in Part II of this Agreement.

L. This Cash Bond shall be governed by Illinois law and the parties agree that the proper venue for the enforcement of this Cash Bond shall be the Circuit Court for Cook County, Illinois. The Owner agrees to reimburse the Village for its costs and reasonable attorney's fees incurred by the Village in enforcing or attempting to enforce the Principal's Obligations, or any of them, under this Cash Bond, regardless of whether a lawsuit is actually filed, within thirty (30) days after the receipt of copies of paid invoices for such costs and attorney's fees, to the extent of the Village prevails.

PART II – LABOR AND MATERIAL CASH PAYMENT BOND

WHEREAS, the Principal agrees that all the undertakings, covenants, terms, conditions and agreements entered into between the Principal and the Village will be performed and fulfilled, and to pay all persons, firms and corporations having contracts with the Principal or with subcontractors, all just claims due them under the provisions of such contracts with the Principal or with subcontractors, all just claims due them under the provisions of such contracts for labor performed or materials furnished in the performance of the contract on account of which this Cash Bond is given, when such claims are not satisfied out of the contract price of the contract, on account of which this Cash Bond is given (which in this instance is none), after final settlement between the officer, board, commission or agent of the Village and the Principal has been made; and

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS such that if Principal shall promptly pay or cause to be paid all sums of money that may be due to any claimant with respect to the Owner's Obligations under the Village Approvals (1) to provide, perform, and complete the on-site and off-site Public Improvements and in the manner specified in the Village Approvals all necessary work, labor, services, transportation, equipment, materials, apparatus, machinery, tools, fuels, gas, electric, water, waste disposal, information, data and other means and items necessary to the construction, installation, and completion of the Public Improvements required in the Village Approvals; (2) to procure and furnish all permits, licenses, and other governmental

approvals and authorizations necessary in connection therewith; (3) to pay all applicable federal, state, and local taxes; (4) to do all other things required of Principal by the PICA, the Subdivision Ordinance, and/or the Village Approvals; and (5) to provide, perform, and complete all of the foregoing in a proper and workmanlike manner and in full compliance with, and as required by and pursuant to, the PICA, the Subdivision Ordinance and/or the other Village Approvals, all of which is herein referred to as the "Work", whether or not any of the Work enters into and becomes a component part of the Public Improvements contemplated, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

A. Owner hereby agrees that every claimant who has not had all just claims for the furnishing of any part of the Work paid in full, including, without limitation, all claims for amounts due for materials, lubricants, oil, gasoline, or rentals of or service or repairs on machinery, equipment, and tools consumed or used in connection with the furnishing of any part of the Work, may sue on this Cash Bond for the use of such claimant, may prosecute the suit to final judgment for such sum or sums as may be justly due such claimant, and may have execution therein; provided, however, that the Village shall not be liable for the payment of any costs or expenses of any such suit. The provisions of Section 23 of the Mechanic's Lien Act (770 ILCS 60/23) if applicable, and the Public Construction Bond Act (30 ILCS 550/1, *et seq.*) shall be deemed inserted herein, including, but not limited to, the time limits within which notices of claim for lien must be filed and actions brought under this Bond.

B. Owner agrees that the Village may sue on this Cash Bond if the Village is held liable to, or voluntarily agrees to pay, any claimant directly, but nothing in this Bond shall create any duty on the part of the Village to pay any claimant.

C. Principal, for value received, hereby stipulates and agrees that no changes, modifications, alterations, omissions, deletions, additions, extension of time, or forbearances on the part of the Village or Principal to the other in or to the terms of the Village Approvals; in or to the schedules, plans, drawings, or specifications; in or to the method or manner of performance of the Work; in or to Village-furnished facilities, equipment, materials, service, or site; or in or to the mode or manner of payment therefor shall in any way release Principal, or its heirs, executors, administrators, successors, or assigns, or affect the obligations of Principal on this Cash Bond, all formal notice of any and all of the foregoing changes, modifications, alterations, omissions, deletions, additions, extension of time, or forbearances being hereby waived by the Principal.

[signature page follows]

SIGNED AND SEALED this 2nd day of July, 2024

VILLAGE OF BARTLETT

OWNER: HANOVER TOWNSHIP

By: Paula Schumacher
Village Administrator

By: Brian P. McGuire
Name: Brian P. McGuire
Title: Township Supervisor

Attest:
Lona Gless
Village Clerk

Attest:
Katy Dolen Baumer
Township Clerk



EXHIBIT A

Property Address: 250 South Route 59, Bartlett, IL 60103

PIN: