

**RESOLUTION NO. 0044-2015**

**RESOLUTION OF THE BERKELEY TOWNSHIP MUNICIPAL UTILITIES  
AUTHORITY, TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW  
JERSEY, AUTHORIZING THE RELEASE OF A CASH PERFORMANCE BOND  
AND ACCEPTANCE OF A CASH MAINTENANCE BOND FOR THE PROJECT  
KNOWN AS HELMLY STREET EAST, BLOCK 866, LOT 1.01 IN  
THE TOWNSHIP OF BERKELEY, OCEAN COUNTY, NEW JERSEY**

WHEREAS, the Authority has previously granted preliminary, tentative and final approval for water service to a commercial building being constructed by the Henriques family on Helmly Street East, Block 866, Lot 1.01; and

WHEREAS, said approval was contingent upon several issues including the posting of a cash performance bond in the amount of \$66,353.04 as memorialized in Authority Resolution No. 51-2014; and

WHEREAS, the Authority is in receipt of an October 16, 2015 letter authored by Keith Chiaravallo, P.E., of CME Associates, the Authority's Engineers, recommending the release of the performance guarantee;

**NOW THEREFORE BE IT RESOLVED** this 22<sup>nd</sup> day of October, 2015, by the Berkeley Township Municipal Utilities Authority, County of Ocean, State of New Jersey, as follows:

1. The Authority authorizes the release of the cash performance bond in the total amount of \$66,353.04 plus interest.
2. The release of said performance bond is contingent upon payment of all outstanding escrow fees, if any, and the receipt of an Affidavit from the developer certifying that all contractors and suppliers have been paid in full.

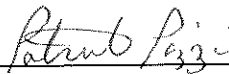
3. Pursuant to Authority Rules and Regulations a Maintenance Guarantee in the amount of 15% of the cost of the improvements or \$8,294.13 shall remain on deposit with the Authority for two (2) years after final acceptance of the improvements.

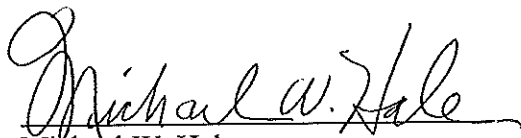
4. A certified copy of this Resolution shall be forwarded by the Executive Director to the following:

- a. Honorable Michael W. Hale, Chairman
- b. The Municipal Clerk of the Township of Berkeley
- c. CME Associates
- d. The Henriques Family
- e. Berry, Sahradnik, Kotzas & Benson

#### CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Berkeley Township Municipal Utilities Authority, County of Ocean, State of New Jersey, at a regular meeting held on the 22<sup>nd</sup> day of October, 2015, a quorum being present and voting in the majority.

  
\_\_\_\_\_  
PATRICK PIZZI  
Authority Secretary

  
\_\_\_\_\_  
Michael W. Hale  
Authority Chairman

Prepared by:

BERRY, SAHRADNIK, KOTZAS & BENSON  
Toms River, New Jersey 08753

**RESOLUTION OF THE  
BERKELEY TOWNSHIP MUNICIPAL UTILITIES AUTHORITY  
DECLARING ITS OFFICIAL INTENT TO REIMBURSE EXPENDITURES  
FOR PROJECT COSTS FROM THE PROCEEDS OF DEBT OBLIGATIONS  
IN CONNECTION WITH ITS PARTICIPATION NEW JERSEY  
ENVIRONMENTAL INFRASTRUCTURE TRUST FINANCING PROGRAM  
OR ISSUANCE OF AUTHORITY BONDS**

**WHEREAS**, the Berkeley Township Municipal Utilities Authority (the "Authority") intends to acquire, construct, renovate and/or install the environmental infrastructure projects more fully described in **Exhibit A** attached hereto (the "Projects");

**WHEREAS**, the Authority intends to finance the Projects with debt obligations of the Authority (the "Project Debt Obligations") but may pay for certain costs of the Projects (the "Project Costs") prior to the issuance of the Project Debt Obligations with funds of the Authority that are not borrowed funds;

**WHEREAS**, the Authority reasonably anticipates that obligations, the interest on which is excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), will be issued by the New Jersey Environmental Infrastructure Trust (the "Conduit Issuer") to finance the Project on a long-term basis by making a loan to the Authority with the proceeds of the Issuer's obligations or by the Issuer (the "Project Notes" and the "Project Bonds"); and

**WHEREAS**, the Authority desires to preserve its right to treat an allocation of proceeds of the Project Debt Obligations to the reimbursement of Project Costs paid prior to the issuance of the Project Debt Obligations as an expenditure for such Project Costs to be reimbursed for purposes of Sections 103 and 141 through 150, inclusive, of the Code.

**NOW, THEREFORE, BE IT RESOLVED** by the governing body of the Authority as follows:

**Section 1.** The Authority reasonably expects to reimburse its expenditure of Project Costs paid prior to the issuance of the Project Debt Obligations with proceeds of its Project Debt Obligations.

