

WARREN TOWNSHIP SEWERAGE AUTHORITY

RESOLUTION NO. 11 - 67

RESOLUTION AUTHORIZING A PAYMENT TO MR. AND MRS. JONATHAN WESTON, 1133 MOUNTAIN AVENUE, WARREN TOWNSHIP, IN THE AMOUNT OF THREE THOUSAND DOLLARS (\$3,000.00) AS COMPENSATION FOR DEAD OR DAMAGED TREES THAT WERE RELOCATED PURSUANT TO THE WORK PERFORMED UNDER THE AUTHORITY'S CONTRACT NO. 47

WHEREAS, by Resolution 09-63, the Authority awarded Contract No. 47 to Reivax Construction Corp. ("Reivax") for construction of the connection of the Authority's system to the Berkeley Heights system on Mountain Avenue in Warren Township; and

WHEREAS, the Contract No. 47 work included, *inter alia*, the relocation of twelve arborvitae trees from the Mountain Avenue right-of-way in front of Block 200, Lot 10, 1133 Mountain Avenue (the "Weston Property"), which property is owned by Mr. and Mrs. Jonathan Weston (the "Westons"), onto the Weston Property; and

WHEREAS, the contract documents for Contract No. 47 stated that Reivax was to "carefully dig and transplant arborvitae behind new fence location. Arborvitae which are damaged or do not survive the contract warranty period shall be replaced with arborvitae 6 to 8 [feet] tall of the same variety as the existing"; and

WHEREAS, Contract No. 47 stated that "[t]he Engineer will be the initial interpreter of the Contract Documents and judge of the acceptability of the work thereunder [on] behalf of the Owner"; and

WHEREAS, Hatch Mott MacDonald ("HMM") was the Engineer of record for Contract No. 47, and administered the contract on behalf of the Authority; and

WHEREAS, HMM observed on or around April 19, 2011 that all twelve of the relocated arborvitae were either damaged or dead following the relocation by Reivax; and

WHEREAS, HMM notified Reivax of its determination that all twelve trees were either damaged or dead in a letter dated April 29, 2011; and

WHEREAS, Reivax located a subcontractor that would perform the replacement work for the arborvitae, in accordance with the contractual requirements as interpreted by HMM, for two thousand dollars (\$2,000.00); and

WHEREAS, the Westons had communicated to HMM that they wished to install alternative landscaping instead of replacing the twelve arborvitaes, and requested that the Authority consider performing the alternative landscaping work in lieu of replacing the arborvitaes; and

WHEREAS, the Authority determined that partially accommodating the Westons' wishes would be in its best interest for purposes of maintaining goodwill and compensating the Westons for the disruptions associated with the construction work under Contract No. 47; and

WHEREAS, the Authority determined to make a payment to the Westons in lieu of performing either alternative landscaping work or the replanting of the arborvitaes required under Contract No. 47, so as to allow the Westons to install the landscaping that they preferred; and

WHEREAS, the Authority determined that \$2,000.00, an amount equal to the quotation to perform the replacement work for the arborvitaes, would be a sufficient amount for Reivax to fulfill its obligation to restore the trees under Contract No. 47, if paid to the Authority in lieu of performing the work; and

WHEREAS, the Authority negotiated and agreed with Reivax to have Reivax pay \$2,000.00 to the Authority in lieu of performing the restoration work under Contract No. 47, in exchange for a release of claims regarding same; and

WHEREAS, the Authority determined that the additional sum of one thousand dollars (\$1,000.00) should be added to the \$2,000.00 payment from Reivax, for a total payment of three thousand dollars (\$3,000.00) to the Westons, in order to fully compensate the Westons for the disruptions associated with the Contract No. 47 work and the subsequent damage to or death of the relocated arborvitaes.

NOW, THEREFORE, BE IT RESOLVED by the members of the Warren Township Sewerage Authority, County of Somerset, State of New Jersey, that the Authority hereby authorizes payment of three thousand dollars (\$3,000.00) to the Westons, in full satisfaction of any and all landscaping requirements and as compensation for the damaged or dead arborvitaes which were relocated onto the Westons property from the Mountain Avenue right-of-way.

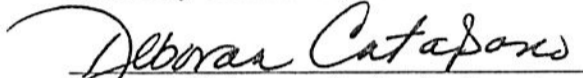
Moved by Mr. Kaufman
Seconded By Mr. Vetter

Roll Call Vote	Yes	No
Chairman Reeder	_____	_____
Mr. Florey	_____	_____
Mr. Truglio	x _____	_____
Ms. Garafola	_____	_____
Mr. Vetter (Alternate)	x _____	_____

Mr. Kaufman (Alternate) x _____

CERTIFICATION

I, Deborah Catapano, Secretary of the Warren Township Sewerage Authority in the County of Somerset, New Jersey, do hereby certify that the above resolution is a true and correct copy of a resolution adopted at a meeting of the Warren Township Sewerage Authority on June 22, 2011.



Deborah Catapano, Authority Secretary