

**RESOLUTION**  
of the  
**BOROUGH OF NEW PROVIDENCE**  
Resolution No. 2018-321

Council Meeting Date: 12-17-2018

Date Adopted: 12-17-2018

TITLE: RESOLUTION APPROVING SHARED SERVICE AGREEMENT FOR WASTEWATER OPERATIONS AND MAINTENANCE BETWEEN THE BOROUGH OF NEW PROVIDENCE AND THE CITY OF SUMMIT

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

WHEREAS, the Borough of New Providence and the City of Summit entered into a Shared Service Agreement for Wastewater Operations and Maintenance in 2011; and

WHEREAS, the Borough of New Providence and the City of Summit believe that the residents of both municipalities will be better served by continuing said Shared Service Agreement for Wastewater Operations and Maintenance; and

WHEREAS, it is agreed that the Borough of New Providence will continue as the Lead Agency pursuant to NJSA 40A:65-1 et seq.

NOW, THEREFORE, 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 the attached Shared Service Agreement with the City of Summit for Wastewater Operations and Maintenance, 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 17<sup>th</sup> day of December, 2018.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GENNARO				X
GEOFFROY	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
MORGAN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 17<sup>th</sup> day of December, 2018.

Wendi B. Barry, Borough Clerk

## **SHARED SERVICES AGREEMENT**

### **BY AND BETWEEN THE BOROUGH OF NEW PROVIDENCE AND THE CITY OF SUMMIT RELATIVE TO THE WASTEWATER OPERATIONS AND MANAGEMENT OF THE SEWER SYSTEM OF THE CITY OF SUMMIT**

THIS DOCUMENT constitutes a Shared Services Agreement, pursuant to N.J.S.A. 40A:65-1 et. seq., entered into by and between the Borough of New Providence, a body politic and corporate of the State of New Jersey with offices located at 360 Elkwood Avenue, New Providence, New Jersey 07974 and the City of Summit, a body politic and corporate of the State of New Jersey with offices located at 512 Springfield Avenue, Summit, New Jersey 07901.

#### **WITNESSETH**

WHEREAS, the Borough of New Providence (hereinafter "Borough") is a body politic and municipal corporation organized under the laws of the State of New Jersey and located in Union County; and

WHEREAS, the City of Summit (hereinafter "City") is a body politic and municipal corporation organized under the laws of the State of New Jersey and located in Union County; and

WHEREAS, the City and the Borough desire to enter into an agreement whereby the Borough will assume operations and maintenance of the City's four sewer system pump stations to the extent provided for herein, with the result of shared efficiencies and costs in respect thereto; and

WHEREAS, the City and the Borough intend by virtue of this document to set forth the terms and conditions of this Shared Services Agreement; and

WHEREAS, the proper and respective public officials were authorized to execute this Amendment to the Shared Services Agreement pursuant to Resolutions of their respective public entities, attached hereto and made a part of this Agreement; and

NOW, THEREFORE, AND IN CONSIDERATION of the mutual promises set forth herein, the parties agree as follows:

#### **1. PURPOSE.**

The City and the Borough agree that the Borough will commence a course of action to assume the inspections and maintenance of the City's pump stations and to provide licensed oversight of the City's collections system as set forth herein and which will generally involve the assignment of Borough employees to undertake such operations in return for payments by the City to compensate for said work.

#### **2. SEWER OPERATIONS; TERMS AND CONDITIONS**

- a. The Borough shall act as Lead Agency in this Shared Services Agreement with Summit to provide Wastewater Pump Station Operations and Management (O&M) from January 1, 2019 through December 31, 2020. Either party may terminate this agreement with 90 days written notice to the other party.
- b. The Shared Services Agreement shall be reviewed at least annually to ensure mutual satisfaction and may be renewed in two (2) year increments as agreed by the parties.
- c. The Borough as "Lead Agency" shall perform the following:

