

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

RESOLUTION

No. 56-2019

Date: July 16, 2019

APPROVAL OF VOUCHERS, PAYROLL TRANSFERS, PAYROLL TAX DEPOSITS AND PENSIONS & BENEFITS TRANSFERS

WHEREAS, the Northwest Bergen County Utilities Authority has received vouchers in claim for payment of materials supplied and/or rendered; and

WHEREAS, the said vouchers have been reviewed and the amount indicated on each voucher has been determined to be due and owing; and

WHEREAS, the Northwest Bergen County Utilities Authority has made payroll transfers, payroll tax deposits and Pensions & Benefits transfers for the month of June 2019 and Health Benefits and Dental Benefits transfers for July 2019; and

WHEREAS, the Commissioners of the Authority have reviewed the vouchers, payroll transfers, payroll tax deposits, Pensions and Benefits, and Health and Dental Benefits transfers listed on the attached reports and have found them to be in order.

NOW, THEREFORE, BE IT RESOLVED,

RESOLVED, by the Commissioners of the Northwest Bergen County Utilities Authority, that all vouchers, payroll transfers, payroll tax deposits, Pensions & Benefits and Health and Dental Benefits transfers listed and reports attached hereto, dated July 16, 2019 be and they hereby are approved for payment from the proper accounts as follows:

ACCOUNT: Payroll Account
Net Payroll: \$232,998.89

ACCOUNT: Tax Deposit Account
Total: \$99,173.56

ACCOUNT: Health Benefits Contribution Employer
Total Transfer: \$114,975.35

ACCOUNT: Health Benefits Contribution Employee
Total: \$4,814.89

ACCOUNT: Dental Benefits
Total Transfer: \$4,318.36

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

RESOLUTION

No. 56-2019

Date: July 16, 2019

APPROVAL OF VOUCHERS, PAYROLL TRANSFERS, PAYROLL TAX DEPOSITS AND PENSIONS & BENEFITS TRANSFERS

ACCOUNT: PERS and Contributory Insurance
 Total Transfer: \$31,808.00

ACCOUNT: Operating Account
 Total: \$258,448.51

ACCOUNT: General Improvement Account
 Total: \$1,621,719.90


 SECRETARY


 CHAIRMAN

RECORDED VOTE:

	Bonagura	Chewcaskie	Duch	Kelahr	Lo Iacono	Mongelli	Ortega	Plumley	Kasparian
Offered				✓					
Seconded			✓						
Aye			✓	✓			✓	✓	✓
Nay									
Absent	✓	✓			✓	✓			
Abstain									
Recuse									

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

RESOLUTION

No. 57-2019

Date: July 16, 2019

AUTHORIZATION FOR PAYMENT OF BILLS FOR AUGUST 2019

WHEREAS, it has been determined by the Commissioners of the Northwest Bergen County Utilities Authority (the "Authority") that no meetings of the Commissioners will be held during the month of August, 2019; and

WHEREAS, the Authority's bills are approved for payment at its monthly meeting and the Authority has a need to provide for the consistent and regular payment of its bills for the month of August; and

WHEREAS, the Commissioners wish to provide a mechanism for the payment of August bills as set forth below.

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the Northwest Bergen County Utilities Authority as follows:

1. The Executive Director and Administrative Assistant are directed to prepare the bill list (including but not necessarily limited to payroll, tax deposits, health benefits contributions, dental benefits, PERS and Contributory Insurance, operating account and general improvement account) in the ordinary course for payment and circulate such list to each Commissioner by August 6, 2019; and
2. Unless any Commissioner has an objection to a specific payment or requires further discussion on payment of a bill(s), then such bill(s) shall be excluded from payment and the Commissioners authorize payment of the remainder bills on or after August 13, 2019.

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

RESOLUTION

No. 57-2019

Date: July 16, 2019

AUTHORIZATION FOR PAYMENT OF BILLS FOR AUGUST 2019

I hereby certify that this is a true copy of a resolution adopted by the Board of Commissioners of the Northwest Bergen County Utilities Authority on July 16, 2019.


