

**RESOLUTION NO. 0031 - 2013**

**RESOLUTION OF THE BERKELEY TOWNSHIP MUNICIPAL UTILITIES AUTHORITY, TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE AUTHORITY TO RELEASE FOR POSTING WITH THE TO THE SUPERIOR COURT OF NEW JERSEY – TRUST FUND UNIT THE CASH PORTION OF THE PERFORMANCE GUARANTEE FOR THE FOXMOOR AT TALLWOODS/GS REALTY PROJECT, LOTS 1 THROUGH 17, BLOCK 1409, BERKELEY TOWNSHIP, COUNTY OF OCEAN, STATE OF NEW JERSEY. A SUM TOTALING \$18,472.99**

**WHEREAS**, the Berkeley Township Municipal Utilities Authority (hereinafter collectively referred to as the “Authority”) has received requests from both the Original Developer of the Foxmoor at Tallwoods Project (the “project”), Dov Gluck/319 Tallwoods L.L.C. (“Original Developer” and GS Realty/Amboy Bank (the “Current Developer”) for release of the balance of performance guarantees on deposit with the Authority in accordance with the Authority’s Rules and Regulations; and

**WHEREAS**, the Authority has requested through its attorney clarification from each requesting party the legal status of each party with regard to the subject funds; and

**WHEREAS**, each party has asserted ownership of the entire posted performance guarantee; and

**WHEREAS**, in order to protect the interests of the Authority and upon the recommendation of the Authority attorney, the Authority has declined to release the funds until the legal status of the funds could be definitively be determined; and

**WHEREAS**, the Authority has been named as a Defendant in the Superior Court Action of G.S. Realty Corp., et al. v. Dov Gluck, et al., Docket Number OCN-L-2498-12, an action which was filed by G.S. Realty/Amboy Bank in part seeking an Order of the Superior Court declaring the proper owner of the subject funds; and

**DASTI, MURPHY  
McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS**  
  
COUNSELLORS AT LAW  
  
620 WEST LACEY ROAD  
P.O. BOX 1057  
FORKED RIVER, N.J. 08731

**WHEREAS**, the Authority has previously asserted in connection with the litigation that it will agree to be bound by the decision of the Superior Court declaring the proper owner of the subject funds; and

**WHEREAS**, the Authority, through its attorney, has filed a Motion with the Superior Court seeking to deposit with the Superior Court of New Jersey – Trust Fund Unit, the sum of 18,472.99, and further seeking a dismissal of the Authority from the litigation; and

**WHEREAS**, the Motion of the Authority was not opposed and an Order was entered by the Superior Court on March 22, 2013, Ordering the Authority to place on deposit with the Superior Court of New Jersey – Trust Fund Unit, the sum of 18,472.99; and

**WHEREAS**, the Order of the Superior Court further dismisses the Authority from the subject litigation; and

**WHEREAS**, the Authority's professional staff has recommended compliance with the Superior Court Order; and

**WHEREAS**, the Authority deems it necessary and appropriate to comply with the Order of the Superior Court; and

**WHEREAS**, this written Resolution memorializes the formal action of the Authority taken on March 28, 2013, during the regular meeting of the Authority:

**NOW, THEREFORE, BE IT RESOLVED**, this 25th day of April, 2013, by the Berkeley Township Municipal Utilities Authority, County of Ocean, State of New Jersey, as follows:

1. The Authority accepts the recommendations of its professional staff and directs compliance with the Superior Court of New Jersey's Order of March 22, 2013.

**DASTI, MURPHY  
McGUICKIN, ULAKY,  
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

820 WEST LACEY ROAD  
P.O. BOX 1057  
FORKED RIVER, N.J. 08731

2. The Authority hereby authorizes and directs the release of the subject performance guarantee in the amount of 18472.99, to be deposited by draft into the account of the Superior Court of New Jersey – Trust Fund Unit.

3. The Authority hereby authorizes and directs the Chairman, Secretary Executive Director and Authority Attorney to execute any and all necessary documents in order to implement the intent of this Resolution.

