

RESOLUTION 2019-9

**RESOLUTION OF THE PLUMSTED MUNICIPAL UTILITIES
AUTHORITY AUTHORIZING THE EXECUTION OF AN
AMENDMENT TO THE INTERIM SHARED SERVICES
AGREEMENT BETWEEN THE PLUMSTED MUNICIPAL UTILITIES
AUTHORITY AND THE TOWNSHIP OF PLUMSTED**

WHEREAS, the Plumsted Municipal Utilities Authority has previously entered into an Interim Shared Services Agreement with the Township of Plumsted; and

WHEREAS, the purpose of this Agreement, among other things, was for the PMUA to investigate the potential provision of sewer collection and disposal services within portions of the Township of Plumsted; and

WHEREAS, the initial Shared Services Agreement was entered into in 2009 and a first amended Agreement was entered into in 2013, which Agreements authorized the PMUA to continue the investigation of a proposed Sewer Service Plan for portions of the Municipality and provided an Agreement to fund the costs of such continued investigation to be paid from the Township's Redevelopment Project Escrow Fund and various Bond Ordinances; and

WHEREAS, a second amendment was entered into with the Township of Plumsted in 2015 with respect to the Interim Shared Services Agreement by which the Township agreed to fund the PMUA's cost of such continued engineering and investigations related to the provision of sewer collection and disposal services within certain areas of the Municipality; and

WHEREAS, the Township of Plumsted has previously entered into a Redevelopment Agreement with Lennar Plumsted, LLC, relating to the construction of a planned residential retirement community (the "PRRC") which Agreement includes the construction of a sewer treatment plant to serve both the PRRC and the downtown New Egypt portion of the Municipality together with the construction, operation and maintenance of the network of collection, piping and pumping improvements for the collection of sewer flow from the project site and certain portions of the Municipality; and

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COUNSELLORS AT LAW

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WHEREAS, in accordance with the terms of the most recent executed Interim Shared Services Agreement, the Plumsted Municipal Utilities Authority has issued bids for the construction of a sewer collection system and has also submitted a request for proposals for the construction of a sewer treatment plant; and

WHEREAS, the Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq., authorizes the PMUA to enter into a contract for the provision of certain governmental services with the Township of Plumsted; and

WHEREAS, the Authority hereby desires to enter into an amendment to the Interim Shared Services Agreement dated October 29, 2015, in order to obtain the necessary funding to award a contract for sewer collection improvements as well as a sewer treatment plant; and

NOW, THEREFORE, BE IT RESOLVED, this ____ day of _____, 2019, by the Plumsted Municipal Utilities Authority as follows:

1. The Authority hereby authorizes the execution of an amendment to the Interim Shared Services Agreement with the Township of Plumsted, which amendment is attached hereto, for the purposes of including provisions to authorize the funding for contracts for sewer improvements and a sewer treatment plant by the PMUA;
2. That the Chairman and Executive Director be and they are hereby authorized to execute an amendment to said 2015 Agreement with Plumsted Township as well as any other documents necessary to effectuate the terms of this Resolution; and

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately and a copy of this amended Agreement shall be kept on file and made available for public inspection at the offices of the Plumsted Municipal Utilities Authority during normal business hours; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be forwarded by the Authority to such New Jersey Governmental Agencies as may be in need of receiving same.

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CERTIFICATION

I, Nadine Cicero, Secretary of the PMUA, do hereby certify that the foregoing Resolution was approved by the PMUA on _____, 2019.

Nadine Cicero, PMUA Secretary

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McGUCKIN, ULAKY,
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AMENDMENT TO THE
INTERIM SHARED SERVICE AGREEMENT

This Amendment is entered into this 22nd day of January 2019 (the "Amendment").

