

**RESOLUTION**  
of the  
**BOROUGH OF NEW PROVIDENCE**  
Resolution No. 2011-227

Council Meeting Date: 08-08-2011

Date Adopted: 08-08-2011

TITLE: RESOLUTION AUTHORIZING JOINT PURCHASING AGREEMENT AND RIDER BETWEEN THE BOROUGH OF NEW PROVIDENCE, THE BOROUGH OF CHATHAM, THE TOWNSHIP OF MILLBURN AND THE CITY OF SUMMIT FOR THE PURCHASE OF AN AUTOMATED BRINE MAKER

Councilperson Cucco submitted the following resolution, which was duly seconded by Councilperson Muñoz.

BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, in the County of Union and State of New Jersey, that they do hereby approve and authorize an agreement and rider between the Borough of Chatham, the Township of Millburn, the City of Summit and the Borough of New Providence, in the form attached hereto, and they do further authorize and direct the Mayor and Borough Clerk to execute same on behalf of the Borough of New Providence.

APPROVED, this 8<sup>th</sup> day of August, 2011.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
CUCCO	X			
GALLUCCIO	X			
GENNARO			X	
LESNEWICH			X	
MUÑOZ	X			
VYZAS			X	
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 8<sup>th</sup> day of August, 2011

Wendi B. Barry, Borough Clerk

## JOINT PURCHASING AGREEMENT

This Joint Purchasing Agreement (the "Agreement") made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Summit, a municipal corporation of the State of New Jersey, having its City Hall at 512 Springfield Avenue, Summit, New Jersey 07901 (hereinafter "Summit"), the Borough of Chatham, a municipal corporation of the State of New Jersey, having its Municipal Building at 54 Fairmount Avenue, Chatham, New Jersey 07928 (hereinafter "Chatham"), the Township of Millburn, a municipal corporation of the State of New Jersey, having its Town Hall at 375 Millburn Avenue, Millburn, New Jersey 07041 (hereinafter "Millburn"), and the Borough of New Providence, a municipal corporation of the State of New Jersey, having its Municipal Building at 360 Elkwood Avenue, New Providence, New Jersey 07974 (hereinafter "New Providence").

### WITNESSETH

WHEREAS, Summit, Chatham, Millburn and New Providence have a need for a piece of equipment commonly known as an Automated Brine Maker (the "Maker"); and

WHEREAS, N.J.S.A. 40A:11-10 and 40A:11-11 specifically authorize two (2) or more contracting units to enter into a Joint Purchasing Agreement for the purchase of equipment; and

WHEREAS, Summit as the lead agency (the "Lead Agency") is conducting a voluntary joint purchasing system for the purchase of the Maker with Chatham, Millburn and New Providence as the other authorized contracting units (the "Contracting Units or Unit"); and

WHEREAS, this Agreement is to effect substantial economics in the purchase of the Maker; and

WHEREAS, all parties hereto have approved the within Agreement by ordinance or resolution as appropriate, in accordance with the aforesaid statutes; and

WHEREAS, it is the desire of all parties to enter into such Agreement for said purpose.

NOW, THEREFORE, in consideration of the premises and of the covenants, terms and conditions hereinafter set forth and for good and valuable consideration, the receipt of which is acknowledged, it is mutually agreed, as follows:

1. In order to more economically and efficiently to provide for the purchase of the Maker, Summit, as the Lead Agency, and Chatham, Millburn and New Providence, as the Contracting Units, agree to share equally the costs of acquisition, maintenance and operation of Maker. The purpose of the Maker is to provide brine consisting of salt and water to de-ice streets before winter storms. In order to effectuate this Agreement and to most economically and efficiently provide this service, Summit shall purchase the Maker described in this Agreement, as the Lead Agency.

2. The Maker shall meet the specifications annexed hereto as Exhibit A.

3. Each of the parties shall pay the \$30,000 to Summit as their contribution to the purchase of the Maker. Summit shall track the costs associated with this purchase, including; the cost of preparation of the bid specifications, legal advertising and other expenses related to the solicitation and processing of bids as well as the purchase of the Maker. Chatham, Millburn and New Providence shall each be responsible for twenty-five percent (25%) for the cost of preparation of the Public Works facility for the installment of the Maker. The remaining 25% is the responsibility of Summit. Payment shall be made to the City of Summit following the drafting of the final specifications and prior to the award of bid for the Maker. Any monies not required shall be equally refunded to the parties. In the event the Maker is sold each of the parties, Milburn, New Providence, Chatham and Summit will share equally the proceeds from the sale.

4. The Maker shall be housed in the Public Works facility of Summit, and a schedule shall be jointly established for the use of the Maker by the parties hereto when it is needed to provide brine because of imminent storms.