SECRETARY


CHAIRMAN

Recorded Vote:

	Bonagura	Chewcaskie	Duch	Kelاهر	Lo Iacono	Mongelli	Ortega	Plumley	Kasparian
Offered				✓					
Seconded			✓						
Aye			✓	✓			✓	✓	✓
Nay									
Absent	✓	✓			✓	✓			
Abstain									
Recuse									

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

RESOLUTION

No. 63-2019

Date: July 16, 2019

RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT FOR THE PROVISION OF VEHICLE MAINTENANCE AND REPAIR SERVICES ON AN AS-NEEDED BASIS BY THE BERGEN COUNTY DEPARTMENT OF DIVISION OF SHARED SERVICES

WHEREAS, the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et. seq.) allows for any local unit to enter into an agreement with any other local unit or units to provide or receive any services that each local unit participating in the agreement is empowered to provide or receive in its own jurisdiction, as set forth in N.J.S.A. 40A:65-7(iv); and

WHEREAS, the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et. seq.) authorizes the Northwest Bergen County Utilities Authority (hereinafter “NBCUA”) to enter into a Shared Services Agreement with the County of Bergen (hereinafter referred to as “County”); and

WHEREAS, the NBCUA has need of maintenance and repair services for its vehicles; and

WHEREAS, the County has the personnel and equipment necessary to provide vehicle maintenance and repair services for NBCUA; and

WHEREAS, the NBCUA and County have negotiated a Shared Services Agreement providing for the provision by the County of vehicle maintenance and repair services on an as needed basis to the NBCUA, which is a benefit to both the NBCUA and the County; and

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of the Northwest Bergen County Utilities Authority that the Shared Services Agreement be approved; and

BE IT FURTHER RESOLVED, that the NBCUA hereby authorizes it’s entry into the attached Shared Services Agreement between the NBCUA and the County and the NBCUA authorizes the NBCUA Chairman and the NBCUA Secretary to execute the Shared Services Agreement and related documents as may in the judgment of the NBCUA Counsel, be necessary, advisable and in the best interest of the NBCUA in furtherance of the Shared Services Agreement; and

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

RESOLUTION


No. 63-2019

Date: July 16, 2019

RESOLUTION AUTHORIZING SHARED SERVICES AGREEMENT FOR THE PROVISION OF VEHICLE MAINTENANCE AND REPAIR SERVICES ON AN AS-NEEDED BASIS BY THE BERGEN COUNTY DEPARTMENT OF DIVISION OF SHARED SERVICES

BE IT FURTHER RESOLVED, that the Shared Services Agreement shall be filed and open for public inspection at the administrative offices of the NBCUA.

I hereby certify that this is a true copy of a Resolution adopted by the Northwest Bergen County Utilities Authority upon a roll call vote of all Commissioners of the Authority eligible to vote at a regular meeting held on July 16, 2019.



ALISON GORDON, SECRETARY



MICHAEL KASPARIAN, CHAIRMAN

DATED: July 16, 2019

	Bonagura	Chewcaskie	Duch	Kelaher	Lo Iacono	Mongelli	Ortega	Plumley	Kasparian
Offered				✓					
Seconded			✓						
Aye			✓	✓			✓	✓	✓
Nay									
Absent	✓	✓			✓	✓			
Abstain									
Recuse									

SHARED SERVICES AGREEMENT

BETWEEN

COUNTY OF BERGEN

AND

NORTHWEST BERGEN COUNTY UTILITIES AUTHORITY

FOR:

**THE PROVISION BY THE COUNTY OF BERGEN OF
VEHICLE MAINTENANCE AND REPAIR SERVICES
ON AN AS-NEEDED BASIS**

**BERGEN COUNTY DEPARTMENT OF PUBLIC WORKS
DIVISION OF MECHANICAL SERVICES**

Approved by Bergen County Resolution No. _____
Approved by NBCUA Resolution No. 63-2019

DATE: _____, 2019

PREPARED BY:

