



PASSAIC VALLEY WATER COMMISSION

RESOLUTION #20-127

RESOLUTION OF PASSAIC VALLEY WATER COMMISSION

DATE OF ADOPTION: OCTOBER 14 2020

Factual Contents certified to by Louis Amodio, Administrative Secretary. Approved as to Form and Legality on basis of facts set forth by George T. Hanley, General Counsel. Entering Executive Closed Session in accordance with Open Public Meetings Act, R.S. 10:4-6 et seq. Pursuant to the Open Public Meetings Act,

COMMISSIONER: VAN RENSA LIER offers the following Resolution for adoption:

WHEREAS, Section 8 of the Open Public Meetings Act, c. 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the public body is of the opinion that such circumstances presently exist:

NOW, THEREFORE, BE IT RESOLVED, by the Commissioners of Passaic Valley Water Commission:

- 1. The public shall be excluded from discussion of the hereinafter-specified subject Matters; the general nature of the subject matters being; Financial, Insurance, Personnel, Contracts, Negotiations, Security, Law: other matters as may be discussed in camera.
2. It is anticipated at this time that the above-stated subject matters will be ratified During public meeting following or as soon thereafter as the reason for discussion no Longer exists.
3. This Resolution shall take effect immediately.

Second by COMMISSIONER: SANCHEZ Time: 10:21 a.m.

RECORD OF COMMISSION VOTE ON FINAL PASSAGE

Table with 5 columns: Name, AYE, NAY, ABSTAIN, ABSENT. Rows include FRIEND, G., VANNOY, R., LEVINE, J., SANCHEZ, R., VAN RENSA LIER, R., COTTON, R., and KOLODZIEJ, J.

Adopted at a meeting of Passaic Valley Water Commission.

Signature of Joseph C. Kobuszynski, President

Signature of Louis Amodio, Secretary



PASSAIC VALLEY WATER COMMISSION

This Resolution, when adopted, must remain in the custody of the Administrative Secretary.

CERTIFICATION

I, LOUIS AMODIO, Administrative Secretary of the Passaic Valley Water Commission in the County of Passaic, and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of a legal quorum of the Original Resolution duly passed and adopted by a majority of the full membership of the Passaic Valley Water Commission at its meeting of October 14, 2020.



LOUIS AMODIO
Administrative Secretary

RESOLUTION: 20-128
RESOLUTION OF PASSAIC VALLEY WATER COMMISSION
DATE OF ADOPTION: OCTOBER 14, 2020

Approved as to form and legality by Law Department on the basis of facts set forth by Executive Director, Purchasing, and Finance Departments.

Introduced by Commissioner: VAN RENSA LIER

Seconded by Commissioner: VANNOY

WHEREAS, Passaic Valley Water Commission ("PVWC") has solicited for professional services (or extraordinary unspecifiable Services) for Project No. 21-P-12 (Re-Solicitation) entitled "Insurance Agent Services for Property, Casualty, Automobile, and Excess Liability" (hereinafter the "Project"), with said solicitation and procurement of responses (and evaluation of same) undertaken through a fair and open process, as defined in N.J.S.A. 19:44A-20.7 (hereinafter the "Fair and Open Process Law"); and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(i) and the Fair and Open Process Law require that notice, with respect to contracts for professional services (or extraordinary unspecifiable services), procured through a fair and open process and awarded without competitive bids, must be publicly advertised; and

WHEREAS, following public advertisement as required by New Jersey law, in accordance with an appropriate form of notice, and placement of the said notice on the official website of PVWC, as well as in the official newspaper of PVWC and any other such publications as may have been deemed appropriate, and after receiving no responses on August 20, 2020 for the Project and subsequently re-soliciting for said Project, on October 1, 2020 PVWC has received a response to provide professional services (or extraordinary unspecifiable services) related to the Project from at least one (1) professional (or provider of extraordinary, unspecifiable services) provider; and

WHEREAS, each response received for the Project has been evaluated by PVWC based on criteria as set forth in the request for responses for the Project, and a copy of a summary of responses received is attached hereto and made a part hereof; and

WHEREAS, based on the said evaluation of the three (3) response received for the Project, the firm of **Anthony S. Cupo Agency** (the "Awardee") was determined to be the most professionally qualified and capable of performing the required services with respect to the Project and its response (hereinafter the "Response"); and

WHEREAS, the Response of the Awardee will be incorporated into the Contract, a form of which is attached hereto and made a part hereof (the "Contract") as Exhibit A; and

WHEREAS, it is in the best interest of PVWC, its users and constituent municipalities to engage, or continue to engage, the services of the Awardee at this time; and

WHEREAS, the solicitation and the responses, including that of the Awardee (as indicated on Exhibit B), are on file in the office of the Administrative Secretary and available for inspection; and

WHEREAS, the services to be rendered pursuant hereto constitute professional services (or extraordinary unspecifiable services) within the meaning and intent of the Local Public Contracts Law; and

WHEREAS, in the event that a specific not-to-exceed amount has been established in the Response, and PVWC has subsequently accepted the same, PVWC's Comptroller has certified, with respect hereto, that funds are currently available for said purpose and said certificate is attached hereto;

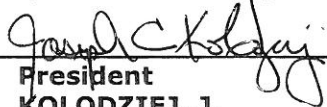
NOW, THEREFORE, BE IT RESOLVED, by Passaic Valley Water Commission, in the County of Passaic, New Jersey:

1. That PVWC hereby awards the Contract to the Awardee in accordance with N.J.S.A. 40A:11-1 et seq. and N.J.S.A. 19:44A-20.7, and in accordance with said Response, for services related to the Project; and
2. That an appropriate official of PVWC, on behalf of PVWC, is hereby authorized and directed to execute the Contract hereby awarded to the Awardee and the Secretary of PVWC to attest to the Contract and such other officers, employees and officials of PVWC are hereby authorized to perform such acts and execute such documents as are necessary to implement the terms and intentions of this Resolution, and
3. That this matter shall be advertised as required by New Jersey law, in accordance with an appropriate form of notice, and a copy of this Resolution and Agreement shall be placed on file and made available for public inspection at the office of the Administrative Secretary of Passaic Valley Water Commission.

RECORD OF COMMISSION VOTE ON FINAL PASSAGE

	AYE	NAY	ABSTAIN	ABSENT
COTTON, R	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
FRIEND, G.	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
VANNOY, R.	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
LEVINE, J.	<u> </u>	<u> </u>	<u> x </u>	<u> </u>
SANCHEZ, R.	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
VAN RENSA LIER, R.	<u> </u>	<u> x </u>	<u> </u>	<u> </u>
KOLODZIEJ, J.	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

Adopted at a meeting of Passaic Valley Water Commission.



 President
KOLODZIEJ, J.

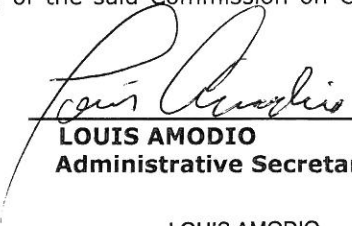


 Secretary
GERALD FRIEND

This Resolution, when adopted, must remain in the custody of the Administrative Secretary.

CERTIFICATION

I, LOUIS AMODIO, Administrative Secretary of the Passaic Valley Water Commission in the County of Passaic, and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy thereof of the foregoing Resolution duly passed and adopted by a majority of a legal quorum of the full membership of the Passaic Valley Water Commission at its duly noticed and convened meeting of the said Commission on October 14, 2020.



LOUIS AMODIO
Administrative Secretary

LOUIS AMODIO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 22, 2021

PASSAIC VALLEY WATER COMMISSION

**PROJECT NO. 21-P-12 (Re-Solicitation)
INSURANCE AGENT SERVICES FOR PROPERTY,
CASUALTY, AUTOMOBILE, AND EXCESS LIABILITY**

FORM OF AGREEMENT

EXHIBIT A

FORM OF AGREEMENT

PASSAIC VALLEY WATER COMMISSION
FORM OF AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (hereinafter "AGREEMENT") made as of _____, 20__ between PASSAIC VALLEY WATER COMMISSION ("PVWC"), a Public Utility Company organized pursuant to its enabling statute (N.J.S.A. 40:62-108 et seq.), having its principal place of business at 1525 Main Avenue, Clifton, New Jersey 07011, and _____ a professional firm (hereinafter "PROFESSIONAL" and/or "contractor") having a place of business at _____.

WHEREAS, PVWC desires professional services as applicable, to assist PVWC in its ongoing efforts related to Project No. 21-P-12 (Re-Solicitation) entitled "Insurance Agent Services for Property, Casualty, Automobile, and Excess Liability" (hereinafter the "PROJECT"); and

WHEREAS, PVWC requires Professional Services to assist it in implementing the PROJECT; and:

WHEREAS, PROFESSIONAL represents that it has the experience and the required professional knowledge to provide the professional services, and/or extraordinary unspecifiable services, as applicable (hereinafter "PROFESSIONAL SERVICES"), and as required by PVWC in this regard as set forth in the "Public Notice", "Table of Contents", and the "Request for Proposals" of the "Request for Proposals for Professional Services (or Extraordinary Unspecifiable Services)", and Appendices A, B, C, & F of the Solicitation (and including, where applicable, Appendix D with additional technical and other requirements attached thereto); all of which, along with a copy of the PROFESSIONAL'S proposal dated October 1, 2020, are collectively referred to herein as the "PROPOSAL", and, along with ranking methodology (Appendix E), are attached hereto and made a part hereof as Exhibit A; and

WHEREAS, the AGREEMENT shall be for the period of time as set forth in Appendix D where applicable, or where not otherwise set forth in Appendix D, the Agreement shall be for up to a one year period of time commencing on the Effective Date of this AGREEMENT as defined in Paragraph 19 herein, and for any extended periods authorized by PVWC.

WHEREAS, PVWC and PROFESSIONAL are desirous of entering into a consulting agreement to cover the PROFESSIONAL SERVICES authorized by PVWC and required for the PROJECT; and

NOW, THEREFORE, in consideration of the mutual promises herein, PVWC and PROFESSIONAL agree that the terms and conditions of this AGREEMENT are the following:

1. PROFESSIONAL shall provide the PROFESSIONAL SERVICES authorized by PVWC and required for the PROJECT. PROFESSIONAL'S obligations under this AGREEMENT are solely for the benefit of PVWC and no other party is intended to benefit or have rights hereunder.

2. PROFESSIONAL shall perform the PROFESSIONAL SERVICES as defined under this AGREEMENT at a level customary for competent and prudent professional service providers, all as applicable, performing such services at the time and place where the services are provided ("STANDARD OF CARE"). These services will be provided by professional service providers in the appropriate disciplines, and by other professionals and individuals skilled in other technical disciplines, as appropriate. PROFESSIONAL shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all aspects of its services including reports and other deliverables and services provided under this AGREEMENT. The services to be performed by PROFESSIONAL shall conform to the generally accepted codes and regulations applicable to the subject PROJECT. PROFESSIONAL agrees to indemnify and hold PVWC harmless from all losses and damages resulting from PROFESSIONAL'S failure to meet the STANDARD OF CARE. Further, PROFESSIONAL shall correct and re-perform any services not conforming to the required STANDARD OF CARE without additional compensation and cost to PVWC, (including, but not limited to pending written or oral testimony, reports, etc., which might occur from activities resulting from the performance of this AGREEMENT

which were caused by PROFESSIONAL'S performance). In addition, PROFESSIONAL shall indemnify and hold harmless PVWC and its officers, agents and employees of PVWC from and against any losses, claims, damages, or liabilities to which PVWC may become subject insofar as and to the extent they arise out of the deviation from the STANDARD OF CARE in the performance of the services by the PROFESSIONAL, hereunder.

3. There shall be no fees or other forms of compensation to the PROFESSIONAL other than those set forth in the Proposal and agreed to by PVWC.

4. PROFESSIONAL shall be responsible to PVWC for any subcontractors and outside associates or professional it engages to assist it in the performance of the services required under this AGREEMENT.

5. PVWC will provide to PROFESSIONAL all available information, including previous reports and any other data in its possession relevant to the subject PROJECT. Further, PVWC will be responsible for providing PROFESSIONAL access to all public and private property in connection with services to be performed for the PROJECT.

6. Both PVWC and PROFESSIONAL understand that the goal of this AGREEMENT is to complete all phases of the subject PROJECT in a reasonably expeditious fashion. To this end each pledges to the other full cooperation.

7. The services to be performed under this AGREEMENT for the PROJECT shall be deemed to be completed when the scope of work authorized by PVWC for the PROJECT has satisfactorily been fulfilled.

8. By notice in writing at any time, PVWC may change the general scope of services required by PROFESSIONAL as set forth herein. In such event an equitable adjustment, if appropriate, in compensation shall be agreed to in writing prior to PROFESSIONAL'S performing the changed services.

