

RESOLUTION NO. 60 - 12

BRICK TOWNSHIP MUNICIPAL UTILITIES AUTHORITY

September 24, 2012

**A Resolution Accepting a Settlement Resolution With Layne Christensen
Concerning All Issues Involving the Collapse of Well No. 15 and
Approving Change Order No. 1 in Conjunction With The Construction
of Well No. 15A**

WHEREAS, the Brick Township Municipal Utilities Authority (hereinafter referred to as the "Authority") has previously entered into a contract with Layne Christensen (the "Contractor") for the construction of Well No. 15 (the "Project"); and

WHEREAS, the Project ran into difficulties including the collapse of proposed Well No. 15, which rendered the further construction of Well No. 15 impossible; and

WHEREAS, the Authority and the Contractor have entered into extensive negotiations concerning any compensation due to the Contractor with regard to the damages and costs incurred for the Project; and

WHEREAS, representatives of the Authority and the Contractor have had extensive discussions, conferences, and letter correspondence concerning a proposed resolution of the issue of any payment due to the Contractor for alleged damages and expenses incurred with regard to the terminated Project; and

WHEREAS, the Authority and the Contractor, subsequent to the collapse of Well No. 15, undertook construction of New Well No. 15A which has resulted in the need for approval of Change Order No. 1 associated therewith; and

WHEREAS, the parties believe that a settlement of the outstanding issues is in the long term best interests of both parties, as well as the ratepayers of the Authority, in order to avoid anticipated and substantial litigation and attorney fees in the event that litigation is necessary:

NOW, THEREFORE, BE IT RESOLVED this 24th day of September, 2012, by the Brick Township Municipal Utilities Authority as follows:

1. The Authority accepts the recommendations of its solicitor and accepts the proposed settlement and approval of Change Order No. 1 with regard to the construction of Well No. 15A. The Authority authorizes payment to Layne Christensen in the amount of \$400,000.00. This payment represents full payment for the settlement of the disputes involving the collapse of Well No. 15 and approval of Change Order No. 1 with regard to the construction of Well No. 15A. The payment shall be made after receipt of and approval of

mutual releases to be executed by representatives of the Authority and the Contractor, and completion of all work associated with Change Order No. 1 for Well No. 15A.

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

3. A copy of this Resolution shall be forwarded by the Administrative Secretary of the Authority to the following:

- (a) Honorable Joseph M. Veni, P.E., Chairman;
- (b) James F. Lacey, Executive Director;
- (c) Stephen T. Specht, P.E., Deputy Executive Director;
- (d) Frank Planko, C.F.O.;
- (e) Jerry J. Dasti, Esquire; and
- (f) Frank Holman, C.P.A.

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Brick Township Municipal Utilities Authority at a meeting held on the 24th day of September, 2012, a quorum being present and voting in the majority.

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

COUNSELLORS AT LAW

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PATRICK L. BOTTAZZI, Secretary

Prepared by:

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