

**RESOLUTION NO. 133-2020**  
**A RESOLUTION AUTHORIZING THE FORFEITURE OF CASH PERFORMANCE**  
**GUARANTEE AND POSTED ESCROWS TO PAY FOR SIDEWALK**  
**RECONSTRUCTION OF THE MADHATTER PROJECT AT BLOCK 19, LOT 3**  
**IN THE BOROUGH OF SEA BRIGHT**

Councilmember Leckstein introduced and offered for adoption the following Resolution; seconded by Councilmember Birdsall:

**WHEREAS**, in August, 2016, Kelly Management Group, L.L.C., the owner of premises known and designated on the tax map as Lot 3 in Block 19 and commonly known as 10 East Ocean Avenue in the Borough of Sea Bright received site plan and variance approval from the Unified Planning Board for the demolition of the existing improvements and the reconstruction of a new elevated restaurant on the first and second floor with various other improvements; and

**WHEREAS**, in accordance with N.J.S.A. 40:55D-53, the aforesaid Developer posted a performance guarantee for 120% of the cost of installing improvements in the total amount of \$91,050.00, ten percent (10%) (\$9,105.00) of which was cash and deposited with the Borough and the remaining ninety percent (90%) (\$81,945.00) was in the form of a surety performance bond (No. 1146088) to guarantee the satisfactory completion with all required improvements pertaining to the project ; and

**WHEREAS**, although the Developer began construction of the project, construction activity ceased leaving the improvements in an unsafe condition; and

**WHEREAS**, in connection with the construction of the aforesaid improvements, the Developer removed existing sidewalk within the public right of way of 10 East Ocean Avenue; and

**WHEREAS**, despite multiple requests and notices to do so, the Developer failed and refused to replace the public sidewalk, resulting in a dangerous condition to and for pedestrians on East Ocean Avenue; and

**WHEREAS**, the Borough provided notice to Lexon Insurance Company of the Developer's default on or about April 3, 2020; and

**WHEREAS**, the Developer and the bonding company were unresponsive to the notices issued on April 3, 2020; and

**WHEREAS**, on May 19, 2020, the Borough Council approved Resolution No. 120-2020 declaring Kelly Management Group and S. Kelly Corporation d/b/a Mad Hatter to be in default of its obligations under the aforesaid approval; and

**WHEREAS**, Borough officials contracted with Longview Construction Management LLC to perform emergency repairs to reconstruct the sidewalk in the public right of way for an amount not to exceed \$12,600.00; and

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, does hereby authorize the forfeiture of the cash performance bond and remaining inspection and review escrow fees submitted by Kelly Management Group d/b/a Mad Hatter and S Kelly Corporation d/b/a Mad Hatter, the Developer of the project known as the Mad Hatter to pay Longview Construction Management LLC, \$12,600.00 for the reconstruction of the sidewalk in the public right of way in front of Block 19, Lot 3; and

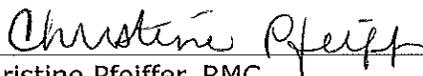
**BE IT FURTHER RESOLVED** that a certified copy of this resolution shall be forwarded to the following:

1. Borough Attorney
2. Borough Engineer
3. Construction official
4. Zoning officer
5. The Developer
6. Lexon Insurance Company

<b>Roll Call:</b>	Birdsall,	Catalano,	Keeler,	Leckstein,	Rooney,	Schwartz
	Yes	Yes	Yes	Yes	Yes	Yes

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council meeting held on July 21, 2020.

  
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Christine Pfeiffer, RMC