9. PROFESSIONAL shall hold secret and confidential all information designated by PVWC as confidential. PROFESSIONAL shall not reveal any designated confidential information to a third party unless the disclosing party was lawfully possessed with the information before receipt of same from the party claiming confidentiality and whose information has been designated as described herein as being confidential, or applicable law, regulation, court order or any agency of competent jurisdiction requires its disclosure; or the failure to disclose the information would pose an imminent and substantial threat to human health or the environment.

10. PROFESSIONAL shall maintain insurance against the following risk during the term of this AGREEMENT:

a) Worker's Compensation in statutory amounts and Employer's Liability for PROFESSIONAL'S employees' for the PROJECT for related injuries or disease; and

b) General Liability and Automobile Liability (each including excess coverage as required) and each in the amount of not less than \$1,000,000 for personal injury or property damage to third parties which arises from PROFESSIONAL'S performance under this AGREEMENT; and

c) Professional Liability in the amount of not less than \$1,000,000 for legal obligations arising out of PROFESSIONAL'S failure to meet the STANDARD OF CARE or other items covered under such Professional Liability policy.

PROFESSIONAL shall provide to the PVWC certificates of insurance as to each of the above which evidence that the policies are in effect.

11. This AGREEMENT shall be interpreted in accordance with the laws of the State of New Jersey and any litigation/arbitration relating to the AGREEMENT shall be venued in New Jersey. In the event of litigation, the parties agree and consent to the action being initiated in the Superior Court of New Jersey, Passaic County.

12. PROFESSIONAL represents that it is an independent professional and not an employee of PVWC.

13. If a dispute or complaint arises concerning this AGREEMENT, PVWC and PROFESSIONAL will negotiate a resolution of the dispute. Should negotiations

be unsuccessful, the resolution of the dispute shall be submitted to arbitration in accordance with the current Construction Industry Arbitration Rules of the American Arbitration Association and the arbitration proceeding shall be venued in New Jersey. Any decision rendered by the arbitrators shall be final. Judgment may be entered upon the decision in any court having jurisdiction. The decision shall not be subject to modification or appeal except to the extent permitted by Sections 10 and 11 of the Federal Arbitration Act (9 U.S.C. 10, 11). Notwithstanding the aforementioned, disputes which have a total value (exclusive of interest) in excess of the dollar amount for cost of services (said dollar amount as stipulated in paragraph 3 herein) shall not be arbitrated but shall be litigated.

14. All notices required or intended under this AGREEMENT may be delivered in person, by facsimile or express mail. All notices shall be effective upon the date of receipt by the parties. Notices shall be delivered or sent to the other party at the address appearing in this AGREEMENT. An address may only be changed by written notice to the other party.

15. During the performance of this contract, the contractor agrees as follows:

a) The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation and gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth the provisions of this nondiscrimination clause.

b) The contractor or subcontractor, where applicable, will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

c) The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d) The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq. as amended and supplemented from time to time and the Americans with Disabilities Act.

e) The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2, or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

f) The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

g) The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personal testing conforms with the

principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

h) In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

i) The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302

j) The contractor and its subcontractor shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

16. This AGREEMENT is subject to termination at the conclusion of all of the Contract work, time being of the essence as described herein, unless extended by the mutual agreement of the Parties. PVWC retains the right to terminate the PROFESSIONAL upon 15 days' notice to the PROFESSIONAL, which notice shall be effective when given to the PROFESSIONAL in writing at the PROFESSIONAL'S place of business by way of certified mail return receipt requested and regular mail. No other Notice shall be necessary. Should termination under this Article take place, the PROFESSIONAL shall be entitled to compensation for all authorized Contract work completed satisfactorily to the date of termination. PVWC shall be the sole judge of satisfactory work.

17. This AGREEMENT, including any schedules, attachments and referenced documents, is the entire agreement between PVWC and PROFESSIONAL. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly stated herein are of no force and effect. Any changes to this AGREEMENT shall be in writing and signed by the PVWC and PROFESSIONAL.

18. A waiver or breach of any term, condition or covenant by a party shall not constitute a waiver or breach of any other term, condition or covenant. If any court of competent jurisdiction declares a provision of the AGREEMENT invalid, illegal or otherwise unenforceable, the remaining provisions of the AGREEMENT shall remain in full force and effect.

19. The effective date of this AGREEMENT shall be as of the date set forth hereinabove, or where such date is not indicated, the effective date of the AGREEMENT shall be when the last of the two parties is in full possession of a fully executed AGREEMENT document.

20. PROFESSIONAL'S hourly rates for technical and related support services and non-labor expenses shall be as set forth in the PROPOSAL.

21. PROFESSIONAL understands and agrees that upon submission to PVWC and upon receipt of proper payment as provided for in this AGREEMENT, any reports, data, logs or other information provided to PVWC pursuant to the terms and conditions of this AGREEMENT (and which are not designated in accordance with Paragraph 9 of this AGREEMENT as being confidential) are deemed to be non-proprietary to the extent that PVWC, in its sole discretion, may utilize the information submitted for whatever purposes it deems necessary or desirable without seeking permission from PROFESSIONAL, and without providing any additional compensation to PROFESSIONAL; provided, however, that PVWC shall have sole responsibility for use of such work products in applications for which they may not originally have been intended. Reports, data, logs and other information provided to PVWC by PROFESSIONAL shall become the property of PVWC provided, however, that PROFESSIONAL shall have unrestricted right to their use.

22. PVWC designates the Executive Director, the Administrative Secretary, or the Director of Engineering, of the PVWC as its designated representative having authority to give instructions, receive information, define PVWC'S policies, and make decisions with respect to the scope of the work to be performed. PVWC reserves the right to change these designees from time to time and will notify PROFESSIONAL of any change(s) in writing.

23. Except as otherwise approved by PVWC, for the PROJECT, PVWC will be responsible for furnishing all approvals and permits from governmental authorities and other entities having jurisdiction over the scope of the work to be performed and approvals from others as may be necessary for the timely completion of the said work, including payment of all permit fees.

24. This AGREEMENT may be executed in several counterparts and all so executed documents shall constitute one agreement, binding on all the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart.

IN WITNESS WHEREOF, the parties hereto have made and executed this AGREEMENT by their duly authorized officers, and have affixed their corporate seals, as of the day and year shown on the cover page.

PROFESSIONAL'S FIRM

Witness or Attest

By: _____
Secretary
(Seal)

By: _____
Authorized Signatory

PASSAIC VALLEY WATER COMMISSION

By: _____
LOUIS AMODIO
Administrative Secretary

By: _____
JOSEPH KOLODZIEJ
President

PASSAIC VALLEY WATER COMMISSION

ATTACHMENT "A"

PROFESSIONAL'S PROPOSAL

PASSAIC VALLEY WATER COMMISSION

**PROJECT NO. 21-P-12 (Re-Solicitation)
INSURANCE AGENT SERVICES FOR PROPERTY,
CASUALTY, AUTOMOBILE, AND EXCESS LIABILITY**

EXHIBIT B

(The Solicitation and Responses, including the
Awardee's Response, are on file in the Office of
PVWC's Administrative Secretary)

RESOLUTION: 20-129
RESOLUTION OF PASSAIC VALLEY WATER COMMISSION
AUTHORIZING THE SALE OF ITS SURPLUS PERSONAL
PROPERTY NO LONGER NEEDED FOR PUBLIC USE
ON AN ON-LINE AUCTION WEBSITE

DATE OF ADOPTION: OCTOBER14, 2020

Approved as to Form and Legality by Law Department on basis of facts set forth by the Executive Director, Purchasing, Engineering, and Finance Departments.

Introduced by Commissioner: **VAN RENSA LIER**

Seconded by Commissioner: **VANNOY**

WHEREAS, Passaic Valley Water Commission ("PVWC") is the owner of certain miscellaneous materials, vehicles, and equipment ("Surplus Personal Property") which PVWC has determined are no longer needed for public use; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the sale of Surplus Personal Property no longer needed for public use through the use of an on-line auction service; and

WHEREAS, a copy of a memorandum dated August 28, 2020 from the Director of Purchasing recommending the auction, along with other relevant correspondence, is attached hereto and made a part hereof as Exhibit A; and

WHEREAS, the Executive Director and the Director of Engineering have reviewed the above-referenced memorandum and proposed auction and concur with the Director of Purchasing's recommendations, (and the General Counsel has reviewed the same as to form and legality), and

WHEREAS, in accordance with N.J.S.A. 40A:11-36, a Public Notice (legal newspaper advertisement) informing the public as to the nature of the Surplus Personal Property being sold and how to obtain more information on the sale, will be published (and placed on PVWC's website), within the required time frames, and a copy of the

Public Notice (with a general description of the Surplus Personal Property to be included in the auction) is attached hereto and made a part hereof as Exhibit B; and

WHEREAS, the estimated fair market value of the Surplus Personal Property to be sold exceeds \$6,600 [fifteen percent (15%) of the PVWC's current bid threshold of \$44,000]; and

WHEREAS, pursuant to the Division of Local Government Services' Local Finance Notice 2008-9, PVWC will utilize the on-line services of GovDeals, Inc., 100 Capitol Commerce Blvd., Montgomery, AL 36117, Phone: (866) 377-1494; Fax: (334) 387-0519 located at www.GovDeals.com for conducting the sales; and

WHEREAS, the terms and conditions of the agreement entered into between GovDeals and PVWC, along with the agreed-to compensation to GovDeals, are available at www.GovDeals.com and a copy of the said agreement is attached hereto and made a part hereof in above-referenced Exhibit A, and is also on file and available for inspection at the office of the Administrative Secretary of PVWC; and

WHEREAS, there will be a non-mandatory preview of Surplus Personal Property to be held on the date, time, and at the locations; all as set forth in the above-referenced Public Notice; and

WHEREAS, the scheduled date and time for the auction, with items and/or groups of items as applicable, shall also be as set forth in the Public Notice; and

WHEREAS, pursuant to N.J.S.A. 40A:11-36, sales shall be held not less than seven (7) days, nor more than fourteen (14) days after the latest publication of the Public Notice; and

WHEREAS, all sales will be made to the highest bidder, all sales shall be final, and all Surplus Personal Property will be sold "As Is-Where Is", free from any guarantee or warranty; and

WHEREAS, all Surplus Personal Property purchased will be required to be removed by the successful bidder(s) from PVWC's premises within ten (10) business days of the close of the auction, and any and all Surplus Personal Property not sold at the auction (or removed by the successful bidders within the stipulated time frame) shall subsequently be properly disposed of by PVWC personnel; and

WHEREAS, within the parameters established by the governing law, PVWC reserves the right to accept or reject any or all bids;

NOW, THEREFORE, BE IT RESOLVED, by Passaic Valley Water Commission, in the County of Passaic, New Jersey:

1. PVWC is hereby authorized to sell the Surplus Personal Property as generally described and set forth in the Public Notice attached hereto as Exhibit B, utilizing the on-line auction website entitled www.GovDeals.com.
2. That the Public Notice attached hereto as Exhibit B shall be placed on PVWC's website and published in a newspaper circulating in the member municipalities of PVWC no earlier than fourteen (14) days nor later than seven (7) days prior to said auction.
3. That the appropriate officials and employees of the Commission are hereby authorized to perform such acts and execute such documents as are necessary to implement the terms and intentions of this Resolution and the submissions provided in connection therewith.


RECORD OF COMMISSION VOTE ON FINAL PASSAGE

	AYE	NAY	ABSTAIN	ABSENT
COTTON, R	<u>X</u>	___	___	___
FRIEND, G.	<u>X</u>	___	___	___
VANNOY, R.	<u>X</u>	___	___	___
LEVINE, J.	<u>X</u>	___	___	___
SANCHEZ, R.	<u>X</u>	___	___	___
VAN RENSA LIER, R.	<u>X</u>	___	___	___
KOLODZIEJ, J.	<u>X</u>	___	___	___

Adopted at a meeting of Passaic Valley Water Commission.



President
KOLODZIEJ, J.




Secretary
GERALD FRIEND

This Resolution, when adopted, must remain in the custody of the Administrative Secretary.

CERTIFICATION

I, LOUIS AMODIO, Administrative Secretary of the Passaic Valley Water Commission in the County of Passaic, and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy thereof of the foregoing Resolution duly passed and adopted by a majority of a legal quorum of the full membership of the Passaic Valley Water Commission at its duly noticed and convened meeting of the said Commission on October 14, 2020.



LOUIS AMODIO
Administrative Secretary

LOUIS AMODIO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 22, 2021

PASSAIC VALLEY WATER COMMISSION

**SALE OF SURPLUS PERSONAL PROPERTY NO LONGER NEEDED
FOR PUBLIC USE ON AN ON-LINE AUCTION WEBSITE**

**DIRECTOR OF PURCHASING'S MEMORANDUM DATED AUGUST 28, 2020
AND OTHER RELEVANT CORRESPONDENCE**

EXHIBIT A

**PASSAIC VALLEY WATER COMMISSION
INTEROFFICE MEMORANDUM**

Date: August 28, 2020

To: Hon. Commissioners

From: Gregg Lucianin

cc: L. Amodio
J. Bella
J. Duprey
G. Hanley
Y. Weiss

Re: Online Auction of Surplus Property

The Division of Local Government Services Authorizes the use of online auction sites for the sale of surplus property (see Local Finance Notice 2008-21). GovDeals.com is one of the vendors on the State's approved list.