- i. All communications regarding day-to-day operations of the City's pump stations will be direct from and to the Borough's Licensed Plant Operator and City's City Engineer.
- ii. During the work week (Monday through Friday), one time per day inspection services for the equipment at the four pump stations located in the City of Summit will be provided by New Providence personnel (See the checklist of proposed daily maintenance procedures attached as an addendum to this agreement).
- iii. Summit shall install and maintain video and audio monitoring equipment in each pump station to allow remote access monitoring. In addition float alarms shall be installed where appropriate. The Borough shall provide a second daily weekday inspection via the remote access.
- iv. A weekend pump station inspection service – one time per day for cumulative two hours Saturday and two hours on Sunday.
- v. The base fee for the work week services will be \$94,500 per annum to be paid to the Borough in quarterly installments of \$23,875. in advance. The weekend pump station inspection service will be \$17,000 per annum to be paid in quarterly installments of \$4,250 in advance. Any repair work outside of normal routine and preventative maintenance will be charged based on time and materials (T&M).
- vi. T&M charges will be based on \$150 per man hour for labor. When employees are paid overtime in accordance with their collective bargaining agreement, the rate for T & M shall be \$165.00 per hour.
- vii. NJ One Call Mark-Out
  1. NJ One Call Mark Out requests will be performed on City's two (2) force mains. The City will pay a fee to the Borough in the amount of \$30.00 for each mark out that is performed during regular operating hours. Emergency mark outs performed between 3:30 pm until 7:00 am, Monday through Friday will be a minimum two (2) hour call out and Saturday and Sunday will be a minimum four (4) hour call out billed at \$80.00 per hour. Mark Outs performed on a Holiday will be billed at a double time rate of \$160.00 per hour.
  2. The City will pay for all mark out requests received via fax at the Borough's Wastewater Treatment Plant even if the mark out is for the area surrounding the City's force main. The cost for each faxed mark out request is five dollars (\$5.00). After hours emergency voice call requests made to the Borough Police Desk are five dollars (\$5.00) each.
  3. All billing will be done on a Monthly basis. An invoice will be submitted to the City for payment for the monthly mark out service provided by the Borough.
- viii. Commencing on the first anniversary of the agreement and each one-year anniversary thereafter, all fees charged under this agreement will increase by the annual CPI or 2%, whichever is less. However, a negative CPI will result in 0% increase.

- ix. The Borough will provide the necessary labor to bring all pumps, valves, switches, and other equipment to an industry standard level of performance. The City will be responsible for procuring all material to complete said work. This work is outside the agreement's base fee and will be billed on a time and materials (T&M) basis. It is agreed that time spend on the procurement of materials is billable at the rate charged for work outside of the base fee per hour.
  - x. With the exception of emergency repairs, the City Engineer will receive a schedule of planned maintenance and repairs at the four pump stations.
  - xi. Each event requiring an emergency call-out shall be billed on a T&M basis and will be subject to call-out minimums as outlined below. For example, an emergency call-out involving the Constantine pump station will be considered one event; and an emergency call-out involving the Chatham Road pump station will be considered a separate event.
  - xii. It is agreed that the call-out provisions of the New Providence Collective Bargaining Agreement (CBA) with Teamsters Local 469 will determine the minimum call-outs as described herein. The Borough's current labor contract calls for 1) a two (2) hour minimum if an employee is called to return to work or required to start work before the regular starting time of 7:00 AM; and 2) a four (4) hour minimum if an employee is called to return to work or called in to work on weekends or holidays. The Borough agrees to notify the City in writing in the event call-out provisions in the CBA are changed.
  - xiii. The City will continue to be responsible for its own operating and capital budgets.
  - xiv. New Providence's Licensed Plant Operator will work collaboratively with Summit's City Engineer personnel, as needed, to identify, prioritize, and plan for annual operating budget line items and capital projects.
- d. A number of near term capital investments at the pump station are recommended for consideration by the City in the coming budget period, including:
- i. Protective roof structures over wet wells at Constantine and Chatham Road pump stations.
  - ii. Chatham Road wet well to increase capacity.
- e. The Borough as the Lead Agency will assign its Licensed Plant Operator to place his existing C-3 license on the City pump stations and the City collection system in return for an incremental annual fee of \$26,500, to be paid in quarterly installments of \$6,625. per quarter to the Borough.
- i. In addition, The Borough agrees to have the Licensed Plant Operator provide management oversight and on-call support for the City's collection system personnel for situations where a licensed operator is required by applicable laws and regulations.
  - ii. In the event the Borough's C-3 licensed plant operator becomes unavailable for any reason, and until a new C-3 licensed plant operator is hired or retained by the Borough, the Borough will arrange to provide an interim C-3 license to provide the licensed C-3 services set forth in this Agreement. The City agrees to share equally in any increased cost to the Borough resulting from the

provision of the interim C-3 license. The City also agrees to share equally in any increased cost to the Borough resulting from the hiring or retaining of a new C-3 licensed plant operator. Notwithstanding the foregoing, in the event the Borough's C-3 licensed plant operator becomes unavailable for any reason, the Borough reserves the right to terminate this Agreement on 90 days written notice to the City.

