

**RESOLUTION NO. 0044 -2019**

**RESOLUTION OF THE  
BERKELEY TOWNSHIP MUNICIPAL UTILITIES AUTHORITY,  
TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NJ,  
GRANTING A REDUCTION IN PERFORMANCE BOND REQUIREMENT TO  
HICKORY FARMS III,  
BLOCK 939, LOTS 19, 20, 21, 21.04 and 22.01, BLOCK 939.15, LOT 23**

**WHEREAS**, the Berkeley Township Municipal Utilities Authority (hereinafter referred to as the “Authority”) granted an application for preliminary, tentative and final water approval for the property set forth above as designated on the official tax map of the Township of Berkeley by Resolution 2017-29; and

**WHEREAS**, Hickory Farms III had previously posted with the Authority a performance bond consisting of \$36,909.74 in cash, and a surety in the amount of \$332,187.67; and

**WHEREAS**, Hickory Farms III has requested a reduction in the amount of performance guarantees due to the status of the project; and

**WHEREAS**, the Authority Engineer, Keith Chiaravallo, P.E., of CME Associates, has reviewed the status of the project and has provided a recommendation to reduce the performance guarantees in a letter, dated September 19, 2019 due to the fact that a substantial amount of the infrastructure has been completed;

**NOW THEREFORE BE IT RESOLVED** this 26<sup>th</sup> day of September, 2019, by the Berkeley Township Municipal Utilities Authority as follows:

1. The Authority accepts the recommendation of its Consulting Engineer for the reduction in performance guarantees to the following levels:

	<u>Original</u>		<u>Revised Amount</u>
90% Bond Portion	\$332,187.67	To	\$99,656.30
10% Cash Portion	<u>36,909.74</u>	To	<u>11,072.92</u>
 Total Performance Guarantee	 \$369,097.41		 \$110,729.22


2. This approval is contingent upon Hickory Farms III submission of an affidavit to the Authority certifying that all contractors and suppliers in connection with the project have been paid in full as of the date of this resolution.
3. The Authority hereby authorizes and directs the Chairperson, Secretary and Executive Director to execute any and all necessary documents in order to implement the intent of this Resolution.


**BE IT FURTHER RESOLVED** that a certified copy of this Resolution shall be forwarded by the Executive Director to the following:

- a. Honorable Michael W. Hale, Chairperson;
- b. The Municipal Clerk of the Township of Berkeley;
- c. CME Associates;
- d. Hickory Farms III; and
- e. Berry, Sahradnik, Kotzas & Benson.

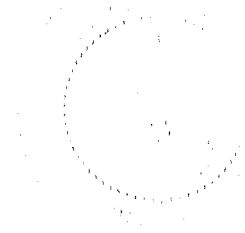
**CERTIFICATION**

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 26<sup>th</sup> day of September, 2019, a quorum being present and voting in the majority.

 9/26/2019  
Samuel J. Cammarato, Authority ~~Secretary~~  
TREASURER

  
Michael W. Hale, Authority Chairperson

Prepared by:  
BERRY, SAHRADNIK, KOTZAS & BENSON  
212 Hooper Avenue  
P.O. Box 757  
Toms River, New Jersey 08753



RESOLUTION NO. 0045 -2019

**RESOLUTION OF THE  
BERKELEY TOWNSHIP MUNICIPAL UTILITIES AUTHORITY,  
TOWNSHIP OF BERKELEY, COUNTY OF OCEAN, STATE OF NJ,  
AUTHORIZING PROCEEDING WITH PLANNING AND FINANCING THE  
APPLICATION FOR PHASE VII WATER MAIN INSTALLATION**

**WHEREAS**, the Berkeley Township Municipal Utilities Authority (hereinafter referred to as the “Authority”) wishes to install additional water mains to the sections within the franchise area that are not currently serviced by the Authority known as Phase VII; and

**WHEREAS**, Phase VII improvements will consist of various sizes of cement lined ductile iron distribution mains, valves, fire hydrant assemblies, residential service connections and other related work; and

**WHEREAS**, it would be in the best interest of the Authority to submit an application to the New Jersey Infrastructure Bank (“NJIB”) to finance the construction of the proposed Phase VII water distribution system improvements; and

**WHEREAS**, the NJIB requires the completion and submission of various documents and plans for the Authority to complete its loan application;

**NOW THEREFORE BE IT RESOLVED** this 26<sup>th</sup> day of September, 2019, by the Berkeley Township Municipal Utilities Authority as follows:

1. The Authority hereby authorizes its Consulting Engineer, Accountant, Attorney, Bond Counsel and Authority Staff to prepare and submit all necessary documentation required by the NJIB to obtain a grant/loan for construction of the planned Phase VII water service expansion.

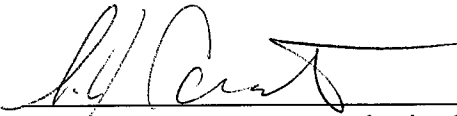
2. The Chairman, Vice Chairman and Executive Director together with the Authority's Consulting Engineer are hereby designated to act as Authorized Representatives in all matters relating to the planned Phase VII water service expansion.
3. Upon completion of all necessary documentation which shall be accomplished as soon as possible, the completed NJIB grant/loan program application for the construction of the planned Phase VII water service expansion shall be filed with the NJIB.
4. Subsequent to the initial application, if additional documentation is required by the NJIB, additional authorization is hereby granted to provide any necessary information to the NJIB.
5. The Authority hereby authorizes and directs the Chairperson, Secretary and Executive Director to execute any and all necessary documents in order to implement the intent of this Resolution.

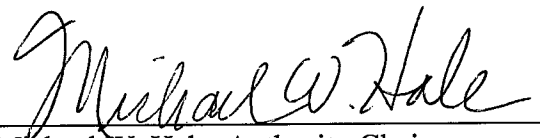
**BE IT FURTHER RESOLVED** that a certified copy of this Resolution shall be forwarded by the Executive Director to the following:

- a. Honorable Michael W. Hale, Chairperson;
- b. The Municipal Clerk of the Township of Berkeley;
- c. CME Associates; and
- d. Berry, Sahradnik, Kotzas & Benson.

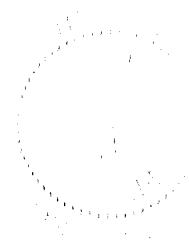
**CERTIFICATION**

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 26<sup>th</sup> day of September, 2019, a quorum being present and voting in the majority.

  
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Samuel J. Cammarato, Authority ~~Secretary~~  
TREASURER

  
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Michael W. Hale, Authority Chairperson

Prepared by:  
BERRY, SAHRADNIK, KOTZAS & BENSON  
212 Hooper Avenue  
P.O. Box 757  
Toms River, New Jersey 08753



Resolution No. 0046-2019

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

**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 (collectively, the "Project"); and

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

**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 (i) the Authority on a short-term or long-term basis and/or (ii) the New Jersey Infrastructure Bank (the "Conduit Issuer") to finance the Project on a long-term basis by making a loan to the Authority with the proceeds of the Conduit Issuer's obligations (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 Project is \$8,000,000.

**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>MEMBER/ALTERNATE</u>	<u>AYE</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Michael W. Hale	X			
Edward F. Cammarato				X
Samuel J. Cammarato	X			
Jerome F. Bollettieri	X			
Richard W. Elliott, Jr.	X			
Lawrence J. Borio	X			

The foregoing is a true copy of a resolution adopted by The Berkeley Township Municipal Utilities Authority on September 26, 2019.

  
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 Michael W. Hale, Chairman