This is a request for approval to proceed with a contract with GovDeals.com to auction Passaic Valley Water Commission's surplus vehicles and equipment, most of which is stored at the Point View Reservoir property.

A list of the surplus goods is attached to a resolution for the Board's action.

Respectfully Submitted,

Gregg Lucianin
Purchasing Agent

PASSAIC VALLEY WATER COMMISSION

**SALE OF SURPLUS PERSONAL PROPERTY NO LONGER NEEDED
FOR PUBLIC USE
ON AN ON-LINE AUCTION WEBSITE**

**FORM OF PUBLIC NOTICE AND SCHEDULE OF SURPLUS PERSONAL
PROPERTY INCLUDED IN THE AUCTION**

EXHIBIT B

**PASSAIC VALLEY WATER COMMISSION
PUBLIC NOTICE**

**SALE OF SURPLUS PERSONAL PROPERTY NO LONGER NEEDED FOR
PUBLIC USE ON AN ON-LINE AUCTION WEBSITE**

NOTICE IS HEREBY GIVEN THAT Passaic Valley Water Commission (PVWC) will sell at an on-line Public Auction, "as is", and "where is"; and free from any guarantee or warranty; its materials, vehicles, and equipment (referred to herein as "Surplus Personal Property" and/or "Items") as generally described on the attached "Schedule of Surplus Personal Property".

The on-line Public Auction will commence on Monday, October 19, 2020 and shall end on Thursday, October 29, 2020.

Additional details of the auction can be found at www.govdeals.com. All bidders are required to electronically register for bidding on this website. All bidders participating in this auction agree that they have read and fully understood the terms and conditions outlined on the website and agree to be bound thereby.

Items may be previewed by the public prior to sale. There will be a non-mandatory pre-auction meeting at PVWC's Point View Reservoir Facility located at 199 Berdan Avenue, Wayne, New Jersey (GPS coordinates: 40.967527, -74.243171) on Thursday, October 22, 2020 at 10:00 a.m. Representatives of PVWC will on hand to coordinate previews of Items. Contact Gregg Lucianin, Purchasing Agent, at 973-340-4316 for additional information in this regard.

The sale(s) will be made to the highest bidder(s); however, within the parameters established by the governing law, PVWC reserves the right to accept or reject any or all bids. All sales are final.

The successful bidder shall pay the full bid price by wire transfer, cashier's check or money order to GovDeals prior to taking possession of the Items purchased. The successful bidder shall take any and all action necessary to remove from the Premises, within ten (10) business days from the completion and close of the auction, and at its own cost and expense, all Items purchased. The successful bidder will be responsible for any damage it causes in removing said Items.

Passaic Valley Water Commission

Louis Amodio
Administrative Secretary

Gregg Lucianin
Purchasing Agent

Dated: October 14, 2020

LFN 2008-9

April 28, 2008

Local Finance Notice

Jon S. Corzine
Governor

Joseph V. Doria
Commissioner

Susan Jacobucci
Director

Contact Information

Director's Office

V. 609.292.6613
F. 609.292.9073

Local Government Research

V. 609.292.6110
F. 609.292.9073

Financial Regulation and Assistance

V. 609.292.4806
F. 609.984.7388

Local Finance Board

V. 609.292.0479
F. 609.633.6243

Local Management Services

V. 609.292.7842
F. 609.633.6243

Authority Regulation

V. 609.984.0132
F. 609.984.7388

Mail and Delivery

101 South Broad St.
PO Box 803

Trenton, New Jersey
08625-0803

Web: www.nj.gov/dca/lgs

E-mail: dlgs@dca.state.nj.us

Distribution

Municipal and Freeholder Clerks
County and Municipal Chief Financial
Officers

Local Authorities and Fire Districts
School Business Administrators
Local Procurement Officials

Selling Surplus Personal Property: Use of Online Auctions

The instructions in this Notice supersede any previous instructions from the Division of Local Government Services (Division) that were received by local units of government and boards of education (local units) in regard to the sale of surplus personal property online.

This Notice provides updated instructions to local units as to the procedures to follow when selling surplus personal property online. All local units, whether previously approved by the Division to sell surplus property online, or those that are currently planning sales must follow these instructions.

The Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) authorizes the Division to waive various provisions of the Local Public Contracts Law and Public School Contracts Law to assist local units in selling surplus personal property no longer needed for public use through online auctions. Presently, local units are required to apply to the Division for permission to proceed with such auctions.

Since the inception of the program, the Division has approved Internet-based vendors for online auctions of surplus personal property. These include: eBay.com, GovDeals.com, PropertyRoom.com, and Auction Liquidation Services usgovbid.com. These vendors have met the requirements of the Division to offer their services for selling personal property online, including acquiring Business Registration Certificates (BRCs).

As a result, and subject to the provisions of this Notice, the Division is granting approval for local units to hold online auctions through any of these four vendors **without** prior approval of the Division. In addition, as provided in P.L. 2001, c. 30, local units are not required to seek bids or requests for proposals from these vendors to use their services when following this Notice.

This approval applies when local units use the following procedure:

1. Choose which approved vendor will be used to sell surplus personal property and review all terms and conditions regarding the auction service. If there is a fee to use the auction site determine how the fee will be paid.

2. Pursuant to N.J.S.A. 40A:11-36, the governing body must pass a resolution authorizing the sale. The resolution must include the following statements and provisions:
 - a. The surplus personal property is no longer needed for public use.
 - b. The sale will be online and the address of the auction site.
 - c. The sale is being conducted pursuant to Local Finance Notice 2008-9.
 - d. For those items that are part of the local unit's fixed asset inventory, the description of items in the resolution must also include information that sufficiently identifies the item and provides an audit trail (i.e., inventory or serial number).
 - e. For items not in the fixed asset inventory, the resolution must provide a general description sufficient to inform the public of the item being sold.
 - f. The listing for any motorized vehicle that is titled in the name of the local unit must include the vehicle identification number (VIN) shown on the title. Local units must comply with applicable statutes regarding abandoned property, confiscated vehicles, etc.
 - g. There must be a reference in the resolution that the terms and conditions of the agreement entered into with the vendor are available on the vendor's website and available in the local unit Clerk or Secretary's office.
3. A separate authorizing resolution is required from the governing body **each time** it authorizes a new online auction. "Rolling" or "blanket" auctions or authorizations are not permitted. Therefore, governing bodies are encouraged to list multiple items in each sale resolution to minimize administrative procedures.
 - a. The actual date of sale is not required to be included in the resolution.
 - b. Copies of approved resolutions should be sent to the Division.
4. A legal newspaper advertisement informing the public as to the nature of items being sold and how to obtain more information on the sale is required pursuant to N.J.S.A. 40A:11-36. An advertisement must be published in conjunction with **each** authorizing resolution. The advertisement must be published in the local unit's official newspaper and shall:
 - a. Announce the auction and that the item(s) will be sold online.
 - b. Include the internet address for the sale that is being advertised.
 - c. Include the date and time of the auction, and a general description of the surplus personal property intended to be sold. Specific information for particular items, such as the VIN for vehicles, is not required to be included in such newspaper advertisements.
 - d. Include a statement that bidders must pre-register with the approved vendor and the internet address with registration information.
5. Pursuant to N.J.S.A. 40A:11-36, sales shall be held not less than 7 or more than 14 days after the latest publication of the advertisement.
6. The online auction company may provide an option of continuing or reopening a sale after the close (i.e., in the event a minimum reserve price was not met). The potential for this occurrence

must be provided for in agreement between the local unit and the auction company and the provision clear to bidders from the sale webpage. In the event of a continuance or re-opening, those bidders who participated in the sale must be notified of the new date. Under these circumstances an additional public advertisement is not required.

Local units that want to use the services of a vendor other than those named above for the sale of surplus personal property online, must apply for initial approval from the Division. The waiver application and instructions for the sale of surplus personal property online can be found at the Division's web site. Vendors will have to meet Business Registration Certificate (BRC) requirements.

Finally, local units that will be using the services of GovDeals.com pursuant to State Contract A70967, are required to follow the above procedure, except that it is not necessary to submit a copy of any resolutions to the Division.

Please contact the Division by e-mail at lpcl@dca.state.nj.us or at (609) 292-7842 if you have any questions regarding this procedure.

Approved: Susan Jacobucci, Director

Table of Web Links

Page	Shortcut text	Internet Address
1	<u>P.L. 2001. c. 30</u>	www.njleg.state.nj.us/2000/Bills/PL01/30_.PDF
3	<u>Division Website</u>	www.state.nj.us/dca/lgs/lpcl/index.shtml
3	<u>State Contract A70967</u>	www.state.nj.us/treasury/purchase/nea/contracts/t2581.shtml
3	<u>Division E-mail</u>	mailto:lpcl@dca.state.nj.us

GovDeals

Financial Settlement Services (FSS) Addendum

It is understood the Client elects GovDeals to collect all proceeds due the Client from the winning bidder and remit the proceeds to the Client less the GovDeals fee. Optionally, the Client may elect to not have GovDeals withhold the fee by electing the appropriate section on the following page of this exhibit.

GovDeals will charge the winning bidder a "Buyer's Premium", therefore, the Client is not allowed to charge the winning bidder an additional "Buyer's Premium".

GovDeals will collect all proceeds from the winning bidder, including the "Buyer's Premium" through PayPal, credit card or wire transfer. This is the only means of payment by the bidder.

The Client will not release an asset to the winning bidder until the Client has received verification from GovDeals that payment has been received from the winning bidder. Prior to an item being released to the winning bidder, the Client will ensure the winning bidder or his/her agent has signed a "Bill of Sale" containing the following notation: "Asset is sold as is, where is and without warranty. Once the asset is removed from the seller's premises there is no refund of monies previously paid". The Bill of Sale must be printed from the Seller Asset Management (SAM). Any other "Bill of Sale" used by the Client must be submitted to GovDeals for approval.

No proceeds will be remitted to the Client for any asset sold without verification of payment from GovDeals and verification from the Client the item has been picked up by the winning bidder. Approved payment from the winning bidder through PayPal, credit card or wire transfer will be noted in SAM. It is the Client's responsibility to notify GovDeals when an item has been picked up, which is accomplished by the Client accessing SAM and selecting the "Picked Up" option from the "Paid, not picked up" report.

GovDeals will remit all proceeds collected, less the "Buyer's Premium" and the GovDeals fee to the Client on a weekly basis for all assets marked in SAM as 'Picked Up'. However, if you choose to be invoiced for the GovDeals' fee, GovDeals will remit all proceeds collected, less the "Buyer's Premium" only. All proceeds will be remitted electronically by Automatic Clearing House (ACH) unless elected on the following page of this exhibit to receive a paper check. Whether proceeds are remitted electronically via ACH or via paper check, a detailed backup will be submitted to the Client to support the amount remitted.

Under no circumstance will the Client collect any proceeds directly from the winning bidder and if requested to do so, the Client should refer the winning bidder directly to GovDeals for payment instructions.

GovDeals will absorb all costs of Charge Backs by PayPal or a credit card company where an item is released to the winning bidder after the Client receives proper payment notification from GovDeals, GovDeals receives proper pickup notification from the Client and the Client obtained and retained a signed "Bill of Sale" from the winning bidder.

GovDeals will refund proceeds collected to the winning bidder in those rare occasions where the winning bidder pays for an asset but never picks it up and subsequently convinces PayPal or the credit card company to withdraw the amount from GovDeals' bank account. It is the Client's responsibility to request a credit on the asset paid for but not picked up as soon as the allowable pick up time passes. By taking the credit, it insures GovDeals will not charge the Client a fee and will allow the Client to resell the asset. If the asset is mistakenly placed in 'picked up' status by the Client and GovDeals has remitted payment, the Client agrees to refund this amount back to GovDeals.

A GovDeals' Client Account Manager will train the Client on how to effectively use the Financial Settlement Services feature and provide ongoing support as needed. There are no additional costs to the Client for training and support.

GovDeals is covered by a Crime Insurance Policy with a limit of \$5,000,000, which will protect the Client against any loss of funds.

GovDeals

Flexible Pricing Options (FPO)

The Client has the option to choose from the following alternative plans:

B - Client Elects GovDeals Financial Settlement Services (FSS) allowing GovDeals to Collect Proceeds. Only one option below can be used and once this option is chosen, it cannot be changed for twelve (12) months.

Option B1: The Client pays a 7.5% fee, but not less than \$5.00, and the winning bidder pays a 5% Buyers Premium. *

Option B2: The Client pays a 5% fee, but not less than \$5.00, and the winning bidder pays a 7.5% Buyers Premium.