**Section 2.** This resolution is intended to be and hereby is a declaration of the Authority's official intent to reimburse the expenditure of Project Costs paid prior to the issuance of the Project Debt Obligations with the proceeds of a borrowing to be incurred by the Authority, in accordance with Treasury Regulations §1.150-2.

**Section 3.** The maximum principal amount of the Project Debt Obligations expected to be issued to finance the Projects is \$4,500,000.

**Section 4.** The Project Costs to be reimbursed with the proceeds of the Project Debt Obligations will be "capital expenditures" in accordance with the meaning of Section 150 of the

Code.

**Section 5.** No reimbursement allocation will employ an "abusive arbitrage device" under Treasury Regulations §1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under Sections 142 through 147, inclusive, of the Code. The proceeds of the Project Bonds used to reimburse the Authority for Project Costs, or funds corresponding to such amounts, will not be used in a manner that results in the creation of "replacement proceeds", including "sinking funds", "pledged funds" or funds subject to a "negative pledge" (as such terms are defined in Treasury Regulations §1.148-1), of the Project Debt Obligations or another issue of debt obligations of the Authority, other than amounts deposited into a "bona fide debt service fund" (as defined in Treasury Regulations §1.148-1).

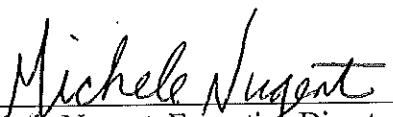
**Section 6.** All reimbursement allocations will occur not later than 18 months after the later of (i) the date the expenditure from a source other than the Project Debt Obligations is paid, or (ii) the date the Project is "placed in service" (within the meaning of Treasury Regulations §1.150-2) or abandoned, but in no event more than 3 years after the expenditure is paid.

**Section 7.** This resolution shall take effect immediately.

Recorded Vote

	<u>AYE</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Michael W. Hale	X			
Lloyd G. Mullikin	X			
Patrick Pizzi	X			
Keith Buscio				X
Karen Davis	X			
Kevin Askew (alternate)				X

The foregoing is a true copy of a resolution adopted by the Berkeley Township Municipal Utilities Authority on October 22, 2015.

  
Michele Nugent, Executive Director

**2016 AUTHORITY BUDGET RESOLUTION  
BERKELEY TOWNSHIP  
MUNICIPAL UTILITIES AUTHORITY**

**FISCAL YEAR: FROM: Jan. 1, 2016 TO: Dec. 31, 2016**

WHEREAS, the Annual Budget and Capital Budget for the Berkeley Township Municipal Utilities Authority for the fiscal year beginning, January 1, 2016 and ending, December 31, 2016 has been presented before the governing body of the Berkeley Township Municipal Utilities Authority at its open public meeting of October 22, 2015; and

WHEREAS, the Annual Budget as introduced reflects Total Revenues of \$ 2,031,200, Total Appropriations, including any Accumulated Deficit if any, of \$ 2,162,308 and Total Unrestricted Net Position utilized of 131,108; and

WHEREAS, the Capital Budget as introduced reflects Total Capital Appropriations of \$4,176,000 and Total Unrestricted Net Position planned to be utilized as funding thereof, of \$141,500; and total debt authorization planned to be issued as funding thereof totaling \$4,034,500; and

WHEREAS, the schedule of rates, fees and other charges in effect will produce sufficient revenues, together with all other anticipated revenues to satisfy all obligations to the holders of bonds of the Authority, to meet operating expenses, capital outlays, debt service requirements, and to provide for such reserves, all as may be required by law, regulation or terms of contracts and agreements; and

WHEREAS, the Capital Budget/Program, pursuant to N.J.A.C. 5:31-2, does not confer any authorization to raise or expend funds; rather it is a document to be used as part of the said Authority's planning and management objectives. Specific authorization to expend funds for the purposes described in this section of the budget, must be granted elsewhere; by bond resolution, by a project financing agreement, by resolution appropriating funds from the Renewal and Replacement Reserve or other means provided by law.

NOW, THEREFORE BE IT RESOLVED, by the governing body of the Berkeley Township Municipal Utilities Authority, at an open public meeting held on October 22, 2015 that the Annual Budget, including all related schedules, and the Capital Budget/Program of the Berkeley Township Municipal Utilities Authority for the fiscal year beginning, January 1, 2016 and ending, December 31, 2016 is hereby approved; and

BE IT FURTHER RESOLVED, that the anticipated revenues as reflected in the Annual Budget are of sufficient amount to meet all proposed expenditures/expenses and all covenants, terms and provisions as stipulated in the said Authority's outstanding debt obligations, capital lease arrangements, service contracts, and other pledged agreements; and

BE IT FURTHER RESOLVED, that the governing body of the Berkeley Township Municipal Utilities Authority will consider the Annual Budget and Capital Budget/Program for adoption on December 17, 2015.

Patrick Pizzi  
Patrick Pizzi, Secretary

10/22/15  
(Date)

Governing Body Member:	Recorded Vote			
	Aye	Nay	Abstain	Absent
Michael W. Hale	X			
Lloyd G. Mullikin	X			
Patrick Pizzi	X			
Keith Buscio				X
Karen Davis	X			
Kevin Askew (alternate)				X