**BERGEN COUNTY COUNSEL
ONE BERGEN COUNTY PLAZA
HACKENSACK, NJ 07601-7076
(201) 336-6950**

**SHARED SERVICES AGREEMENT
AS-NEEDED VEHICLE MAINTENANCE**

THIS AGREEMENT made this ___ day of _____, 2019, by and between:

COUNTY OF BERGEN, a body politic and corporate of the State of New Jersey, with administrative offices at One Bergen County Plaza, Room 580, Hackensack, New Jersey 07601-7076, hereinafter referred to as “COUNTY;” and

Northwest Bergen County Utilities Authority a body politic and corporate of the State of New Jersey, with administrative offices located at 30 Wyckoff Avenue @ Authority Drive, Waldwick, NJ 07463 hereinafter referred to as “MUNICIPALITY.”

WITNESSETH:

WHEREAS, MUNICIPALITY has need of maintenance and repair services for its vehicles; and

WHEREAS, COUNTY has the personnel and equipment necessary to provide vehicle maintenance and repair services for MUNICIPALITY; and

WHEREAS, MUNICIPALITY wishes to enter into an agreement with COUNTY whereby COUNTY would provide to MUNICIPALITY vehicle maintenance and repair services on an as-needed basis to supplement services provided by MUNICIPALITY’s personnel or vendor(s); and

WHEREAS, the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et seq.) promotes the broad use of shared services as a technique to reduce local expenses funded by property tax payers; and

WHEREAS, the Uniform Shared Services and Consolidation Act (N.J.S.A. 40A:65-1 et seq.) allows for any local unit to enter into an agreement with any other local unit or units to provide or receive any services that each local participating in the Agreement is empowered to provide or receive within its own jurisdiction, as set forth in N.J.S.A. 40A:65-7(4); and

WHEREAS, pursuant to N.J.S.A. 40A:65-5, the COUNTY and MUNICIPALITY have each adopted resolutions authorizing entry into this Agreement, copies of which are annexed hereto as exhibits,

NOW, THEREFORE, BE IT AGREED, in consideration of the promises and of the covenants, terms, and conditions hereinafter set forth, COUNTY and MUNICIPALITY agree to perform in accordance with the provisions, terms and conditions set forth in this Agreement as follows:

I. DEFINITIONS.

As used in this Agreement, unless the context indicates otherwise, the following terms shall have the following meanings and are to be interpreted consistent with the context of this Agreement in which each term is used.

- A. "Category I Vehicle" means a vehicle with a gross vehicle weight (GVW) up to 6,000 pounds.
- B. "Category II" Vehicle" means a vehicle with a GVW greater than 6,000 pounds up to 26,000 pounds.
- C. "Category III Vehicle" means a vehicle with a GVW in excess of 26,000 pounds.
- D. "Effective Date" means the date identified in this Agreement which reflects the date on which the last party to this Agreement executed this Agreement, following the adoption of resolutions by COUNTY and MUNICIPALITY authorizing entry into this Agreement.
- E. "Law" means any statute, regulation, executive order, procurement policy or rule of any department, subdivision, board, commission, agency or instrumentality of the State of New Jersey.
- F. "Shared Services Agreement" means this Agreement and document(s) executed herein by and between the County and the MUNICIPALITY as provided under N.J.S.A. 40A:65-1 et seq.

II. TERM.

- A. The term of this Agreement shall commence on the Effective Date, and shall continue for a period of one year, unless terminated sooner as provided in this agreement.
- B. This Agreement shall renew annually for successive one year terms, unless terminated sooner as provided in this agreement.

III. PROJECT DESCRIPTION.

COUNTY, through its Division of Mechanical Services, shall provide repair and maintenance services for vehicles owned by MUNICIPALITY on an as-needed basis. MUNICIPALITY does not, by entry into this Agreement, commit to any minimum number of repairs by COUNTY.

