

RESOLUTION NO. 11-2012

RESOLUTION OF THE PLAINFIELD MUNICIPAL UTILITIES AUTHORITY
AUTHORIZING SETTLEMENT OF EMPLOYEE CONTRACTS

WHEREAS, The Plainfield Municipal Utilities Authority (the "Authority") is a public body corporate and politic of the State of New Jersey and was created by the Plainfield City Council pursuant to Ordinance MC-1995-19 and in accordance with the Municipal and County Utilities Authorities Law, N.J.S.A. 40:14B-1 et seq., to implement and operate a municipal utilities authority which will provide certain solid waste and sewerage services to the inhabitants of the City of Plainfield (the "City"); and

WHEREAS, in March, 2011 the Authority's Executive Director and Assistant Executive Director, together with the Authority, jointly announced their separation from the Authority; and

WHEREAS, at the time of the separation announcement, both employees were midway in their employment contracts with the Authority; and

WHEREAS, through their counsel the employees sought payment under their employment contracts as follows: Eric Watson \$720,220 and David Ervin \$440,386; and

1,160,6

WHEREAS, the Board determined to utilize certain allocated severance funds that had been budgeted totaling approximately \$275,000 to be used in partial settlement of the employees' compensation claims under their contracts as follows: Eric Watson \$151,000 and David Ervin \$124,000; and

WHEREAS, the parties further agreed at that time that any further claims of the employees regarding any additional monies they claimed may be owed to them under their contracts, would be addressed by a third party neutral arbitrator selected by both parties; and

WHEREAS, the Parties have been in Arbitration Hearings for the past few months; and

WHEREAS, by letter dated November 30, 2011, Counsel to Mr. Watson and Mr. Ervin submitted a settlement demand to Counsel for the Authority seeking an additional \$475,000 for Mr. Watson and \$300,000 for Mr. Ervin to be paid out

over two to three years, together with payment of their attorney fees totaling \$80,200 and their portion of the costs of Arbitration to date in the amount of \$15,500; and

WHEREAS, the reasons cited by the former employees' counsel for the proposed settlement amounts and for their compensation claims in general, included, among others, the continuing costs of the arbitration process, the uncertainty of the outcome of the arbitration hearing, the employees' significant contributions to the development and growth of the Authority and the provision of comprehensive solid waste and sewer services to the residents of the City; and

WHEREAS, the Watson/Ervin Arbitration Settlement demand was considered by the Board of Commissioners; and

WHEREAS, the Board desires to settle the pending Arbitration for the reasons set forth on the record by the Commissioners, in the additional amount of \$450,000 to Mr. Watson and \$275,000 to Mr. Ervin in full settlement of all claims and to enter into an agreement and release in this regard; and

WHEREAS, payment is to be made in equal annual installment payments over the next four years; and

WHEREAS, the first payment shall be subject to and contingent on, the prior appropriation and subsequent certification of the availability of funds in the Authority's 2012 Budget, as set forth in a Certification of Funds of the Authority's Chief Financial Officer, that adequate funds are available for the first payment to be made as part of this Settlement. The subsequent annual payments to be made to Mr. Watson and Mr. Ervin shall also be subject to and contingent on, the availability of funds and Certification of Funds by the Authority's Chief Financial Officer, as to the adequacy of funds available to make such payment, prior to the payment of any such subsequent funds by the Authority.

NOW, THEREFORE, BE IT RESOLVED by the Plainfield Municipal Utilities Authority as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.

450,000
275,000
725,000
4 years

181,250
per year

12/31/12

2. The Board has determined to settle the pending Arbitration Hearing for the reasons set forth herein

3. This Resolution shall take effect immediately.

RECORDED VOTE:

REGULAR MEMBERS	YES	NO	ABSTAIN	NOT PRESENT	ALTERNATE PRESENT NOT VOTING
Carol Ann Brokaw		X			
Rev. Tracey Brown				X	
Malcolm R. Dunn	X				
Harold Mitchell		X			
Alex Toliver	X				
ALTERNATE MEMBERS					
Cecil H. Sanders, Jr. (#2)	X				

The following Resolution is a true and complete copy of a Resolution of the Plainfield Municipal Utilities Authority adopted at a Regular Meeting duly called and held on Tuesday, January 10, 2012.

CAROL ANN BROKAW, SECRETARY

**CERTIFICATION OF FUNDS
BY
CHIEF FINANCIAL OFFICER**

JAMES R. PERRY, of full age, hereby certifies as follows:

1. I am the Chief Financial Officer of the Plainfield Municipal Utilities Authority (the "Authority") and am charged with the responsibility of maintaining the financial records of the Authority.

2. All payments to be made under this Resolution shall be subject to and contingent upon the prior appropriation and the subsequent issuance of a certification of the Chief Financial Officer of the availability of such funds, as specifically set forth in this Resolution. No funds shall be issued for any payments to be paid under this Resolution, prior to such prior appropriation and subsequent issuance of a certification of the availability of such funds by the Chief Financial Officer to make such payments, and the identification of the accounts to which such payments shall be charged.

*Does
not
certify*

When

Perry

JAMES R. PERRY

DATED: January 10, 2012