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

- (a) Honorable Patrick Pizzi, Chairman
- (b) The Municipal Clerk of the Township of Berkeley;
- (c) Michele Nugent, Executive Director;
- (d) Samuel N. Reiken, Esquire;
- (e) Ryan Kennedy, Jr., Esquire; and
- (f) Christopher K. Koutsouris, Esquire.

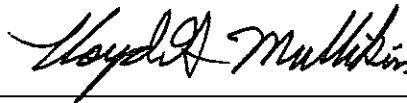
**DASTI, MURPHY  
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KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

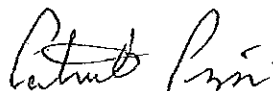
620 WEST LACEY ROAD  
P.O. BOX 1057  
FORKED RIVER, N.J. 08731

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 25th day of April, 2013, a quorum being present and voting in the majority.



\_\_\_\_\_  
, Authority Secretary



\_\_\_\_\_  
, Authority Chairman

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS  
Forked River, New Jersey 08731

DASTI, MURPHY  
McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS

COUNSELLORS AT LAW

620 WEST LACEY ROAD  
P.O. BOX 1057  
FORKED RIVER, N.J. 08731

**RESOLUTION NO. 0032 - 2013**

**RESOLUTION OF THE BERKELEY TOWNSHIP MUNICIPAL UTILITIES  
AUTHORITY, TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE  
OF NEW JERSEY, AUTHORIZING SETTLEMENT WITH AMERICAN  
SOUTHERN PERFORMANCE BOND COMPANY**

**WHEREAS**, Diamond Developers of N.J. Inc. and its principal, Anthony Garofoalo (collectively the "Developer"), have defaulted on their obligations to complete the installation of water system improvements in connection with a project commonly identified as Berkeley Estates (the "Project") located in the Bayville section of the Township of Berkeley; and

**WHEREAS**, in connection with the Project, the Developer posted with the Berkeley Township Municipal Utilities Authority (the "Authority") a certain Site Improvement Performance Bond (Bond 8822-017615) issued by American Southern Insurance Company (the "Surety") as required by the Authority's Rules and Regulations; and

**WHEREAS**, the Authority notified the Surety of the Developer's default of the Developers obligations; and

**WHEREAS**, the Surety, in response to notification by the Authority and in exchange for the Execution of a Release and Assignment of Claim, has made an offer to pay the Authority the sum of \$60,000.00 to settle the claims of the Authority; and

**WHEREAS**, the Settlement Offer and Release and Assignment of Claim have been reviewed by the Authority's Professional and Executive Staff; and

**WHEREAS**, the Authority's professional staff has recommended that the Authority accept the offer of settlement extended by the Surety; and

**WHEREAS**, the Authority deems it appropriate to accept the offer of settlement extended by the Surety; and

**DASTI, MURPHY  
McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS**

COUNSELLORS AT LAW

620 WEST LACEY ROAD  
P.O. BOX 1057  
FORKED RIVER, N.J. 08731

WHEREAS, this written Resolution memorializes the formal action of the Authority taken on March 28, 2013, during the regular meeting of the Authority:

NOW, THEREFORE, BE IT RESOLVED, this 25th day of April, 2013, by the Berkeley Township Municipal Utilities Authority, County of Ocean, State of New Jersey, as follows:

1. The Authority accepts the recommendations of its professional staff and accepts the offer of settlement extended by American Southern Insurance Company in the sum of \$60,000.00.

2. The Authority hereby authorizes and directs the Chairman, Secretary Executive Director and Authority Attorney to execute any and all necessary documents in order to implement the intent of this Resolution.

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

- (a) Honorable Patrick Pizzi, Chairman
- (b) Michele Nugent, Executive Director;
- (c) Keith Chiaravallo, P.E.
- (d) Timothy J. Korzun, Esquire; and
- (e) Christopher K. Koutsouris, Esquire.

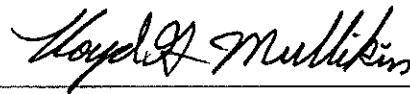
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McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS

COUNSELLORS AT LAW

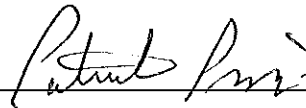
620 WEST LACEY ROAD  
P.O. BOX 1037  
FORKED RIVER, N.J. 08731

**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 25th day of April, 2013, a quorum being present and voting in the majority.