Option B3: The Client pays a 2.5% fee, but not less than \$5.00, and the winning bidder pays a 10% Buyers Premium.

Option B4: The Client pays a 0% fee and the winning bidder pays a 12.50% Buyers Premium.

*If the Client chooses to pay the full 7.5% fee (Option B1), they will have access to the **Tiered Fee Reduction Schedule**.

Tiered Fee Reduction Schedule (Only applies to Option B1)

GovDeals' **Tiered Fee Reduction Schedule** below explains how the base auction fee of 7.5% is reduced for assets that sell in excess of \$100,000 on www.govdeals.com.

1. **When an asset sells for up to \$100,000 in a winning bid, the GovDeals fee is seven and one-half percent (7.5%) of the winning bid, but not less than \$5.00.**
2. **Where an asset sells for more than \$100,000, but less than \$500,000 the GovDeals fee is seven and one-half percent (7.5%) of the winning bid up to \$100,000, plus five and one-half percent (5.5%) of the winning bid for auction proceeds in excess of \$100,000 up to \$500,000.**
3. **Where an asset sells for greater than \$500,000 the GovDeals fee is seven and one-half percent (7.5%) of the first \$100,000 of the winning bid, plus a fee of five and one-half percent (5.5%) of the next \$400,000 of the winning bid, plus a fee of three and one-half percent (3.5%) of the bid amount in excess of \$500,000.**
4. **Where an asset sells for greater than \$1,000,000 the GovDeals fee is seven and one-half percent (7.5%) of the first \$100,000 of the winning bid, plus a fee of five and one-half percent (5.5%) of the next \$400,000 of the winning bid, plus a fee of three and one-half percent (3.5%) of the next \$500,000 of the winning bid, plus a fee of two and one-half percent (2.5%) of the bid amount in excess of \$1,000,000.**

GovDeals

Client Logo Here

Client Name

City, State

Online Sales - Terms and Conditions

All bidders and other participants of this service agree they have read and fully understand these terms and agree to be bound thereby.

Guaranty Waiver. All assets are offered for sale “AS IS, WHERE IS.” Client Name (Seller) makes no warranty, guaranty or representation of any kind, expressed or implied, as to the merchantability or fitness for any purpose of the property offered for sale. The Buyer is not entitled to any payment for loss of profit or any other money damages – special, direct, indirect or consequential.

Description Warranty. Seller warrants to the Buyer the property offered for sale will conform to its description. Any claim for misdescription must be made prior to removal of the property. If Seller confirms the property does not conform to the description, Seller will keep the property and refund any money paid. The liability of the Seller shall not exceed the actual purchase price of the property. **Please note upon removal of the property, all sales are final.**

Personal and Property Risk. Persons attending during exhibition, sale, or removal of goods assume all risks of damage of or loss to person and property and specifically release the Seller and GovDeals from liability therefore.

Consideration of Bid. Seller reserves the right to reject any and all bids and to withdraw from sale any of the assets listed at any time until the Seller has received payment in full for the assets and Buyer has removed the assets from the Seller's premises in their entirety.

Buyer's Certificate. If applicable, successful bidders will receive a Buyer's Certificate by email from GovDeals as their notice of award.

Buyer's Premium & Additional Fees. If a Buyer's Premium and/or Additional Fees are shown on the auction page Bid Box, then that amount (expressed as a percentage of the final selling price or a specified amount) will be added to the final selling price of all items in addition to any taxes imposed.

Payment. Payment in full is due not later than **5 business days** from the time and date of the close of the auction. Please refer to the payment instructions listed on the auction page for

complete payment terms and methods. Please refer to the Bid Box for all fees and taxes that may be associated with the auction.

State/Local Sales and/or Use Tax. Buyers may be subject to payment of State and/or local sales and/or use tax. Buyers are responsible for contacting Seller or the appropriate tax office, completing any forms and paying any taxes that may be imposed. Buyers must provide any applicable tax exempt documents to Seller within 24 hours of the auction closing and before payment is made.

Removal. All assets must be removed within **ten (10) business days** from the time and date of the close of the auction. Purchases will be released only upon receipt of payment as specified. Successful buyers are responsible for loading and removal of any and all property awarded to them from the place where the property is located as indicated on the website and in the Buyer's Certificate. The Buyer will make all arrangements and perform all work necessary, including packing, loading and transportation of the property. Under no circumstances will Seller assume responsibility for packing, loading or shipping. See instructions on each auction page for complete removal details. A daily storage fee of \$25.00 may be charged for any item not removed within the ten (10) business days allowed and stated on the Buyer's Certificate.

Vehicle Titles. Seller will issue a title or certificate upon removal of the vehicle. Titles may be subject to restrictions as indicated in the asset description on the website.

Default. Default shall include (1) failure to observe these terms and conditions; (2) failure to make good and timely payment; or (3) failure to remove all assets within the specified time. Default may result in termination of the contract and suspension from participation in all future sales until the default has been cured. If the Buyer fails in the performance of their obligations, Seller may exercise such rights and may pursue such remedies as are provided by law. Seller reserves the right to reclaim and resell all items not removed by the specified removal date.

Acceptance of Terms and Conditions. By submitting a bid, the bidder agrees they have read, fully understand and accept these Terms and Conditions, and agree to pay for and remove the property, by the dates and times specified. These Terms and Conditions are available for review in the bid box at the top of each page of each asset listed on GovDeals. Specific Instructions (Payment, Removal, and Special) appearing on the asset page will override certain sections of these Terms and Conditions.

Sales to Employees. Employees of the Seller may bid on the property listed for auction, so long as they do NOT bid while on duty.

For Sale at Auction

VEHICLES

Item No.	Year	Make	Model	VIN	Condition	PVWC ID
V1	2004	Chevy	Blazer LS	1GNDT13X94K158586	Scrap	30
V2	1998	Ford	Econoline Club Wagon	1FMRE1165WHB39290	Scrap	45
V3	2003	Jeep	Liberty	1J4GL48K43W664803	Scrap	36
V4	2006	Ford	Econoline Van	1FTNS24WX6HA42079	Scrap	74
V5	1991	GMC	Mason Dump Truck	1GDL7H1J4MJ504402	Scrap	59
V6	1991	GMC	Mason Dump Truck	1GDL7H1J0MJ504915	Scrap	57
V7	1993	International	Dump Truck	1HTGLCUT9PH476600	Scrap	49
V8	2003	Ford	Expedition XLT	1FMPU16LX3LB66454	Scrap	21
V9	2000	Ford	Explorer	1FMZU71X5YZC25078	Scrap	110
V10	2003	Ford	Econoline Van E250	1FTNS24W93HA80172	Scrap	42
V11	2003	Ford	Econoline Van E250EX	1FTNS24W03HA80173	Scrap	44
V12	2004	Ford	Econoline Van	1FTNS24W14HB19192	Scrap	47
V13	1993	Chevy	Truck	1GCGK24K9PE236739	Scrap	97
V14	2001	Chevy	Blazer	1GNDT13W31K230305	Scrap	104
V15	2000	Ford	Explorer	1FMZU72E8YUB47437	Scrap	18
V16	1991	International	Utility	1HTAZPM6MH339276	Scrap	85
V17	1998	Ford	Econoline wagon	1FMRE1169WHB39292	Scrap	78
V18	2000	Ford	Explorer XLS	1FMZU72EXYUB47438	200,000+ miles	106

TRAILERS

T1	2005	Cross Country	Flat Bed	431F5182051000934		44T
T2	1983	Eager Beaver	Flat Bed	1120HA208DT200014		EH10
T4	2005	Piques		4JASL18215G111382		PEQ

GATORS

G1		JD 850D XUV	Diesel	MOXUVDX014208		
G2		JD HPX Gator	Gas	MOHPXGX070751		
G3		JD HP Gator OPS	Gas	MOHX0PA067190		

MISC EQUIPMENT

E1	Chipper					
E2	Massey Ferguson Tractor					
E3	Cement mixer					
E4	Riding mower					
E5	Cargo Box-1	8'x8'x20'				
E6	Cargo Box -2	8'x8'x40'				

METAL

various obsolete or rusted water main fittings

COMPUTERS

Mixed Desktop PCs w/o HDDs
 Mixed Laptops w/o HDDs
 Mixed Display Screens (Deprecated / Non-Functioning)
 Mixed Networking Equipment (Wiped Configurations)
 Mixed Servers w/o HDDs
 Misc. Computer Parts

EQUIPMENT

Gas Chromatograph	Thermo Trace	ECD detector removed
Gas Chromatograph	Thermo Trace	ECD detector removed
Copy Machine	Ricoh	
Copy Machine	Xerox	
Laboratory furnace		1200c--junk

Resolution No. 20-130

RESOLUTION OF PASSAIC VALLEY WATER COMMISSION
DATE OF ADOPTION: OCTOBER 14, 2020

Approved as to form and legality by Law Department on basis of facts set forth by Executive Director, Purchasing, Engineering, and Finance Departments.

Introduced by Commissioner: VAN RENSALIER

Seconded by Commissioner: VANNOY

Resolution Passaic Valley Water Commission ("PVWC") Board of Commissioners: Temporary lease of Portion of 1525 Main Avenue Parking Area.

WHEREAS, a proposed short-term lease for a period of 90 days has been brought before the Board of Commissioners on recommendation of the Staff of Passaic Valley Water Commission ("PVWC"), responsive to requests by an adjacent business operator abutting the PVWC Headquarters Offices at 1525 Main Avenue, Clifton New Jersey and appurtenant PVWC visitors parking lot area; and

WHEREAS, for some years the aforesaid adjacent business, with the street address of 1543 Main Avenue, Clifton, New Jersey, 07011, has been providing restaurant services to the community of the City of Clifton, doing business as Beirut Restaurant, hereinafter referred to as "Lessee"; and

WHEREAS, as set forth in the proposed Lease Agreement ("the Lease") annexed here to as Exhibit A, as is the circumstance with many restaurants within the service area of PVWC, in compliance with the Executive Orders Nos. 150 and 157 of the Governor of the State of New Jersey, Lessee is limited to indoor seating of a relatively low number of patrons, significantly below Lessee's regular service capacity, and in order to remain viable as a going concern and continue to serve the community, and thereby also contribute to employment and local tax revenue, Lessee (also a ratepayer of PVWC), is in dire need of additional operating space for outdoor service of patrons as permitted under the aforesaid Executive Orders; and

WHEREAS, Lessee, through Lessee's Counsel, has proposed entry of a short-term lease ("the Lease") of a delineated area within a partially enclosed PVWC visitor's parking area, immediately abutting the restaurant area, to be utilized for outdoor service in supplement to the existing restaurant grounds, thereby facilitating the Lessee's continued operation under the terms of the Executive Orders; and

WHEREAS, the PVWC Staff has related that alternative visitor parking areas is available which will continue to be sufficient to serve PVWC operational needs while the delineated area is under short-term lease with Lessee, considering also PVWC's ongoing effort to reduce visits and entries to the adjacent PVWC premises

by PVWC staff and members of the public, in accordance with Executive Orders and PVWC internal policy responsive to current public health exigencies; and

WHEREAS, the proposed Lease has been represented by Lessee as being lawful and permissible under local, County, State and federal regulatory law governing land use, licensing and operation of restaurant premises (collectively "Regulation"), and the Lease's terms and conditions, having been reviewed by PVWC Staff, including, but not limited to, terms pertaining to:

- i. Term of lease, expiring 90 days from date of adoption of the instant Resolution; and
- ii. Rent, \$3,750.00, payable in full on inception of Lease without proration, represented as being comparable to prevailing market rates for short-term lease of unimproved space; and
- iii. Protections of PVWC through provision for indemnification, insurance, and reservations of right of termination and reentry in event of Lessee breach of Lease covenants conditioning the Lease on Lessee compliance with Regulation, and the aforesaid terms having been found fair and reasonable;

NOW, THEREFORE, BASED ON THE FOREGOING, BE IT RESOLVED, the entry into and execution of the Lease, in form attached hereto, or in form that in the view of counsel is substantially the same

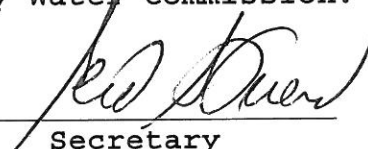
thereas, shall be and hereby is approved, and the Staff and officers of PVWC are hereby authorized and directed to take all reasonable, necessary and convenient steps to perform as Lessor under the terms and conditions of the Lease, and to ensure Lessee's performance thereof.

RECORD OF COMMISSION VOTE ON FINAL PASSAGE

	AYE	NAY	ABSTAIN	ABSENT
KOLODZIEJ, J.	<u>X</u>	---	---	---
LEVINE, J.	<u>X</u>	---	---	---
VAN RANSALIER, R.	<u>X</u>	---	---	---
FRIEND, G.	<u>X</u>	---	---	---
SANCHEZ, R.	<u>X</u>	---	---	---
VANNOY, R.	<u>X</u>	---	---	---
COTTON, R.	<u>X</u>	---	---	---

Adopted at a meeting of Passaic Valley Water Commission.