Between the TOWNSHIP OF PLUMSTED, a Municipal Corporation of the State of New Jersey, with its principal place of business located at 121 Evergreen Road, Plumsted, New Jersey, (the "Township")

AND

The PLUMSTED MUNICIPAL UTILITIES AUTHORITY, a body Corporate and Politic of the State of New Jersey, operating under the provisions of N.J.S.A. 40:14B-1 et seq., with principal offices located at 121 Evergreen Road, Plumsted, New Jersey (the "PMUA")

WHEREAS, the Township and the PMUA have heretofore entered into an Interim Shared Services Agreement dated September 22, 2009, an Interim Shared Services Agreement dated October 8, 2013 and Interim Shared Services Agreement dated October 29, 2015 (the "2015 Shared Services Agreement"), by which the PMUA agreed to investigate a proposed sewer service plan for the Township redevelopment areas; and

WHEREAS, on October 15, 2014 the Township entered into a Redevelopment Agreement with Lennar Plumsted Urban Renewal, LLC (formerly known as Lennar Plumsted, LLC) (the "Redeveloper"), as amended by a First Amendment to Redevelopment Agreement dated October 8, 2018, for the construction of a Planned Residential Retirement Community ("PRRC") of approximately 450 new homes; and

WHEREAS, part of that Redevelopment Plan includes the design, permitting, construction and instillation by the Township of a sewer treatment plant ("STP") which shall have a permitted capacity of up to six hundred thousand (600,000) gallons per day that will serve both the PRRC and the downtown New Egypt portion of the Township, together with the design, permitting, construction and instillation of the network of collection piping and pumping improvements for the collection of sewer flow from the project site and certain portions of the Township (the "Collection System" and, together with the STP, the "Sewer Improvements"); and

WHEREAS, the parties have determined that the Township will finance the engineering, design, permitting, construction and instillation of the Sewer Improvements, as the Township is an eligible borrower of funds through the low-interest New Jersey Infrastructure Bank financing program; and

WHEREAS, the Township has previously adopted the following bond ordinances to provide for the funding of the Sewer Improvements: Bond Ordinance No. 2008-11, Bond Ordinance 2009-07, Bond Ordinance 2015-06, Bond Ordinance 2017-15 (amended by 2018-09) and Bond Ordinance 2017-21 (collectively, and together with amounts deposited by the Redeveloper into an escrow fund for such purpose, the "Township Obligations"); and

WHEREAS, the parties desire to amend the 2015 Shared Services Agreement to expand the scope of services provided by the PMUA to the Township to include the construction and installation of the Sewer Improvements in an aggregate amount not to exceed the amount appropriated by Bond Ordinance 2017-21 (the "Township Appropriation Amount"); and

WHEREAS, on January 22, 2019, the Township adopted a resolution authorizing the PMUA to award one or more contracts for the construction and installation of the Sewer Improvements, which contract amount(s) shall be no more than the Township Appropriation Amount and which shall be accompanied by a Certification of Available Funds issued by the Township Chief Financial Officer.

NOW THEREFORE IN CONSIDERATION OF THE MUTUAL PROMISES AND COVENANTS HEREIN CONTAINED, the parties do hereby agree as follows:

Section 1. The recitals are incorporated herein as if set forth in full.

Section 2. The first sentence of Section 1 of the 2015 Shared Services Agreement is hereby repealed and replaced with the following:

1. The Township shall provide such funds, which include the proceeds of obligations issued by the Township under the Township Obligations and funds made available under any escrow agreement with the Redeveloper that the Township believes are necessary and appropriate for the PMUA to contract for engineering, design, permitting, construction and installation of the Sewer Improvements and that in all instances any amounts derived from the proceeds of the Township Obligations shall be limited to the purpose described in such Township Obligations.

Section 2. Any and all other provisions of the 2015 Shared Services Agreement shall remain in full force and effect. In the event of any inconsistency between the provisions of this Amendment and the provisions of the 2015 Shared Services Agreement, the provisions of this Amendment shall prevail.

Section 3. Counterparts. This Amendment may be signed in one or more duplicate original counterparts, each of which shall be an original but all of which together shall constitute one and the same Amendment.

Section 4. Severability. If any terms or conditions of the 2015 Shared Services Agreement or this Amendment are determined invalid by a court of competent jurisdiction, the remainder shall remain in full force and effect.

IN WITNESS HEREOF the parties have caused their duly appointed Authorized Officers to executed this Amendment.

WITNESS AND ATTEST:

TOWNSHIP OF PLUMSTED

DOROTHY J. HENDRICKSON, RMC
Township Clerk

By

JACK TROTTA, Mayor

WITNESS AND ATTEST:

**PLUMSTED MUNICIPAL
UTILITIES AUTHORITY**

Secretary

By

Chairman