IV. RESPONSIBILITIES.

A. Bergen County's Responsibilities.

1. COUNTY shall provide labor, parts, personnel and equipment to provide the services requested by MUNICIPALITY pursuant to the terms of this Agreement.
2. COUNTY shall perform all services in accordance and in compliance with all statutes, rules, and directives governing the provision thereof.
3. COUNTY shall ensure that all personnel providing services under this Agreement possess all required licenses, certifications, and training required to provide the services.
4. All performance by the County shall be limited to the County's appropriation for same, and the County's budgetary restrictions.
5. All performance by the County shall be limited to the availability of the County's equipment and personnel. COUNTY shall use its best efforts to accommodate any request for service by MUNICIPALITY during the term of this Agreement, but COUNTY shall not be in breach of this Agreement if, for any reason, COUNTY is unable to accommodate a request by MUNICIPALITY for services under this Agreement.
6. While COUNTY may if it so chooses, COUNTY shall have no obligation to hire or otherwise retain additional personnel to perform the services under this Agreement. COUNTY shall have no obligation to procure additional equipment to perform under this Agreement.

B. MUNICIPALITY's Responsibilities.

1. MUNICIPALITY shall provide COUNTY with an inventory of vehicles owned by MUNICIPALITY, intended to be repaired or maintained pursuant to this Agreement. MUNICIPALITY shall update this inventory whenever any vehicle is added or deleted.
2. MUNICIPALITY shall be responsible for transporting its vehicles to COUNTY's repair facility, located at 500 Jerome Avenue (mailing address of 220 East Ridgewood Avenue), Paramus, New Jersey, and retrieving same upon completion of the repair or maintenance work. In special circumstances, if COUNTY is requested to transport a particular vehicle, and if COUNTY agrees to same, the charges set forth below shall apply.

3. MUNICIPALITY shall provide COUNTY with notice of needed repairs or maintenance as far in advance as possible to permit efficient scheduling of services.
4. MUNICIPALITY shall designate an authorized representative who will be empowered to request services from COUNTY under this Agreement, to review estimates provided by the COUNTY, and to authorize the COUNTY to proceed with each repair.

V. SERVICES AND COMPENSATION.

A. Upon request, COUNTY will provide the following services at the following rates:

1. Vehicle Inspection, Diagnosis, Maintenance and Repair: \$80 per hour
2. Transportation of vehicle to/from COUNTY's repair facility (utilizing COUNTY personnel and equipment):
 - i. Under vehicle's own power: \$75 per hour
(\$75 minimum)
 - ii. Tow (Category I Vehicle): \$150 flat fee
 - iii. Tow (Category II Vehicle): \$175 flat fee
 - iv. Tow (Category III Vehicle): \$325 flat fee
3. If towing requested by MUNICIPALITY requires the COUNTY to utilize a private towing company, MUNICIPALITY shall be responsible for the fees charged by the private towing company.

B. The time required to complete a particular service will be based upon the estimated repair time determined by the COUNTY's Shopkey repair information system produced by Snap-On, Inc.

C. COUNTY will provide MUNICIPALITY with a written estimate of the cost to perform a particular service based upon the estimated repair time and parts needed as determined by the COUNTY's Shopkey repair information system. MUNICIPALITY's authorized representative shall authorize the COUNTY to proceed with the service in writing. Facsimile or electronic mail shall constitute acceptable written authorization to proceed.

D. Parts will be charged at the County's cost, plus an administrative fee of 15%, which shall be applied to the total cost for parts to defray costs relating to overhead, billing,

hardware, software licenses, procurement, handling, stocking, and similar costs incurred by the COUNTY to provide the services set forth herein.

