RESOLUTION NO. 2016-07
OF THE BOARD OF SUPERVISORS OF THE
TOWNSHIP OF NEW BRITAIN,
BUCKS COUNTY, PENNSYLVANIA

WHEREAS, The Township of New Britain is located in Bucks County, Pennsylvania (the "Township"); and

WHEREAS, the Township constitutes a "governmental unit" as such term is defined under Pennsylvania's Guaranteed Energy Savings Act (62 Pa C.S. §3751 *et seq.*) (the "**Act**"); and

WHEREAS, the Delaware Valley Regional Planning Commission ("**DVRPC**") has established a Regional Streetlight Procurement Program (the "**Program**") to facilitate the implementation of "energy conservation measures" as such term is defined under the Act; and

WHEREAS, the Township, in its capacity as a governmental unit, has participated in the Program solicitation process and desires to implement the energy conservation measures the Program contemplates; and

WHEREAS, the Township seeks to appoint a "qualified provider," as such term is defined under the Act, to evaluate, recommend, design, implement, and install the energy conservation measures ("**ECMs**") to be installed or implemented as a result of the Township's participation in the Program (the "**Project**"); and

WHEREAS, the Township seeks to enter into a "guaranteed energy savings contract" with a qualified provider for the evaluation, recommendation, and implementation of ECMs for the Project (the "**Guaranteed Savings Agreement**"), substantially in the form attached hereto as Exhibit A; and

WHEREAS, Johnson Controls, Inc. ("**JCI**"), a [Wisconsin corporation] serving energy needs in Pennsylvania, desires to be selected as the Township's qualified provider and desires to enter into the Guaranteed Savings Agreement with the Township/; and

WHEREAS, as part of its proposal to be selected as the Township's qualified provider, and in accordance with the Act, on [February 2, 2016] JCI presented a report as part of its proposal to become the Township's qualified provider (the "**Preliminary Audit**"), available for public inspection, summarizing estimates of the costs of installation, maintenance, repairs and debt service and estimates of the amounts by which energy or operating costs will be reduced; and

WHEREAS, under the Act, a governmental unit may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conversation measures recommended in the qualified provider's proposal would not exceed the amount of energy savings resulting from the energy conservation measures within a period not to exceed 20 years from the date of final installation if the recommendations in the proposal were followed, and the qualified provider provides a written guarantee that the energy savings will meet or exceed the cost of the contract; and

WHEREAS, after reviewing the Preliminary Audit, the Township has found that the amount it would spend on the energy conservation measures recommended in JCI's Preliminary Audit will not exceed the amount of energy cost savings resulting from the energy conservation measures within a period not to exceed 20 years from the date of final installation if the recommendations in the Preliminary Audit are followed; and

WHEREAS, JCI desires to perform a comprehensive investment grade energy use and savings analysis, including accompanying schedules (the "**Investment Grade Audit**") for the Township that will specify the ECMs for the Project; and

WHEREAS, under the terms of the Guaranteed Savings Agreement, JCI will have completed an investment grade audit (the "**Investment Grade Audit**") under which JCI will guarantee to the Township that, through its participation in the Program, the Township will achieve energy savings as a result of the Project that will meet or exceed the cost of implementing the energy conservation measures contemplated (the "**Energy Savings**") in an amount equal to or at least 90% of the per unit savings projected in the Preliminary Audit during the period commencing at the installation of the ECMs and running until the bonds issued to finance the Project are paid in full; and

WHEREAS, under the terms of the Guaranteed Savings Agreement, if JCI conducts an Investment Grade Audit that meets the requirements of the preceding paragraph, the Township will have an obligation to pay JCI the ESCO break fee as outlined in the Guaranteed Savings Agreement incurred in connection with conducting the Investment Grade Audit but the Township will have no obligation to proceed with the Project at any time prior to the date on which it agrees to the final schedules to the Guaranteed Savings Agreement (the "**Schedules**"), and, in its sole discretion, may determine whether or not to proceed with the Project until such time as it approves such Schedules.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of New Britain Township hereby authorizes the Township to participate in the Program; and it is

FURTHER RESOLVED that the Board of Supervisors of New Britain Township hereby appoints JCI as its qualified provider and will make its Preliminary Audit publicly available; and it is

FURTHER RESOLVED that the Board of Supervisors of New Britain Township hereby authorizes the Township to enter into the Guaranteed Savings Agreement with JCI, such agreement to be in substantially the same form of the draft attached as Exhibit A hereto, with such changes therein as the Township's Manager or designee (an "**Authorized Person**") shall approve, to be conclusively established by the Authorized Person's execution of such agreement; and it is

FURTHER RESOLVED that the Board of Supervisors of New Britain Township hereby authorizes and directs one or more of its Authorized Person to take all such further actions and to execute and deliver all such instruments and other documents as such Authorized Persons may consider necessary or appropriate to enable the Township to carry out the intent and purposes of the foregoing resolutions and the transactions contemplated thereby.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Board of Supervisors of the Township of New Britain has adopted and enacted this Resolution this 21st day of March, 2016.

ATTEST:

By: _____
Name: Eileen M. Bradley
Title: Township Manager

By: _____
Name: William B. Jones, III
Title: Board of Supervisors Chair

Exhibit A

Guaranteed Savings Agreement