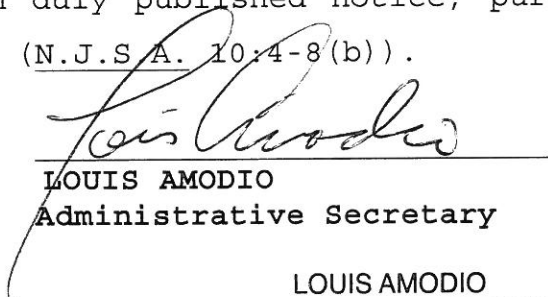

 President
 Joseph Kolodziej


 Secretary
 Gerald Friend

This Resolution, when adopted, must remain in the custody of the Administrative Secretary.

CERTIFICATION

I, LOUIS AMODIO, Administrative Secretary of the Passaic Valley Water Commission in the County of Passaic, and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of a legal quorum of the Original Resolution duly passed and adopted by a majority of the full membership of the Passaic Valley Water Commission at its meeting of October 14, 2020, conducted electronically, on duly published notice, pursuant to the Open Public Meetings Act (N.J.S.A. 10:4-8(b)).



LOUIS AMODIO
Administrative Secretary

LOUIS AMODIO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 22, 2021

LEASE AGREEMENT

This Lease Agreement (the "Lease") is made and entered into this _____ day of October 2020 (the "Effective Date"), by and between **PASSAIC VALLEY WATER COMMISSION ("PVWC")**, a body politic and corporate of the State of New Jersey, whose address is 1525 Main Avenue, Clifton, New Jersey 07011 ("Lessor"), and **"Proprietor"**, doing business as Beirut Restaurant from the address, 1543 Main Avenue, Clifton, 07011 New Jersey ("Lessee"). (PVWC and Lessor are collectively referred to herein as, "the Parties").

WHEREAS, PVWC is the owner and operator of a certain partially gated parking area, a portion of which is sometimes utilized during regular business hours by Lessor as short-term parking space for visitors to Lessor's offices located at 1525 Main Avenue, Clifton, New Jersey ("Visitor Lot"); and

WHEREAS, Lessee is the operator of a restaurant, doing business as Beirut Restaurant, occupying space directly adjacent to the Visitor Lot on the corner of Main Avenue and Madeline Avenue ("the Restaurant Premises") associated with the Street address of 1543 Main Avenue Clifton, New Jersey; and

WHEREAS, due in pertinent part to Executive Orders Numbers 150 and 157 issued by the Governor of the State of New Jersey ("Executive Orders"), as well other State, County, and local rules, regulations, and guidelines, relating to the public health concern

referred to in Executive Orders as Covid-19, Lessee is severely limited in the amount of indoor space it may utilize within the Restaurant Premises; and

WHEREAS, Lessee has informally requested, and has so petitioned the Board of Commissioners ("Board") of Lessor, that Lessor might make available and lease to Lessee, a designated portion of the Visitor Lot so that Lessee might expand permissible outdoor service of restaurant patrons, consistent with the Executive Orders and with all other State and local regulations, and thereby remain a viable, taxpaying, and employment-generating, local business, as well as ratepayer of Lessor; and

WHEREAS, while Lessor has taken measures to limit the amount of traffic to its offices at 1525 Main Avenue, Clifton, New Jersey consistent with Executive Orders and Lessor finds that there is alternative parking area available, sufficient to meet Lessor's own needs during the term of the Lease under current circumstances, and accordingly, Lessor has further reported to the Board that a portion of the Visitor Lot is available for lease;

NOW THEREFORE, under the terms stated herein, Lessor does hereby lease and grant this Lease to Lessee of a portion of the Visitor Lot, immediately adjacent to the Restaurant Premises, as further delineated on survey Exhibit A annexed hereto ("the Lease Area"), for exclusive use by Lessee, solely for the uses stated herein and subject to the conditions stated herein:

1. **Leased Area.** In consideration of the mutual covenants, conditions and agreements in this Lease, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, the following:

The Lease Area consisting of the section of the Visitor Lot further delineated in Exhibit "A" annexed hereto, immediately adjacent to the Restaurant Premises, as more particularly identified in the attached informal survey entitled "Lease Area" and dated September 29, 2020 in Exhibit A. (On Notice to Lessee, Lessor may hereafter substitute for the present Exhibit A, a formal survey signed by a licensed surveyor, delineating a Lease Area substantially equivalent in useable leased space to the present Exhibit A, in lieu of the presently attached Exhibit A.)

2. **As Is Condition of Leased Area:** Lessor agrees to accept the Lease Area in "as is" condition, with all faults and without warranty or representation of fitness for Lessee's intended purpose and use;

3. **Term.** The term of this Lease ("Term") shall commence as of the Effective Date hereof and shall run from Effective Date for a period of ninety continuous days therefrom, expiring without further notice on the last calendar day thereof ("Expiration Date"), and no extensions, holdover periods, or renewals shall be permitted without separate express written agreement, fully executed by the Parties. Upon scheduled Expiration Date, or earlier termination of this Lease under the terms hereof, Lessor

shall quit and surrender to Lessee the Lease Area in the same condition as delivered to Lessee on the Effective Date, free of all defects that might impair Lessor's resumption of safe use of the Leased Area and free of Lessee equipment, goods and materials, including operating waste and debris.

4. **Rent**. Total rent ("Rent") for the Term is Three Thousand Seven Hundred and fifty (\$3,750.00) dollars due and payable to Lessee upon the Effective Date. All Rent provided for in this Lease shall be paid to Lessee by check, remitted and made payable to: Passaic Valley Water Commission, 1525 Main Avenue, Clifton, New Jersey 07011. Lessee agrees to provide to Lessor a form W-9, Request for Taxpayer Identification Number and Certification, upon Lessee's execution of this Lease.

5. **Permitted Use**. Lessor shall use the Lease Area subject to the following conditions:

A. The Lease Area is provided as is, with all imperfections and defects, with Lessee being solely responsible (with Lessee representing herein that as a professional restaurant operator it is already familiar with conducting limited outdoor service operations on the Restaurant Premises), for fitting, maintaining, and operating the Lease Area, in a manner safe for use by its patrons, staff, and vendors, in conformity with all applicable law, regulations, and rules, and standards of practice governing

the operation of outdoor restaurant space ("Regulations"), with Lessee's responsibilities including, but not being limited to, accommodation of patrons entitled to the benefits of the Americans with Disabilities Act, and compliance the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 to 10:5-49;

B. Included among Regulations, with respect to which Lessee will be solely responsible for compliance, are all provisions pertaining, or related to, COVID-19, including but not limited to spacing of patrons and staff, personal body temperature checking, and use of personal protective equipment, including but not limited to face masks (collectively, "COVID-19 Safety");

C. Local Land Use Regulation. Lessee shall be solely and entirely responsible for compliance with all State and local land use regulations, rules, and ordinances, including, but not limited to: bulk and density rules; fire safety rules; rules of occupancy limits; premises security rules; and rules governing certificates of occupancy and accessory and/or ancillary land use rules, as well as health and sanitary inspection rules and alcohol beverage control rules and ordinances governing noise, smoking, and laws and regulations pertaining to hours of service and operations and availability of parking, provided however,

that the Lease does not entitled Lessee to vehicular parking of any kind, including parking for patrons or staff, or for deliveries, including standing for loading and off-loading (collectively, "Local Use Rules");

6. **Indemnification.** Lessee hereby agrees to defend, indemnify, and hold Lessor harmless from and against any and all claims, actions, damages, liability and expenses in connection with loss of life or personal injury arising from or related to Lessee's occupancy or use of the Lease Area or any part thereof ("Loss"), including, in addition to Loss due to Lessee's alleged negligence or fault, Loss resulting from the alleged negligence or willful misconduct of Lessor, its agents, contractors or employees, to which Lessee, or Lessee's agents, employees, contractors or patrons may contribute. Notwithstanding the foregoing, Lessor shall have no obligation to defend, indemnify or hold Lessee harmless against claims for loss of life or personal injury arising in whole or in part out of, or by reason of any act, negligence, or fault of Lessee or of Lessor's agents, contractors, servants, or employees.

7. **Insurance.** Prior to any use or occupancy of the Lease Area, Lessee shall provide satisfactory evidence of insurance coverage, including endorsement of Lessor as an additional Insured on policies of liability and casualty insurance maintained by Lessee, incorporating, as well as coverage for contract

indemnification of Lessee assumed hereunder ("Proof of Insurance").

Lessee shall maintain, at its own expense, (i) commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence, with a \$2,000,000 general aggregate for bodily injury and property damage. Lessee shall be named as an additional insured on the aforesaid liability insurance and shall be provided with Proof of Insurance.

8. Maintenance and Repairs. Lessee shall at all times, at its sole cost and expense, keep and maintain the Lease Area in well maintained and clean and sanitary condition, including removal of all foodstuffs and waste materials, and at no time shall either any refuse be stored or maintained on the Leased Area, or any materials defined as "Hazardous Substances" under the statutes and regulations of the State and/or the United States be allowed on the Lease Area.

9. Personal Property/Security. Lessee shall furnish, at its sole cost and expense, all personal property to be used by Lessee on the Lease Area. (For illustrative purposes, a diagrammatic, proposed "Lease Area", is attached hereto as Exhibit C, which Lessee represents as being utilized by Lessee in compliance with Covid-19 Safety and general Regulations.) Lessee shall, at all times, be solely responsible for the security and safety of all persons and things using or occupying the Lease Area,

including protection and security from criminal activity. Lessee shall provide any security guards or watchmen required by Regulation, and Lessee hereby further agrees and stipulates that Lessee shall in no way rely upon Lessor, Lessor's security personnel, or Lessor's fencing and/or premises monitoring equipment, for safety and security of property and persons using or occupying the Lease Area.

10. **Utilities**. Lessor shall be solely responsible for the costs and supply of any and all utility services to the Lease Area.

11. **Non-Assignable/Non-Subleaseable/No Improvements**. Due to the limited purposes of the Lease, this Lease shall be absolutely non-assignable and shall not be sub-leased. Nor shall the Leased Area be subject to pledge as collateral or submission to mortgage or security agreement entered by Lessee. Lessee shall make no improvements of the Leased Area and shall not install any fixtures, utilities, or make any physical attachment of equipment or goods to the Lease Area.

12. **Surrender of Lease Area**. Upon termination of the Lease, due to the expiration of the Term, or through exercised by Lessor of rights of termination hereunder, Lessee shall remove all materials, tables, and chairs and other equipment from the Leased Area, leaving the Leased Area in "broom clean" condition, while also restoring any damage to pavement, curbing, or fencing to the

condition existing prior to commencement of Lease as shown in photographic exhibits attached hereto as Exhibit B.

13. **Default**. Any breach of the foregoing conditions hereof shall constitute an Event of Default hereunder, which if not cured within 48 hours of Notice of default by Lessor, shall entitle Lessor to terminate the Lease, in which event, Rent shall be retained by Lessor, with all other obligations of Lessee hereunder surviving Termination including indemnification, insurance, and compliance with Regulations. (In the event of change in Local Use Rule making the Lease Area unavailable for intended use, prior to scheduled expiration of Lease, the Lease shall also be terminable by Lessor with all Rent being retained by Lessor.)

14. **Notices**. Except as otherwise specifically provided herein, any notice required or permitted under this Lease shall be in writing and shall be deemed to have been duly given and delivered (a) one (1) business day after the date on which the same has been delivered prepaid to a national courier service guaranteeing next day service, or (b) three (3) days after deposit in the United States mail, registered or certified, return receipt requested, postage prepaid ("Notice"), in each case addressed to the Party to whom such Notice is given at the address set forth below:

To Lessor: Passaic Valley Water Commission
Attn.: George Hanley, Esq.
1525 Main Avenue
Clifton, New Jersey 07011

To Lessee: The Beirut Restaurant
1543 Main Avenue
Clifton, New Jersey 07011

15. **Emergency.** Should the Lease Area be needed by Lessor for purposes of responding to or addressing any public utility water supply emergency ("Utility Emergency"), this Lease may be suspended without Notice, subject to provision of Notice of suspension hereunder at Lessor's earliest opportunity, with the basis of the Emergency being set forth in Resolution of the Board of Lessor as soon as practicable thereafter.

16. **Entire Agreement.** This Lease contains the entire agreement of the Parties, all prior understanding and agreements are being merged herein. There are no oral or written agreements or representations between Lessee and Lessor except as expressly set forth in this Lease. No modifications of this Lease will be binding upon Lessee or Lessor unless made in writing and signed by each Party. The terms, covenants and conditions contained herein shall inure to the benefit of, and be binding upon, Lessee and Lessor, and their respective heirs, successors and assigns.