\_\_\_\_\_  
, Authority Secretary



\_\_\_\_\_  
, Authority Chairman

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS  
Forked River, New Jersey 08731

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McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS  
  
COUNSELLORS AT LAW  
  
620 WEST LACEY ROAD  
P.O. BOX 1657  
FORKED RIVER, N.J. 08731

RESOLUTION NO. 0033 - 2013

**RESOLUTION OF THE BERKELEY TOWNSHIP MUNICIPAL UTILITIES AUTHORITY, TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING RELEASE OF THE WATER ESCROW MONIES FOR THE CRYSTAL LAKE REHABILITATION & HEALTHCARE CENTER, 395 LAKESIDE BOULEVARD, BLOCK 409, LOT 1 TO CRYSTAL LAKE REHABILITATION AND HEALTHCARE, INC.**

**WHEREAS**, the Berkeley Township Municipal Utilities Authority (hereinafter collectively referred to as the "Authority") has received a request for a release of the balance of the water escrow monies previously posted for the Crystal Lake Rehabilitation & Healthcare Center, located at 395 Lakeside Boulevard in Bayville, Township of Berkeley, State of New Jersey (Block 409, Lot 1), (the "Project"); and

**WHEREAS**, Crystal Lake Rehabilitation & Healthcare Center, Inc. (the "Prior Owner"), the Prior Owner of the Project, has requested the release of the balance escrow monies subsequent to the Prior Owner's conveyance of the Project to Bayville Health Care (the "Current Owner"); and

**WHEREAS**, the Current Owner has posted with the Authority, in the name of the Current Owner, new escrow monies in an amount satisfactory to the Authority after having been notified by the Authority of the Current Owner's mandatory hookup obligation pursuant to law; and

**WHEREAS**, the Current Owner has been cooperative with the Authority and has apparently affirmed its mandatory obligation to hookup to the potable water system provided by the Authority; and

**WHEREAS**, the Authority has received a recommendation from its executive and professional staff for a release of the water escrow monies posted by the Prior Owner; and



**WHEREAS**, all fees due to the Authority by the Prior Owner have been paid and there are no outstanding fees to the Authority by the Prior Owner; and

**WHEREAS**, a release of the escrow monies is granted and shall be released to the Prior Owner, Crystal Lake Rehabilitation & Healthcare Center, Inc.; and

**WHEREAS**, the Berkeley Township Municipal Utilities Authority finds that the recommendations of its executive and professional staff are fair and appropriate, and in accordance with the Authority's Rules and Regulations; and

**WHEREAS**, this written Resolution formalizes the formal action of the Authority taken during the Authority's meeting on March 28, 2013:

**NOW, THEREFORE, BE IT RESOLVED**, this 25th day of April, 2013, by the Berkeley Township Municipal Utilities Authority, County of Ocean, State of New Jersey, as follows:

1. The Authority accepts the recommendations of its executive and professional staff for the project and authorizes a release of the water escrow monies to Crystal Lake Rehabilitation & Healthcare Center, Inc.

2. The Authority hereby authorizes and directs the Executive Director and the Authority's professional staff to execute any and all necessary documents in order to implement the intent of this Resolution.

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

- (a) The Honorable Patrick Pizzi, Chairman;
- (b) Michelle Nugent, Executive Director;
- (c) Keith Chiaravallo , P.E.;
- (d) Christopher K. Koutsouris, Esquire; and

DASTI, MURPHY  
McGUCKIN, ULAKY,  
CHERKOS & CONNORS

COUNSELLORS AT LAW

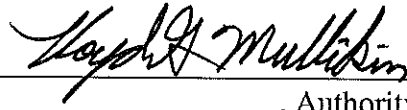
620 WEST LACEY ROAD  
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FORKED RIVER, N.J. 08731

(e) Allen V. Koss, Esquire

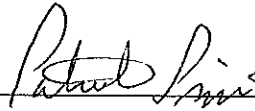
(f) Crystal Lake Rehabilitation & Healthcare Center, Inc.

**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 meeting held on the 25th day of April, 2013, a quorum being present and voting in the majority.