- E. Where additional labor or parts are required due to unforeseen circumstances, MUNICIPALITY agrees to pay for such additional labor or parts at the rates and/or prices set forth herein. The COUNTY will notify MUNICIPALITY as soon as COUNTY learns that additional labor or parts will be required, and will, where practicable, give MUNICIPALITY the choice whether to authorize the additional labor or parts.
- F. In the event that COUNTY is unable to perform the required repair or maintenance, COUNTY will notify MUNICIPALITY, and provide MUNICIPALITY with the option to take back the vehicle and have it serviced elsewhere at MUNICIPALITY's expense. If MUNICIPALITY requests, COUNTY will endeavor to have the work performed by an outside vendor. In such circumstance, COUNTY shall charge MUNICIPALITY and MUNICIPALITY shall pay the actual cost borne by the COUNTY plus an administrative fee of 15%. MUNICIPALITY shall be responsible for any vehicle transportation costs at the rate(s) set forth for transportation by COUNTY of MUNICIPALITY's vehicle to the vendor's garage.
- G. COUNTY shall bill MUNICIPALITY monthly for all services provided. MUNICIPALITY shall tender payment to COUNTY within sixty (60) days of receipt of invoice.

VI. PREVENTATIVE MAINTENANCE PROGRAM (OPTIONAL).

COUNTY shall offer an optional preventative maintenance program as set forth herein:

- A. COUNTY shall, if requested by MUNICIPALITY, perform regular preventive maintenance on MUNICIPALITY's vehicles. Said service shall be in accordance with manufacturer's service recommendations for the mileage interval of the vehicle and the terms of this Agreement.
- B. The first time the vehicle is brought in for service, the COUNTY will perform a comprehensive inspection to determine the vehicle's condition, and identify any recommended repairs.
- C. Following the initial inspection, COUNTY will include that vehicle on a monthly report to MUNICIPALITY specifying when each vehicle previously inspected by the COUNTY is due for service, the corresponding maintenance interval, and the services recommended, based upon the data provided by the County's fleet maintenance software.

- D. MUNICIPALITY shall be responsible for requesting performance of the recommended maintenance, transporting the vehicle to COUNTY's repair facility, and authorizing performance of the recommended maintenance.
- E. To request enrollment in the optional preventative maintenance program, MUNICIPALITY shall separately initial the space indicated on the signature page of this Agreement.
- F. The parties recognize and agree that, notwithstanding the provisions of this Agreement, responsibility for ensuring regular preventative maintenance rests at all times with MUNICIPALITY. Therefore COUNTY shall not be responsible for any loss or damage, including but not limited to voiding of any warranty, occasioned by failure of COUNTY to notify MUNICIPALITY of manufacturer recommended preventative maintenance or failure of MUNICIPALITY to request performance of any recommended preventative maintenance, to bring a vehicle to COUNTY for preventative maintenance, or to authorize performance of the recommended services.
- G. Under this Agreement, it is anticipated that MUNICIPALITY will have its vehicles serviced by other mechanics or vendors. If MUNICIPALITY elects to enroll in this preventative maintenance program, MUNICIPALITY must notify COUNTY of any service or repair performed on MUNICIPALITY's vehicles by anyone other than COUNTY so that COUNTY may update COUNTY's fleet maintenance software. Without such updates, COUNTY will be unable to provide MUNICIPALITY with accurate maintenance recommendations.

VII. DISPUTE RESOLUTION.

- A. Mandatory Mediation. In the event of a dispute, whether technical or otherwise, the objecting Party must request Non-Binding Mediation and the non-objection party must participate in the mediation. The costs of the mediator shall be borne equally by the parties.
- B. Procedure. The Mediator shall be a retired Judge of the Superior Court of New Jersey or other professional mutually acceptable to the Parties and who has no current or ongoing relationship to either Party. The Mediator shall have full discretion as to the conduct of the mediation. Each party shall participate in the Mediator's program to resolve the dispute until and unless the Parties reach agreement with respect to the disputed matter or one party determines in its sole discretion that its interests are not being served by the mediation.
- C. Non-Binding Effect. Mediation is intended to assist the Parties in resolving disputes over the correct interpretation of this Agreement. No Mediator shall be empowered to render a binding decision.