5. Summit shall be responsible to provide for the routine maintenance, repair, servicing the Maker, and for necessary upgrades, and shall keep accurate records of such routine maintenance, repair, servicing and upgrades. Chatham, Millburn and New Providence shall each be responsible for twenty-five percent (25%) of the costs of routine maintenance, repair, servicing, and for necessary upgrades, and shall pay to Summit its share of such costs within forty-five (45) days of the submission of a statement of the costs. The remaining 25% is the responsibility of Summit.

6. As the Lead Agency, Summit shall prepare the specifications for the Maker and shall advertise for bids.

7. Summit shall receive bids on behalf of all of the Contracting Units. Following the receipt of bids, Summit shall review said bids and either reject certain or all of the bids, and re-bid for any reason, or make one award to the lowest responsible bidder.

8. The award of the bid shall result in Summit, as the Lead Agency, entering into a formal written contract directly with the successful bidder. Summit, on behalf of the participating Contracting Units, shall certify the funds available under the contract, issue a purchase order in its name directly to the successful bidder, and be invoiced by and receive a statement from the successful bidder.

9. The provisions of the preceding paragraphs 6, 7 and 8 shall be quoted or referred to and sufficiently described in the specifications so that each bidder shall be on notice as to the respective responsibilities of each party to this Agreement.

10. Upon notification by Summit as the Lead Agency that it is about to award a contract to a vendor on behalf of itself and Chatham, Millburn and New Providence, each party to this Agreement shall issue a purchase order and make payment in advance to Summit for its respective twenty-five percent (25%) portion of the pending contract. Summit shall hold such

advance payments in trust for the purpose for which it was made in accordance with N.J.S.A. 5:34-7.14, and shall promptly return any unneeded portion.

11. The administrators of each party to this Agreement shall be responsible for resolving any disputes over the operation of this Agreement. Should they be unable to do so, a meeting will be held with the Mayors and a member of each governing body of the Contracting Units, to resolve this dispute. Should these officials be unable to resolve the dispute, the dispute may be referred to binding arbitration, as provided by the American Arbitration Association. The distribution of the costs of this arbitration shall be determined by the Arbitrator so selected.

12. All necessary insurance on the Maker shall be maintained by Summit, and the cost thereof shall be considered a part of routine maintenance.

13. Each party agrees to indemnify and hold harmless the other parties from all losses, costs, expenses and reasonable attorney's fees for any claim of personal injury or property damage arising out of or connected with its use of the Maker.

14. The parties represent to each other that all necessary municipal action to authorize and effectuate this Agreement has been taken, and that each municipality will take all future action reasonably necessary to effectuate the terms and conditions of this Agreement during its term.

15. This Agreement shall remain in full force and effect until the earlier of a mutually agreed upon termination, or the removal of the Maker by replacement or disposal.

16. Miscellaneous.

The following provisions shall apply to this Agreement:

a. Construction of this Agreement.

The parties acknowledge that this Agreement was prepared under New Jersey Law and shall therefore be interpreted under the laws of that State.

b. Amendments.

This Agreement may not be amended, altered or modified in any manner except in writing signed by the parties hereto.

c. Invalid Clause.

The invalidity of any clause contained herein shall not render any other provision invalid, and the balance of this Agreement shall be binding upon all parties hereto.

d. Entire Agreement

This Agreement shall consist of the entire Agreement of the parties, and it is acknowledged that there is no side or oral agreement relating to this undertaking, as set forth herein.

e. Assignability.

This Agreement and all rights, duties and obligations contained herein may not be assigned without prior written permission of the parties of this Agreement.

f. Specifications.

The Specifications attached hereto as Exhibit "A" are incorporated herein and made a part hereof.

h. Waiver.

It is understood and agreed by the parties that a failure or delay in the enforcement of any of the provisions of this Agreement by either of the parties shall not be construed as a waiver of those provisions.

IN WITNESS WHEREOF, the appropriate elected officials of the parties hereto have placed their signatures and appropriate seals on this \_\_\_\_ day of \_\_\_\_\_, 2011.

CITY OF SUMMIT

ATTEST:

\_\_\_\_\_  
Gordan Glatt, Mayor

\_\_\_\_\_  
David L. Hughes, City Clerk

BOROUGH OF CHATHAM

ATTEST:

\_\_\_\_\_  
V. Nelson Vaughan, III, Mayor

\_\_\_\_\_  
Susan Caljean, Municipal Clerk

TOWNSHIP OF MILLBURN

ATTEST:

\_\_\_\_\_  
Sandra H. Haimoff, Mayor

\_\_\_\_\_  
Joanne M. Monarque, Township Clerk

BOROUGH OF NEW PROVIDENCE

ATTEST:

\_\_\_\_\_  
J. Brooke Hern, Mayor

\_\_\_\_\_  
Wendi B. Barry, Borough Clerk