17. Severability. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

18. Governing Law. This Lease shall be construed in accordance with the laws of the State of New Jersey (referred to throughout herein, as "the State")

19. Counterparts and Electronic Signatures/Non-recording. This Lease may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A signed copy of this Lease transmitted by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Lease for all purposes. This Lease shall not be recorded.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK -
SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, the parties hereto have executed this
Lease the day and year first above written.

LESSEE:

The BEIRUT RESTAURANT

By: _____

[PRINT NAME AND TITLE]

LESSOR:

PASSAIC VALLEY WATER COMMISSION

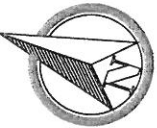
By: _____

[PRINT NAME AND TITLE]

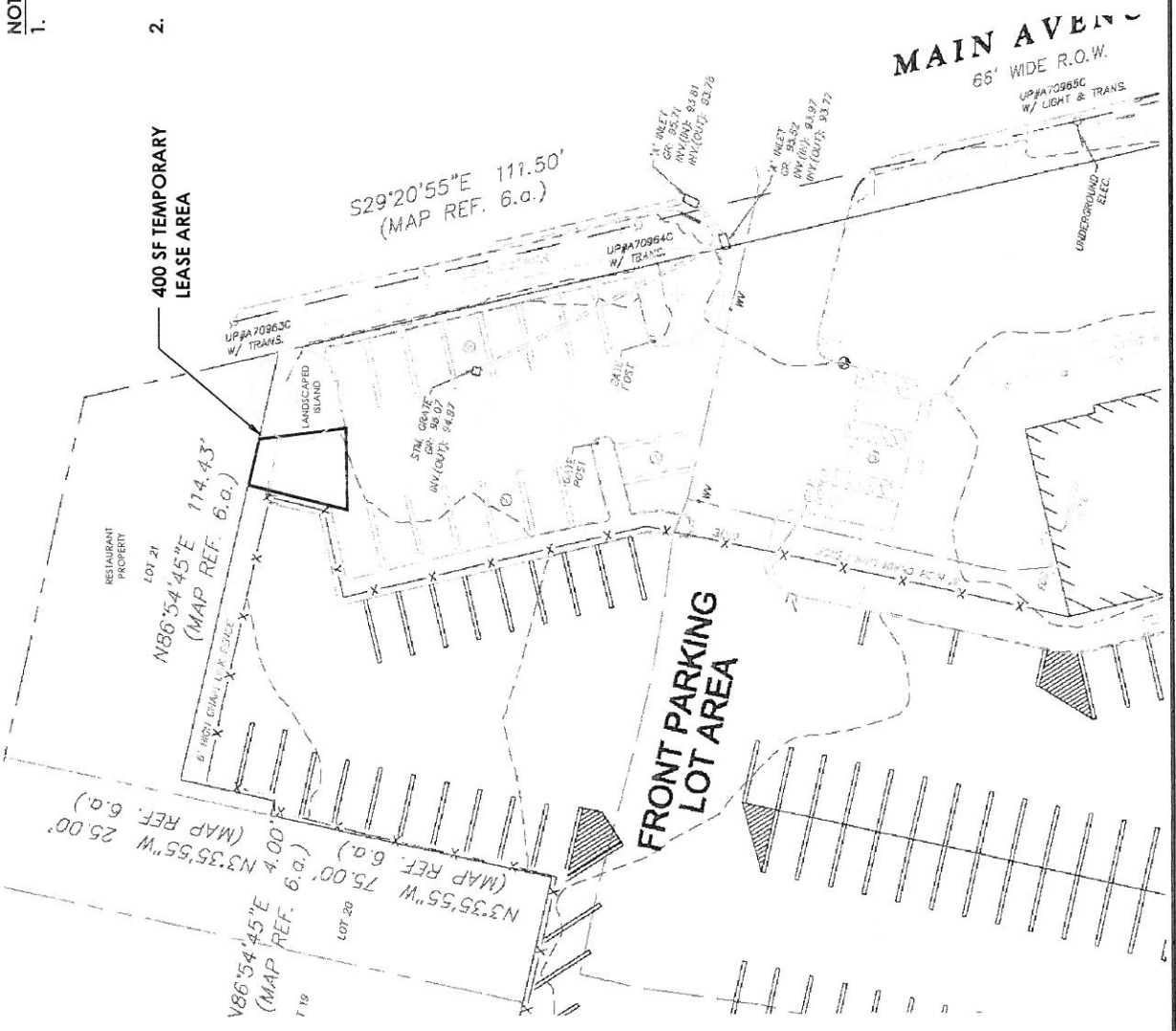
Date: _____


Exhibit "A"
Informal Survey-"Lease Area"
Dated 9-29-20

Exhibit "B"
Photograph of Conditions of Leased Area Prior to Lease



NOTE:
 1. BASE MAP INFORMATION TAKEN FROM A PLAN ENTITLED "TOPOGRAPHIC SURVEY FOR PASSAIC VALLEY WATER COMMISSION - BLOCK 9.18, LOT 26 - CITY OF CLIFTON - PASSAIC COUNTY - NJ", PREPARED BY MASER CONSULTING, PA, DATED 2/26/16, UNSIGNED AND UNSEALED.
 2. THIS IS NOT AN BOUNDARY SURVEY. PROPERTY LINES SHOWN ARE APPROXIMATE AND FOR REFERENCE ONLY.



 PASSAIC VALLEY WATER COMMISSION 1525 MAIN AVE. CLIFTON, N.J. 07011 TEL:(973) 340-4300			
MAIN AVENUE FACILITY 1525 MAIN AVE, CLIFTON			
LEASE AREA			
DESIGNED BY:	PP	DATE:	9/29/20
CHECKED BY:	PP	SCALE:	1" = 30'
DRAWN BY:	PAD	DWG. NO.:	1 OF 1

Resolution No. 20-131

RESOLUTION OF PASSAIC VALLEY WATER COMMISSION
DATE OF ADOPTION: OCTOBER 14, 2020

Approved as to form and legality by Law Department on basis of facts set forth by Executive Director, Purchasing, Engineering, and Finance Departments.

Introduced by Commissioner: VAN RENSALIER

Seconded by Commissioner: VANNOY

Resolution Passaic Valley Water Commission ("PVWC") Board of Commissioners: **EASEMENT GRANTED TO HINCHLIFFE MASTER URBAN RENEWAL, LP**

WHEREAS, Hinchliffe Master Urban Renewal, LP ("Hinchliffe") has entered into a Redevelopment Agreement with the City of Paterson ("City") for the renovation and rehabilitation of Hinchliffe Stadium to include 7,800 seats, construction of a 190-seat Restaurant, a 3,512 square foot museum, a 315-spot parking garage, and a six story senior residential and childcare facility (the "Redevelopment Project"); and

WHEREAS, on August 3, 2020, the City Planning Board granted Major Subdivision and Site Plan Approval, and Bulk Variances, advancing the Redevelopment Project ("Site Plan Approval"); and

WHEREAS, Site Plan Approval was conditioned upon Hinchliffe acquiring a surface use easement over a portion of Block 801, Lot 3, title to which is held by PVWC ("the PVWC Lot"), comprised of approximately 477 square feet of the PVWC Lot, as further illustrated in survey rendering submitted by Hinchliffe ("the Subdivision"); and

WHEREAS, Special Counsel to the Passaic Valley Water Commission ("PVWC") was contacted by counsel for Hinchliffe proposing, subject to the approval of PVWC, the dedication of an Easement for use, facilitating accessibility and functionality of the Redevelopment Project, with the Easement being integrated within a cul-de-sac feature designed as an element of the

conditional Site Plan Approval, servicing the Redevelopment Project; and

WHEREAS, as set forth in resolutions of the Municipal Council and in other relevant public documents made available to PVWC, the Redevelopment Project is an integral element of the City's planning and vision of improvement and restoration of Hinchliffe Stadium and the surrounding area, with the Hinchliffe Stadium, although in need of renovation, having been designated a National Historic Landmark in March of 2013; and

WHEREAS, Hinchliffe Stadium has also been also designated in May 2013 as a Paterson Historic Landmark; and

WHEREAS, Hinchliffe Stadium has been further designated a part of the Great Falls Historic District as of December of 2014; and

WHEREAS, PVWC, as Grantee, recognizes the historical significance of the Hinchliffe Stadium and adjacent area and the vital importance to the City, the County and State of New Jersey of continuing improvement of the Great Falls District, including the Redevelopment Project located proximate to the Hinchliffe Stadium, and accordingly, PVWC is desirous of assisting the Redevelopment Project, in a manner consistent with PVWC's responsibilities as a public water supply utility; and

WHEREAS, pursuant to grants of authority within the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 to -49 to other governmental entities to assist with redevelopment, PVWC is empowered to provide aide to the Redevelopment Project in manner consistent with its public water utility responsibilities; and

WHEREAS, the proposed Easement, as shown on the attached conditionally approved Subdivision includes portions of what has heretofore been Maple Street within the City, utilized by PVWC's water utility right-of-way for placement of underground water utility facilities; and

WHEREAS, PVWC Engineering Department has reviewed the Subdivision and Site Plan approval, and other pertinent documents, and based thereon the PVWC Engineering Department is of a view that surface use of Easement as proposed by Hinchliffe, and as further indicated on the Subdivision and described in the Site Plan Approval record, the Easement will not interfere with PVWC operations, or otherwise impede PVWC access to utility facilities located in or about the PVWC Lot or otherwise cause PVWC to incur extraordinary costs in maintaining, repairing, or replacing its facilities proximate to the Easement area; and

WHEREAS, approval of the Easement is to be conditioned on Hinchliffe's execution of a form of recordable easement instrument, approved by PVWC Special Counsel and subject to review by PVWC General Counsel, incorporating provisions limiting the grantee and any successors-in-interest, to surface use of the Easement, on terms subordinating grantee to PVWC rights as fee owner and as public water utility to access its underground facilities in or about the area of the easement and Maple Street from and through the Easement itself, as may be necessary or convenient for utility operations or capital improvements; and

WHEREAS, as indicated on the Site Plan approval and Subdivision, the City is vacating Maple Street as an aspect of the Redevelopment Project, as fee owner abutting portions of Maple Street, PVWC would succeed by operation of the real property laws of the State to the midpoint line of any vacated portions of Maple Street abutting either the PVWC Lot or any other abutting lots to which PVWC might hold fee title;

WHEREAS, the City and Hinchliffe, through their respective counsel, having requested that PVWC relinquish and renounce its statutory right to succeed, by operation of law, to title and ownership the abutting vacated portions of Maple Street ("Renouncement of Street Vacate Rights"), so that the entirety of the vacated Maple Street might be available for incorporation as

elements of the Redevelopment Project's conditionally approved design; and

WHEREAS, the PVWC Engineering Department, having also reviewed pertinent documents illustrating the City's plan to vacate Maple Street, in conjunction with the Department's review of the Easement, and having advised, based thereon, that Maple Street is subject to PVWC existing use a public utility Right of Way wherein PVWC maintains active Underground Facilities, as comprehensively defined and described within the Underground Facilities Protection Act, N.J.S.A. 48:2-73 to -91 ("the Act"), and regulations implementing the Act, N.J.A.C. 14:2-1.1 to -6.10, to the extent that Renunciation of Street Vacate rights, must be subject to PVWC's retention of all existing utility easement rights currently within Maple Street, within recordable deed of easement, in form acceptable to PVWC counsel;

NOW, THEREFORE, BASED ON THE FOREGOING, BE IT RESOLVED, by Passaic Valley Water Commission, in the County of Passaic, New Jersey:

1. Subject to execution of a recordable deed of easement, in form approved by PVWC Special Counsel, retaining PVWC's rights to use of the proposed Easement to access PVWC's Underground facilities located either within the easement, or located within or proximate to, the present PVWC Lot defined herein, PVWC shall grant and convey the requested Easement, on terms to be acknowledged in a binding writing by Hinchliffe, or its by duly designated successor-in-interest to the Easement;
2. PVWC is hereby authorized to adopt and issue the aforesaid requested Renunciation of Street Vacate Rights, under terms, and in recordable form, approved by Special Counsel, retaining for PVWC all present utility right-of-way and use rights within the current Maple Street that PVWC currently holds and enjoys ("the Maple Street Utility Easement"), subject to the duly notarized

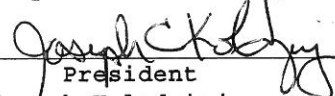
execution of the Maple Street Utility Easement by the City and Hinchliffe, as well as by any party identified by either the City or Hinchliffe, as succeeding to title to any portion of Maple Street being vacated by the City, including abutting sections thereof which would otherwise devolve to PVWC; and

3. The designated Officers of PVWC are hereby authorized to execute both the Easement and the Renunciation of Street Vacate Rights, and to implement the terms thereof, in forms approved by Special Counsel, and subject also to execution of binding acknowledgment thereof, by the City, Hinchliffe and any party designated to take title of interest in vacated portions of Maple Street, in accordance with this Resolution and the submissions provided in connection therewith.