- D. Judicial Proceedings. Upon the conclusion of Mediation, either party may commence legal proceedings in the appropriate division of the Superior Court of New Jersey venued in Bergen County.
- E. Temporary Injunctive Relief. Notwithstanding the foregoing, nothing herein shall prevent a party from seeking temporary injunctive relief to prevent irreparable harm in the appropriate division of the Superior Court of New Jersey venued in Bergen County.
- F. Payment Pending Dispute. In the event of any dispute as to the amount to be paid, the full amount shall be paid; but if through subsequent negotiation, arbitration or litigation the amount due shall be determined, agreed or adjudicated to be less than was actually so paid, then the COUNTY shall forthwith repay the excess.

VIII. DEFENSE, INDEMNIFICATION, AND SUBROGATION.

- A. Each party agrees to defend, indemnify and hold the other party harmless from any claims, losses, damages, or judgments arising out of the negligence, gross negligence, or willful act of the indemnifying party.
- B. MUNICIPALITY acknowledges that, in the event of property damage to MUNICIPALITY-owned/leased vehicles while in the COUNTY'S care, custody, and control, COUNTY shall fully rely on the immunities and protections afforded it under the NJ Tort Claim Act Title 59, inclusive of 59:9-2(e). MUNICIPALITY agrees that, where its vehicle(s) are covered by a policy of insurance, whether issued by an insurance carrier or municipal joint insurance fund (JIF), MUNICIPALITY agrees to waive any claim for subrogation against the COUNTY.

IX. EMPLOYMENT RECONCILIATION.

- A. MUNICIPALITY has represented that ~~it is not currently providing the services set forth in this Agreement using public employees, and~~ no employees are intended to be terminated for reasons of efficiency or economy as a result of entry into this Agreement.
- B. No employees are intended to be transferred from MUNICIPALITY to COUNTY pursuant to this Agreement, and the COUNTY will not accept transfer of any employees from MUNICIPALITY to COUNTY by virtue of this Agreement. In the event a reconciliation plan is required by N.J.S.A. 40A:65-11, it shall be MUNICIPALITY'S responsibility to prepare such plan, and, if required, to file same with the Civil Service Commission prior to commencement of services under this Agreement. In such case, COUNTY will cooperate with MUNICIPALITY in the preparation and filing of the plan.

X. NOTICES.

All notices, demand, consents, approvals, requests required or permitted to be given to or served upon the County shall be in writing. Any such notice, demand, consent, approval, request, instrument or document shall be sufficiently given or served if sent by certified or registered mail, postage prepaid, addressed at the address set forth below, or at such other address as it shall designate by notice, as follows:

If to

MUNICIPALITY: James Rotundo, Executive Director
Northwest Bergen County Utilities Authority
30 Wyckoff Avenue @ Authority Drive
PO Box 255
Waldwick, NJ 07463

If to

COUNTY: Director, Division of Mechanical Services
Bergen County Department of Public Works
220 East Ridgewood Avenue
Paramus, NJ 07652

With a copy to:

Bergen County Counsel
County of Bergen
One Bergen County Plaza – Room 580
Hackensack, NJ 07601

XI. TERMINATION.

- A. Notwithstanding any other term in this Agreement, COUNTY and MUNICIPALITY retain the right, in their sole discretion, to terminate this agreement at any time on thirty days' notice, without further liability to the other, except as set forth herein.
- B. Upon termination of this Agreement, MUNICIPALITY shall remove any vehicles owned by MUNICIPALITY from COUNTY's repair facility.
- C. MUNICIPALITY shall be responsible for payment for any labor performed and parts purchased on behalf of MUNICIPALITY prior to notice of termination.
- D. If COUNTY is the party terminating the Agreement, COUNTY shall be responsible for completing any pending repair of MUNICIPALITY's vehicle currently in COUNTY'S repair facility at the time COUNTY provides notice of termination, unless:
 1. COUNTY's reason for terminating the Agreement is nonpayment by MUNICIPALITY; or

2. MUNICIPALITY requests that COUNTY refrain from completing the pending repair(s).

XII. OTHER AGREEMENTS.

COUNTY and MUNICIPALITY reserve the right to enter into agreements with other public or private entities for the performance of any service or services which may be included within the scope of services provided in this Agreement.