\_\_\_\_\_  
, Authority Secretary



\_\_\_\_\_  
, Authority Chairman

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS  
Forked River, New Jersey 08731

DASTI, MURPHY  
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CHERKOS & CONNORS

COUNSELLORS AT LAW

620 WEST LACEY ROAD  
P.O. BOX 1057  
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RESOLUTION NO. 0034 - 2013

**RESOLUTION OF THE BERKELEY TOWNSHIP MUNICIPAL UTILITIES  
AUTHORITY, TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE  
OF NEW JERSEY, OFFERING RELIEF FOR CERTAIN RESIDENCES  
IMPACTED NEGATIVELY BY SUPERSTORM SANDY**

WHEREAS, the Commissioners of the Berkeley Township Municipal Utilities Authority ("BTMUA") in the Township of Berkeley, County of Ocean, State of New Jersey, recognizes the devastation rendered by Superstorm Sandy to the residents and ratepayers of the Authority; and

WHEREAS, as a result of Superstorm Sandy, the residences of many of the ratepayers of the BTMUA have either been demolished or left uninhabitable, and as a result thereof, no water services are being provided to those residential properties; and

WHEREAS, the BTMUA believes it is fair and equitable to provide an abatement and forgiveness of water service charges for those residences which have either been demolished or rendered uninhabitable by Superstorm Sandy, in order to provide the residents and ratepayers of those properties some degree of restitution and savings; and

WHEREAS, the BTMUA believes that it is fair and equitable that said abatement shall extend retroactively to the 2012 Fourth Quarter Service Charges due from affected residences and shall continue forward through the First and Second Quarters of 2013 for those residence that remain affected; and

WHEREAS, the relief afforded by this Resolution shall be extended by the BTMUA to those residences which are both (a) no longer habitable and (b) have shut off the water at the street due to the effects of Superstorm Sandy:

**NOW, THEREFORE, BE IT RESOLVED** 25<sup>th</sup> day of April, 2013, by the Berkeley Township Municipal Utilities Authority, County of Ocean, State of New Jersey, as follows:

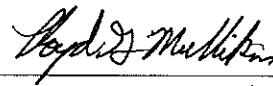
1. The Authority authorizes and directs the Executive Director to prepare and forward to affected properties correspondence notifying affected homeowners of the relief afforded by this Resolution.
2. The Authority authorizes and directs the Executive Director to determine those residential properties and residential areas which have either been demolished or rendered uninhabitable as a result of Superstorm Sandy and, the Executive Director is

authorized to extend to any such properties which are both (a) no longer habitable and (b) have shut off the water at the street to the effects of Superstorm Sandy a forgiveness and abatement of water service charges. The Executive Director is authorized by this Resolution to provide residences so affected with a credit or refund of two-thirds of the affected residence's 2012 fourth quarter service charge. In addition, residences which have remained so affected in 2013 shall be eligible to receive a credit or refund for the 2013 first service quarter charges. Any residence which has remained affected into the second quarter of 2013 shall be eligible to receive a credit or refund for the service charges due for the second quarter of 2013.

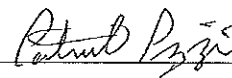
3. The Executive Director shall advise affected ratepayers that they may request an extension of the relief afforded by this Resolution should the affected residence remain uninhabitable and the water service remain turned off at the street past June 30, 2013. Any extension requested will be granted on a case-by-case basis, at the discretion of the Authority.
4. The Executive Director shall report on a monthly basis to the Board of Commissioners as to those residential properties she has determined to be uninhabitable or demolished, and as a result thereof which she has declared to be eligible for an abatement and forgiveness of water service charges.
5. The Board of Commissioners authorizes and directs the Executive Director to execute any and all documents necessary to implement the intent of this Resolution.

#### 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 25th day of April, 2013, a quorum being present and voting in the majority.



\_\_\_\_\_  
, Authority Secretary



\_\_\_\_\_  
, Authority Chairman

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McGUCKIN, ULAKY,  
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COUNSELLORS AT LAW  
820 WEST LACEY ROAD  
P.O. BOX 1057  
FORKED RIVER, N.J. 08731

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,  
KOUTSOURIS & CONNORS  
Forked River, New Jersey 08731