RECORD OF COMMISSION VOTE ON FINAL PASSAGE

	AYE	NAY	ABSTAIN	ABSENT
KOŁODZIEJ, J.	<u>X</u>	—	—	—
LEVINE, J.	<u>X</u>	—	—	—
VAN RANSALIER, R.	<u>X</u>	—	—	—
FRIEND, G.	<u>X</u>	—	—	—
SANCHEZ, R.	<u>X</u>	—	—	—
VANNOY, R.	<u>X</u>	—	—	—
COTTON, R.	<u>X</u>	—	—	—

Adopted at a meeting of Passaic Valley Water Commission.



 President
 Joseph Kolodziej

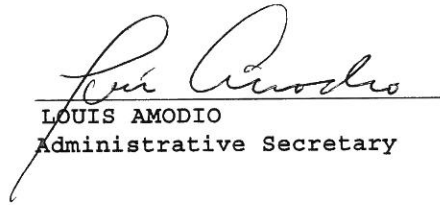


 Secretary
 Gerald Friend

This Resolution, when adopted, must remain in the custody of the Administrative Secretary.

CERTIFICATION

I, LOUIS AMODIO, Administrative Secretary of the Passaic Valley Water Commission in the County of Passaic, and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of a legal quorum of the Original Resolution duly passed and adopted by a majority of the full membership of the Passaic Valley Water Commission at its meeting of OCTOBER14, 2020 conducted electronically, on duly published notice, pursuant to the Open Public Meetings Act (N.J.S.A. 10:4-8(b)).



LOUIS AMODIO
Administrative Secretary

1196529.1

LOUIS AMODIO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 22, 2021

RESOLUTION: 20-132
RESOLUTION APPROVING AND CODIFYING PASSAIC VALLEY
WATER COMMISSION'S POLICIES AND PROCEDURES FOR
AUTHORIZATIONS AND APPROVALS OF OVERTIME

DATE OF ADOPTION: OCTOBER 14, 2020

Approved as to form and legality by Law Department on basis of facts set forth by the Executive Director and Directors of Engineering, Finance, Personnel, Customer Service, and Distribution.

Introduced by Commissioner: **VAN RENSA L I E R**

Seconded by Commissioner: **VANN O Y**

WHEREAS, the Passaic Valley Water Commission ("PVWC") has developed policies and procedures for authorizations and approvals of overtime for PVWC employees, and a copy of a form of PVWC's overtime procedures dated September 24, 2020 (hereinafter, the "Overtime Procedures") is attached hereto and made a part hereof as Exhibit A; and

WHEREAS, PVWC at all times seeks to ensure that its overtime policies and procedures are, and remain, in full compliance with the rules and regulations of the New Jersey Civil Service Commission (CSC) as set forth in Title II, N.J.S.A. by reason of the provisions of N.J.S.A. 40:62-150-1 and 150-2 (as may be supplemented and amended), and the Communication Workers of America (CWA), AFL-CIO Local 1032 Agreements (Representing the Blue and White Collar and Supervisory Units 2017-2021); and

WHEREAS, it is in the best interest of the PVWC, its users, constituent municipalities, and the general public to adopt clear, equitable and efficient means for accomplishing same;

NOW, THEREFORE, BE IT RESOLVED, by the Passaic Valley Water Commission, in the County of Passaic, New Jersey:

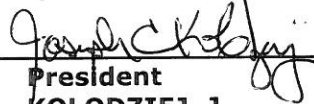
1. That the Passaic Valley Water Commission hereby adopts and incorporates the Overtime Procedures attached hereto and made a part hereof in above-referenced Exhibit A as the official policy of the Passaic Valley Water Commission.
2. That a copy of this resolution and Exhibit A shall be kept on file and available for public inspection at the office of the

Administrative Secretary of Passaic Valley Water Commission, and distributed to the Executive Director, Business Administrator, and to Directors of PVWC's various Departments.


RECORD OF COMMISSION VOTE ON FINAL PASSAGE

	AYE	NAY	ABSTAIN	ABSENT
COTTON, R	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
FRIEND, G.	<u> </u>	<u> X </u>	<u> </u>	<u> </u>
VANNOY, R.	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
LEVINE, J.	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
SANCHEZ, R.	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
VAN RENSA LIER, R.	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
KOLODZIEJ, J.	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

Adopted at a meeting of Passaic Valley Water Commission.



President
KOLODZIEJ, J.

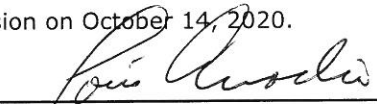


Secretary
GERALD FRIEND

This Resolution, when adopted, must remain in the custody of the Administrative Secretary.

CERTIFICATION

I, LOUIS AMODIO, Administrative Secretary of the Passaic Valley Water Commission in the County of Passaic, and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy thereof of the foregoing Resolution duly passed and adopted by a majority of a legal quorum of the full membership of the Passaic Valley Water Commission at its duly noticed and convened meeting of the said Commission on October 14, 2020.



LOUIS AMODIO
Administrative Secretary

LOUIS AMODIO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 22, 2021

PASSAIC VALLEY WATER COMMISSION

EXHIBIT A

PROCEDURES FOR AUTHORIZATIONS AND APPROVALS OF OVERTIME

1. PROCEDURES FOR NON-EMERGENCY OVERTIME

A. Procedures for Non-Emergency Overtime shall be as follows:

1. "Non-Emergency Overtime" is defined as all overtime other than "Emergency Overtime" as defined in Article 2.A.1 below.
2. Non-Emergency Overtime shall not be undertaken unless the PVWC employee obtains permission beforehand from their Department Head after said Department Head has obtained permission from the Executive Director and/or the Business Administrator.
3. Each PVWC employee shall electronically enter all Non-Emergency Overtime information as soon as practicable into the appropriate space provided for same in the Overtime Software Program. Required information will include the following:
 - a. The names of the employee, Department Head, and Supervisor.
 - b. For each Non-Emergency Overtime event, the employee shall enter, in the Overtime Software Program the date of the Non-Emergency Overtime, the start-time, the duration (hours) of the Non-Emergency Overtime, and a brief indication of why the overtime was required.
4. Each PVWC employee shall update the Overtime Software Program entries on a weekly basis and their Supervisor (and Department Head) will have access to the said entries at any time. The Supervisor/Department head shall review the said entries, at least weekly, and shall make necessary adjustments for correctness. Following the incorporation of necessary changes to the entries, all approved Overtime shall be properly entered into PVWC's "Paylocity" payroll system for each pay period, such that the appropriate Non-Emergency Overtime amounts are properly reflected in each employee's next available paycheck.
5. A PVWC employee designated by the Executive Director or Business Administrator shall be responsible to ensure that the herein overtime documentation and procedures are being properly followed for tracking Non-Emergency Overtime utilizing the Overtime Software Program.

2. PROCEDURES FOR EMERGENCY OVERTIME

A. Procedures for Emergency Overtime shall be as follows:

1. "Emergency Overtime" is defined as required overtime that, due to the nature of an emergency, is essential to commence immediately and/or to continue uninterrupted without imposing any extraneous activities (such as

pre-approvals) that would otherwise impede a prompt resolution of the said emergency.

2. Emergency Overtime shall be immediately undertaken by the appropriate PVWC employee(s), who shall communicate the need for the Emergency Overtime with their Supervisor/ Department Head as soon as circumstances allow without impeding a prompt resolution of the said emergency. Documentation of subsequent approvals of each PVWC employee's Emergency Overtime by their Supervisor/ Department Head shall be as set forth in Article 2.A.4 below.
3. Following resolution of a particular emergency, each PVWC employee shall electronically enter all Emergency Overtime information as soon as practicable as soon as practicable into the appropriate space provided for same in the Overtime Software Program. Required information will include the following:
 - a. The names of the employee, Department Head, and Supervisor.
 - b. For each Emergency Overtime event, the employee shall enter, in the Overtime Software Program the date of the Emergency Overtime, the start-time, the duration (hours) of the Emergency Overtime, and a brief indication of why the overtime was required.
4. Each PVWC employee shall update the Overtime Software Program entries on a weekly basis and their Supervisor (and Department Head) will have access to the said entries at any time. The Supervisor/Department head shall review the said entries, at least weekly, and shall make necessary adjustments for correctness. Following the incorporation of necessary changes to the entries, all approved Overtime shall be properly entered into PVWC's "Paylocity" payroll system for each pay period, such that the appropriate Emergency Overtime amounts are properly reflected in each employee's next available paycheck.
5. A PVWC employee designated by the Executive Director or Business Administrator shall be responsible to ensure that the herein overtime documentation and procedures are being properly followed for tracking Emergency Overtime utilizing the Overtime Software Program.

3. MONTHLY SUMMARY OVERTIME REPORTS

Under the direct supervision of the Chief Financial Officer, the monthly summary of company-wide overtime shall continue to be prepared listing each PVWC Department's overtime month-by-month (with comparison to same month prior year) and included by the Finance Department in the agenda packages for Commission Meetings and for internal distribution where appropriate on an as-requested basis.

4. PVWC DIRECTIVES AND/OR REQUESTS TO SUPERCEDE ANY PVWC OVERTIME PROCEDURES

1. Administrative directives and PVWC personnel requests to supersede any such actions as described above shall be electronically conveyed by PVWC's Executive Director or PVWC's Business Administrator to the appropriate Department Heads, who, in turn will electronically convey same to all Supervisors assigned to the said Departments.
 2. Written authorization, in electronic form, from the Office of PVWC's Executive Director or PVWC's Business Administrator (with electronic copy to PVWC's Law Department) shall be received before any such action may commence.
 3. PVWC's Department Heads may authorize overtime under circumstances that differ from the herein "Procedures for Authorizations and Approvals of Overtime", provided that, in the opinion of the appropriate Department Head said overtime is justified under the specific circumstances, and further that subsequent notifications of all material variations from the herein "Procedures for Authorizations and Approvals of Overtime" are electronically transmitted to PVWC's Executive Director and PVWC's Business Administrator (with electronic copies to the PVWC employee and PVWC back-up employee designated below) within a 24-hour period following said actions. Each and every such notification shall include a written justification from the Department Head for the said material variation.
 4. A designated PVWC employee (and PVWC back-up employee) shall maintain electronic copies of any and all such notifications of material variations from the herein "Procedures for Authorizations and Approvals of Overtime" which shall be made available to the Commission on an as-requested basis.
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Resolution No. 20-133

RESOLUTION OF PASSAIC VALLEY WATER COMMISSION

DATE OF ADOPTION: OCTOBER 14, 2020

Approved as to form and legality by Law Department on basis of facts set forth by Executive Director, Purchasing, Engineering, and Finance Departments.

Introduced by Commissioner: VAN RENSA LIER

Seconded by Commissioner: VANNOY

Resolution of the Passaic Valley Water Commission Board of Commissioners: Borough of Lodi Water Supply System; Harrison Avenue Water Tank Tower Entry Agreement for Line-of-Site-Test-Entry, Telecommunications Antenna Testing, Indemnification, and Insurance: Potential Antenna Site Licensing Agreement.

WHEREAS, the Passaic Valley Water Commission ("PVWC") owns and operates a water supply tank tower within the premises of the Borough of Lodi ("Borough") water supply facility, referred to as the Harrison Avenue Water Tank Tower, as a component part of the Lodi water supply facilities, operated by PVWC under long-term lease with the Borough;

WHEREAS, PVWC has by Resolution of the Board of Commissioners ("Board") heretofore entered into telecommunications antenna

plenary licensing agreements with two telecommunications providers, authorizing the mounting of telecommunication antennas at the Harrison Avenue Water Tank Tower under the oversight of the PVWC Engineering and Maintenance of Departments, under terms providing for indemnification, insurance, and compensation of PVWC as licensor, subject to direct arrangements made by each of the two telecommunications service provider-licensees with the Borough, providing for equivalent compensation to the Borough as lessor of the water tank tower premises;

WHEREAS, in addition to providing compensation to both the Borough, a contract water supply customer of PVWC, as well as compensation to PVWC, helping to defray the cost of operating the Lodi water supply facilities, telecommunications antennas also generally provide useful and productive facilities of benefit to the public and business community thereby served;

WHEREAS, through the Borough, a third telecommunications antenna provider, doing business as Gotham Communications, with offices in Florham Park New Jersey, has been referred to PVWC, seeking potential entry of antenna licensing arrangement with PVWC for available, compatible antenna locations on the Water Tank Tower;

WHEREAS, in order to advance the contemplated licensing arrangement with Gotham Communications, it is necessary, as has

occurred on the occasion of the two prior, existing antenna licenses, that Gotham Communications through its agents and contractors conduct "line of site" testing at the Harrison Avenue Water Tank Tower, in order to verify the suitability of the Water Tank Tower for the interested telecommunication service provider's contemplated antenna and telecommunications equipment, subject to the outcome of which, discussions with the interested telecommunications service provider may thereafter advance to formulation of terms of a plenary license;

WHEREAS, a proposed form of Test Entry Agreement has been developed by Special Counsel to PVWC, following the forms of prior Test Entry Agreements entered in connection with the aforementioned existing antenna licensing arrangements ("Test Entry Agreement");

WHEREAS, the proposed Test Entry Agreement, a copy of which is annexed hereto as Exhibit A, contains terms, recommended by Special Counsel, providing for indemnification and insurance of PVWC, as conditions of entry for testing purposes, and subjecting such entry to coordination and supervision of PVWC Engineering and Maintenance Departments;

WHEREAS, the Board has been advised that a counterpart of the proposed Test Entry Agreement has been executed on behalf of the interested telecommunications antenna service provider and is

being held in escrow by Special Counsel for PVWC, subject to Board consideration thereof;


NOW, THEREFORE, BASED ON THE FOREGOING, BE IT RESOLVED that the Board does hereby determine and resolve that appropriate officers of PVWC are authorized and directed to execute a PVWC counterpart of the Test Entry Agreement and to do all things necessary and convenient for the performance thereof;

WHEREAS, subject to results of Test Entry Agreement the appropriate officers of PVWC, in conjunction with Special Counsel for PVWC, shall be and hereby are authorized to negotiate terms of plenary license for antenna siting at the Harrison Avenue Water Tank Tower, for consideration by the Board at such convenient time as a proposed plenary telecommunications Antenna License Agreement may hereafter become available.

