

TOWN OF PLEASANT VALLEY TOWN BOARD

TOWN BOARD RESOLUTION NO.: 142/2016

**RE: AUTHORIZING AMENDMENT TO FOX RUN/STEEPLECHASE ACRES LCC
SUBDIVISION ROAD IMPROVEMENT AGREEMENT**

WHEREAS, the Town of Pleasant Valley Planning Board granted final subdivision approval for the subdivision known as Fox Run Subdivision to Peter G. Capell on or about November 13, 2007; and

WHEREAS, said approval allows for the construction of a private roadway and a common driveway and the Town of Pleasant Valley Town Board authorized the construction of a private roadway pursuant by Town Law Section 280-a by an open development area by resolution on/about August 23, 2006; and

WHEREAS, in furtherance of the approvals Peter G. Capell executed a Road Improvement Agreement on March 11, 2008 , as amended on August 31, 2010; a Performance Bond on March 11, 2008, as amended on August 31,2010; and a Hold Harmless Agreement on June 19, 2008 (referred to as the “Agreements”); and

WHEREAS, the Road Improvement Agreement authorized the Agreements to be assigned by Capell to another party on consent of the Town Board, which consent would not be unreasonably withheld; and

WHEREAS, an assignment of the Road Bond Agreement, Performance Bond, and Hold Harmless Agreement was tendered by Peter G. Capell seeking to assign the aforementioned Agreements to Steeplechase Acres, LLC, a New York State limited liability Company, which was formed by Peter G. Capell and Kirchhoff Properties, LLC, to jointly undertake the development of the Fox Run Residential Subdivision; and

WHEREAS, the Town Board consented to the assignment by Resolution on or about February 2008; and

WHEREAS, as security for the Performance Bond, Steeplechase Acres, LLC, posted an Irrevocable Letter of Credit No. SB9127340001 issued by M&T Bank; and

WHEREAS, the Developer executed an amended Performance Bond dated September 12, 2012 and September 27, 2014 and a second amendment to the Road Improvement Agreement dated September 12, 2012 and a third amendment to the Road Improvement Agreement dated September 17, 2014 agreeing to complete the improvements by September 24, 2016; and

WHEREAS, notwithstanding the Agreements the developer did commence but did not complete construction as anticipated therein; and

WHEREAS, the developer has requested an extension from the Town to complete performance; now, therefore, be it

RESOLVED, that the Town Board hereby consents to the extension of the current Agreement with the developer to complete construction by September 24, 2018; and be it further

RESOLVED, that the Town Supervisor is authorized to execute the amended Road Improvement Agreement dated September 12, 2016.

MOTIONED BY: _____

SECONDED BY: _____

DATED: September 14, 2016

ROLL CALL:	<u>AYE</u>	<u>NAY</u>
Councilman Albrecht	_____	_____
Councilman Becker	_____	_____
Councilwoman Gross	_____	_____
Councilman Nicholson	_____	_____
Supervisor Figliozzi	_____	_____