XIII. MISCELLANEOUS.

- A. Authorization. All Parties hereto have the requisite power and authority to enter into this Agreement and it is the intention of the Parties to be bound by the terms hereof. The execution and delivery of this Agreement is valid and binding upon the Parties hereto and the genuineness of any and all resolutions executed may be assumed to be genuine by the Parties in receipt thereof.
- B. Assignment. No Party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other Party and any such attempted assignment shall be void.
- C. Cooperation of the Parties. In performing any services pursuant to this Agreement, the performing Parties will act in a reasonably prudent manner to accommodate the common goals of the Parties toward implementation and effectuation of the stated purposes of this Agreement. No Party hereto shall be liable for failure to advise another Party of any adverse impact from action taken hereunder, unless such failure to advise shall be the result of bad faith or willful concealment of an impact actually known to the Party taking the action or omitting to take such action to be substantially adverse to the other Parties. The fact that any act or omission should subsequently be determined to have an adverse impact shall not in itself be evidence of bad faith or willful concealment and the Party bringing an action shall be required to affirmatively establish, by independent sufficient evidence, that such Party acted in bad faith or willfully concealed an adverse impact of which it had actual knowledge.
- D. Benefit/No Third Party Beneficiaries. This Agreement shall inure to the benefit of the Parties hereto and their successors and permitted assignees. No other person, corporation, company, partnership or other entity shall be deemed a third party or other beneficiary of this Agreement.
- E. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
- F. Complete Agreement. This Agreement sets forth the entire understanding of the Parties, which supersedes and merges all prior proposals, understandings and all other

agreements, oral and written, between the Parties relating to the subject matter hereof. The Parties acknowledge and agree that they have not made any representations, including the execution and delivery hereof, except such representations as are specifically set forth herein.

- G. Modifications in Writing. This Agreement may not be modified except in a writing executed by all Parties.
- H. Governing Law/Venue/Construction. This Agreement and all amendments hereof shall be governed by and construed in accordance with the laws of the State of New Jersey applicable to contracts made and to be performed therein. The venue shall be the County of Bergen. The Parties acknowledge that they have been represented by counsel with respect to the negotiation and preparation of this Agreement and that, accordingly, this Agreement shall be construed in accordance with its terms and without regard to or aid of cannons requiring construction against the drafting party.
- I. No Waiver. The failure of a Party to insist on strict performance of any or all of the terms of this Agreement, or to exercise any right or remedy under this Agreement, shall not constitute a waiver or relinquishment of any nature regarding such right or remedy or any other right or remedy. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
- J. Relationship of the Parties. Except as otherwise provided herein, nothing shall create any association, joint venture, partnership, or agency relationship of any kind between the parties. Neither party may create or assume any liability, obligation or expense on behalf of the other, to use the other's monetary credit in conducting any activities under this Agreement.
- K. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction; such holding shall not invalidate or render unenforceable any other provision hereof.
- L. Title and Headings. Titles and headings to sections or paragraphs herein are inserted merely for convenience of reference and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.
- M. Recitals. The recitals set forth above are incorporated into the body of this Agreement as if set forth at length herein.

[Signature Page(s) to Follow]

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed and attested to by their proper corporate officers, and their respective seals to be affixed the day and year first written above.

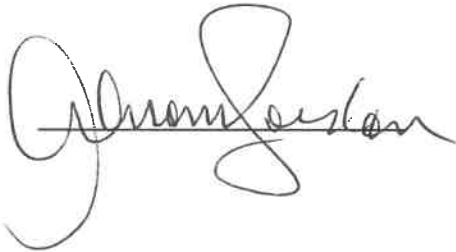
ATTEST:


COUNTY OF BERGEN

By: _____
James J. Tedesco, III, County Executive, or
Julien X. Neals, Esq., Acting County Administrator

ATTEST:

Northwest Bergen County Utilities Authority



By: 
Printed: Michael Kasparian
Title: Chairman

By separately initialing here, MUNICIPALITY requests enrollment in the Optional Preventative Maintenance Program set forth in Section VI, above.

Initialed: _____