- iii. All on-call support will be billed to the City as incurred at the T&M rate charged for work outside of the base fee and the actual cost for materials with no mark-up.
- iv. The City collection system personnel provide activity sheets and collection system reports to the Licensed Plant Operator on a weekly basis.
- v. The Licensed Plant Operator will provide periodic coaching and guidance to the City personnel in pursuit of a C-2 or C-3 license. This will be accomplished through the City personnel participating in inspection and maintenance operations at the City's option. Separate training efforts, over and above work anticipated in the scope of services outlined in other sections of this agreement is not contemplated herein.
- vi. Optionally, the Licensed Plant Operator will train and mentor one Summit employee upon request of the City officials on routine pump station checks, equipment troubleshooting, and pump rebuilds, if said employee can be assigned to work with the Borough wastewater personnel two or three times per week. This knowledge transfer will give Summit the ability to run the pump stations with their own municipal personnel in the future if this is desired.

### 3. INDEMNIFICATION

City agrees to indemnify and hold harmless Borough and its officers, agents, and employees, including without limitation its Licensed Plant Operator, from any and all losses, liabilities of any kind, damages or claims, including without limitation, any fines or penalties, reasonable attorneys' fees and costs, resulting from, caused by or arising out of any defects, deficiencies or conditions that exist or may occur to the City pump stations during the term of this agreement. With the exception of the foregoing, each party (indemnitor) hereto hereby agrees to hold harmless the other party (indemnitee), its officers, agents and employees against losses, liabilities of any kind, damages or claims, including reasonable attorneys, fees and costs for personal injury or property damage resulting from, caused by or arising out of the actions taken by the indemnitor which are due to the negligence of the indemnitor, its officers, agents and employees.

Notice of Claim against Indemnitee. Indemnitee agrees to give indemnitor written notice within 30 days of receipt of any claim made against indemnitee on the obligations indemnified against, provided, however, a delay beyond 30 days shall not excuse or discharge the obligation of an indemnitor hereunder except to the extent indemnitor is prejudiced by the delay.

### 4. REQUIRED APPROVALS

This Agreement is contingent upon written notification of and written approvals from all applicable regulatory agencies, including without limitation, the Department of Environmental Protection (DEP); the Local Finance Board (LFB) within the Department of Community Affairs, Division of Local Government Services (DCA-LGS); and the Board of Public Utilities (BPU).

### 5. DISPUTE RESOLUTION.

The Borough Administrator for the Borough of New Providence and the City Administrator for

the City of Summit 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 between the Mayor and council president of the Borough Council, and the Mayor and council president of the City Common Council, to resolve this dispute. Should these officials be unable to resolve the dispute, the dispute may be referred to binding arbitration as provided by a retired judge. The distribution of the costs of this arbitration shall be determined by the Arbitrator so selected.

## INSURANCE

The Borough employees will be named as additional insureds on the City's policies. The City's Insurance coverage to be primary. New Providence will purchase insurance to extend coverage under endorsements CG7954 and CG7201 for sewer overflow or backup due to the Borough employee negligence. The cost of the additional coverage will be billed to and paid by the City.

## 6. EFFECTIVE DATE.

This Agreement shall become effective upon authorization thereof by adoption of a resolution by the governing body of each municipality, and upon execution of the Agreement by the authorized representative of each municipality.

## 7. NOTICES.

All notices hereunder shall be in writing and sent certified mail, return receipt requested for the Borough to the Borough Administrator, Borough of New Providence, 360 Elkwood Avenue, New Providence, NJ 07974, and for the City to the City Administrator, City of Summit, 512 Springfield Avenue, Summit, New Jersey 07901, with a copy provided to the Borough and City Attorneys.

## 8. 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. Headings. This section and any other headings contained in this Agreement are for references only and shall not affect the meaning and interpretation of this Agreement.
- d. 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.
- e. 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.
- f. Assignability. This Agreement and all rights, duties and obligations contained herein may not be assigned without both parties' prior written permission.
- g. 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 Borough of New Providence have placed their signatures and appropriate seals on this \_\_\_\_ day of \_\_\_\_\_, 2018.

BOROUGH OF NEW PROVIDENCE

\_\_\_\_\_  
Allen Morgan, Mayor

ATTEST:

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

IN WITNESS WHEREOF, the appropriate elected officials of the City of Summit have placed their signatures and appropriate seals on this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Nora Radest, Mayor

\_\_\_\_\_  
Rosemary Licatese, Clerk