

**RESOLUTION OF THE HARDYSTON TOWNSHIP MUNICIPAL UTILITIES  
AUTHORITY AUTHORIZING THE EXECUTION OF AN AGREEMENT BY AND  
BETWEEN HARDYSTON TOWNSHIP AND THE HARDYSTON TOWNSHIP  
MUNICIPAL UTILITIES AUTHORITY CONCERNING THE TRANSFER OF  
SETTLEMENT FUNDS ASSOCIATED WITH CERTAIN PERFORMANCE  
GUARANTEES**

**WHEREAS**, on December 6, 1994, in connection with the Indian Field Phase I subdivision, First Indemnity American Insurance Company ("FIA") issued Performance Bond No. S02751 in the amount of \$199,362.62, as surety for HFH Development, Edward Nann and Eugene Lowe, principal and co-principals, and naming the Township as obligee. ("Phase I Performance Bond").

**WHEREAS**, Hardyston Township (the "Township") also received a cash performance guarantee for the Indian Fields Phase I subdivision ("Phase I Cash Bond").

**WHEREAS**, on March 8, 1999, in connection with the Indian Fields Phase Two subdivision, FIA issued Performance Bond No. S04883 in the amount of \$97,339.00 as surety for HFH, Inc., Aspi Irani, Dr. Bakhtavez Irani and Edward Nann, principal and co-principals, naming the Township as obligee with a cash bond reported by the Township of Hardyston in the amount of \$9,733. ("Phase Two Performance Bond").

**WHEREAS**, the Township also received a cash performance guarantee for the Indian Fields Phase Two subdivision ("Phase Two Cash Bond").

**WHEREAS**, on August 21, 1995, in connection with the Indian Fields at Hardyston Phase Two, Section I subdivision, FIA issued Performance Bond No. S03164 in the amount of \$420,813.36 on behalf of HFH Development, Edward Nann, Eugene Lowe, Albert Tallia and Beatrice Tallia, principal and co-principals, naming the Township of obligee with a cash bond reported by the Township of Hardyston in the amount of \$115,255.20. ("Phase Two, Section I Performance Bond").

**WHEREAS**, on August 25, 1995, Rider A was issued to Phase Two, Section I Bond adding the Authority as an additional obligee.

**WHEREAS**, the Township and/or Hardyston Township Municipal Utilities Authority (the "Authority") also received a cash performance guarantee for the Indian Fields at Hardyston, Phase Two, Section I subdivision ("Phase Two, Section I Cash Bond").

**WHEREAS**, the Phase I Performance Bond was reduced to \$44,074.80 and the Phase I Cash Bond reduced to \$4,897.20.

**WHEREAS**, The Phase Two, Section I Bond was reduced to \$66,279.60 and the Phase Two, Section I Cash Bond reduced to \$7,364.40.

**WHEREAS**, the Township, Authority and FIA entered into a Settlement Agreement and Release dated January 12, 2021, resolving the above performance bonds and cash performance guarantees; and

**WHEREAS**, pursuant to the Settlement Agreement and Release, FIA released any rights, claims or causes of action that FIA has, may have had or relating to the Phase I Performance Bond, the Phase I Cash Bond, the Phase Two Performance Bond, the Phase Two Cash Bond, Phase Two, Section 1 Bond and Phase Two, Section 1 Cash Bond. FIA further consents to the Township and/or Authority retaining the Phase I Cash Bond, Phase Two Cash Bond and Phase Two, Section I Cash Bond plus all accrued interest thereon; and

**WHEREAS**, the Township desires to transfer to the Authority the funds associated with the above referenced cash bonds so that the Authority can complete as-built plans for the constructed water and sewer infrastructure associated with the Indian Field Phases I and II and eventually take ownership of same;


**NOW, THEREFORE, BE IT RESOLVED** by the Board of the Hardyston Township Municipal Utilities Authority as follows:

1. That the Authority's Administrator is hereby authorized and directed to execute an agreement with the Township in a form substantially similar to the form attached hereto as **Exhibit A**.

2. The Authority's Consulting Engineer is hereby authorized and directed to utilize the funds secured from the Township to inspect the water and wastewater infrastructure in Indian Field Phase I and Phase II and generate as-built drawings and complete any repairs or improvements up to the total amount of funds secured for same.
3. That this Resolution shall take effect upon adoption.

|                       | YES | NO | ABSTAIN | ABSENT |
|-----------------------|-----|----|---------|--------|
| Chairperson Cicerale  | YES |    |         |        |
| Vice Chairperson Kula | YES |    |         |        |
| Secretary Marples     |     |    |         | ABSENT |
| Treasurer Leatham     | YES |    |         |        |
| O'Grady               | YES |    |         |        |
| Van Allen (alt.)      | YES |    |         |        |
| Bazelewich (alt.)     |     |    |         | ABSENT |

Certified to be a true copy of the Resolution  
adopted by the HTMUA at a meeting held on  
December 6, 2021.

  
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Recording Secretary