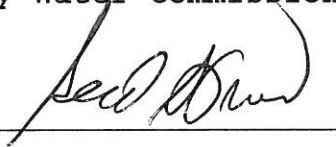
RECORD OF COMMISSION VOTE ON FINAL PASSAGE

	AYE	NAY	ABSTAIN	ABSENT
KOLODZIEJ, J.	<u>X</u>	___	___	___
LEVINE, J.	<u>X</u>	___	___	___
VAN RANSALIER, R.	<u>X</u>	___	___	___
FRIEND, G.	<u>X</u>	___	___	___
COTTON, R.	<u>X</u>	___	___	___
SANCHEZ, R.	<u>X</u>	___	___	___
VANNOY, R.	<u>X</u>	___	___	___

Adopted at a meeting of Passaic Valley Water Commission.



President
Joseph Kolodziej

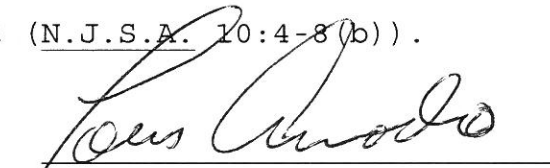


Secretary
Gerald Friend

This Resolution, when adopted, must remain in the custody of the Administrative Secretary.

CERTIFICATION

I, LOUIS AMODIO, Administrative Secretary of the Passaic Valley Water Commission in the County of Passaic, and the State of New Jersey do hereby certify that the foregoing Resolution is a true copy of a legal quorum of the Original Resolution duly passed and adopted by a majority of the full membership of the Passaic Valley Water Commission at its meeting of OCTOBER 14, 2020 conducted electronically, on duly published notice, pursuant to the Open Public Meetings Act (N.J.S.A. 10:4-8(b)).



LOUIS AMODIO
Administrative Secretary

LOUIS AMODIO
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES DEC. 22, 2021

EXHIBIT A

TEST ENTRY AGREEMENT

This Test Entry Agreement is entered into this ____ day of October , 2020, between Passaic Valley Water Commission ("PVWC") with offices at 1525 Main Street, Clifton, New Jersey 07011, and Gotham Communications ("Gotham") with offices at 135 Columbia Turnpike Florham Park, NJ 07932 (together "the Parties").

1. **Background.** PVWC is the Lessee of the Municipal Water System in Lodi, New Jersey, pursuant to a lease agreement, dated in 1997 ("the Lease"). This includes a water tank tower (the "Tower"), located proximate to Harrison Avenue, in the Borough of Lodi ("Borough"), Block 51, and Lots 1 and 22 (the "Property"). Gotham has requested the authorization to enter onto the Property in order to test and evaluate the Tower and the Property for suitability for the placement of wireless communications equipment and for development of proposals for provision of telecommunication services, commonly referred to as line-of-sight testing within the telecommunications antenna industry ("LOS Testing").

2. **Authorization.** PVWC hereby grants Gotham, its employees, agents, and contractors (collectively referred to hereinafter, as "Gotham") the authorization to enter onto such portions of the Property and the Tower as are reasonably necessary

to perform LOS Testing. Access to the Property for LOS Testing shall be limited to the hours of 9:00 AM to 5:00 PM, Mondays through Fridays (excluding Holidays).

Gotham shall comply with all applicable local, state, and federal laws and regulations in connection with the site LOS Testing and shall cause all of its employees, agents, and contractors to do the same. (Nothing herein shall imply that PVWC's use of the Property for telecommunications purposes is subject to the Borough's regulatory authority, or contractual authorization under the Lease.)

The entry authorization granted under this Agreement shall expire upon the completion of the LOS Testing, or on April 30, 2020, whichever comes first, absent express written and signed extension thereof by PVWC.

3. **Precautions by Gotham.** Gotham agrees to exercise reasonable and prudent caution in connection with the entry onto the Property by Gotham, and by its employees, agents, and contractors, in order to avoid any injury to person or Property, and avoid disturbance or disruption of utility operations.

4. **Cost to Cure.** Gotham agrees to be responsible to PVWC for the cost of curing any damage to the Property, including the Tower, arising out of, or related to, the entry onto the Property

by Gotham, or by its employees, agents, or contractors, regardless of whether such damages is the result of any negligence by those individuals or parties.

5. **Indemnification.** Gotham hereby agrees to defend, indemnify, and hold harmless PVWC from and against any claims for compensation for personal injury (including fatal injury), and/or for damage to real or personal property (including claims for business losses) arising out of, or related to, the entry onto the Property by Gotham, and by any of its employees, agents, or contractors pursuant to this Agreement.

Gotham also agrees to defend, indemnify, and hold harmless PVWC against any claims for damages to the Tower and other telecommunications equipment attached thereto, arising out of, or related to (i) the entry onto the Property by Gotham, or by any of its employees, agents, and contractors, or (ii) the breach of Gotham of its duties of this Agreement.

Gotham further agrees to defend, indemnify, and hold harmless PVWC against any claims from any existing licensees, including but not limited to, McKay Brothers, LLC and APSARA NETWORKS, INC., who maintain or operate telecommunications equipment on the Tower, including claims for alleged damages to any telecommunications equipment on the Tower or Property, itself, as well any claims or suits by third parties for any alleged disruption of any service

to such licensees, or service rendered by such licensees, arising out of, or related to (i) the entry onto the Property by Gotham, or by its employees, agents, and contractors, or (ii) the breach of Gotham of its duties under this Agreement.

6. **Insurance.** At least five business days prior to any entry onto the Property by Gotham or by any of its employees, agents, or contractors, Gotham shall furnish to PVWC reasonably satisfactorily evidence of insurance, which Gotham shall maintain in force, at its expense, during the Term of this Agreement, policies of insurance, and shall cause its contractors to maintain insurance, including commercial general liability ("CGL") insurance, issued by a New Jersey Licensed insurer reasonably acceptable to PVWC, insuring Gotham and, as named insureds, PVWC, and any additional parties that PVWC may reasonably designate by written notice, providing coverage in the following amounts:

- a) General liability coverage on an occurrence basis with loss specific limits of no less than \$1,000,000.00 per occurrence and \$2,000,000.00 in aggregate, expressly including Products liability, Owner-Contractors Liability, and completed operations coverages;
- b) Automobile Liability Insurance providing combined single limit (per accident) coverage of \$1,000,000.00;

- c) Workers' Compensation coverage conforming to New Jersey statutory requirements, including Employers Liability Limits of no less than \$500,000.00/\$500,000.00/\$500,000.00 (each accident/each employee/policy limit); and
- d) Excess/Umbrella Liability coverage, on terms of coverage coextensive with (following the form of) primary insurance hereunder with limits no less than \$1,000,000.00 per occurrence and in aggregate, such that per occurrence coverage in total of \$2,000,000.00 shall be available (using any combination of primary and excess/umbrella coverage limits, for all coverages provided hereunder, including General Liability, Auto Liability, Owner-Contractors Liability, (including completed operations coverages) and Employer's Liability Insurance.

Any uncured lapse, cancellation, or expiration in any insurance coverage required herein shall be a default of Gotham's non-monetary obligations under this Agreement. Gotham shall provide notice to PVWC in accordance with Section 11. hereof, in the event Gotham Licensee shall receive notice of, or otherwise become aware of, any action or prospective action, by any insurer adversely affecting coverage provided hereunder. Prior to entry onto the Property, Gotham shall provide a certificate of insurance

verifying the insurance coverages provided for herein, and shall:
(i) name PVWC as an insured, (ii) be on an occurrence basis, (iii) provide that it shall not be canceled without thirty (30) days prior written notice to PVWC, (iv) be primary and will not seek contribution from any "other insurance" or self-insurance available to PVWC, (v) apply before any "other insurance" or self-insurance that is available to PVWC, and (vi) be written by a carrier licensed to do business in New Jersey and reasonably satisfactory to PVWC.

7. **Prior Notice.** Prior to any entry, Gotham shall provide PVWC with at least seventy-two (72) hours' notice of the date and time of the proposed entry and the names of the individuals or entities which will be entering. Such notice shall be provided as specified in Section 11 - Notice hereof.

8. **Testing.** LOS Testing hereunder on the Property shall be conducted continuously and completed with all customary expedition in accordance with prevailing telecommunications industry standards. The date and time for any LOS Testing shall be agreed upon between Gotham and PVWC and the LOS Testing shall be conducted on not less than seventy-two (72) hours advance notice to the addresses in Section 11, and subject to the following conditions:

- a. Gotham shall, at all times during the LOS Testing, follow the direction of PVWC Engineering and

Security representatives to be reasonably provided consistent with the effective conduct of the LOS Testing, particularly with respect to ingress and egress from PVWC lands and facilities.

- b. PVWC representatives shall be entitled to observe the LOS Testing, the results to which shall be contemporaneously reported to PVWC Engineering, which either party hereto may share with third parties.

9. **Local, State, and Federal Laws**. Gotham shall conduct the LOS Testing in conformity with all applicable local, State, and Federal statutes, regulations and rules, all of which Gotham represents it is familiar and knowledgeable of as a telecommunications network operator.

10. **Miscellaneous**. This Agreement shall be governed by the laws of the State of New Jersey.

- a. **Integration**. This Agreement contains the entire understandings of the Parties with respect to the matters addressed herein. Any prior or contemporaneous written or oral statements, communications, or understandings are expressly merged herein. This Agreement shall not be

changed, amended, or modified, except upon a written agreement signed by both parties.

- b. No Lease. Nothing herein shall create any right or expectancy of entering a lease, easement, or license for the use of the Property or the Tower, or any other PVWC property or facility, other than the conditional LOS Testing authorization granted herein.
- c. Non-recordable. Neither party shall record this Agreement or any memorandum thereof.
- d. Expiration. All of the provisions of this Agreement, except for the authorization of entry itself, shall survive the expiration of the right of entry under this Agreement.

11. Notice. All notices hereunder ("Notice") shall be served on the following addresses via overnight mail and email where an email address is provided below:

To: Passaic Valley Water Commission
1525 Main Avenue
Clifton, New Jersey 07011
Attn: Maintenance Department

With copies to: James G. Duprey, Director of Engineering
and

George T. Hanley, General Counsel

and

Via email and overnight mail to:
Kenneth D. McPherson, Jr., Esq.
Jessica CM Almeida, Esq.
Water, McPherson, McNeill, P.C.
300 Lighting Way, Suite 701
Secaucus, New Jersey 07096
kmj@lawwmm.com
jalmeida@lawwmm.com

To:

Gotham Communications LLC
135 Columbia Turnpike
Florham Park, NJ 07932
tim.ball@gotham-communications.com

With copies to:

12. **No Reliance.** Gotham acknowledges receipt of advices from PVWC that regardless of outcome of the LOS Testing hereunder, the determination as to whether PVWC thereafter opts to consider proposals for use of the Tower, or enter negotiations of terms for use of the Tower, shall be subject to PVWC's sole discretion, and that PVWC may elect to not enter such negotiations, or elect to discontinue such negotiations, for cause, or without cause, at any time prior to execution and approval of a separate written agreement setting terms of use of the Tower, and nothing herein shall give rise to any expectation of entering a Tower use

Agreement, or constitute reason for Gotham' reliance hereon in making business or investment decisions.

13. **Non-exclusive.** Gotham further acknowledges that PVWC reserves the right to consider proposals, grant testing entrance authorizations, and otherwise negotiate or contract with other telecommunications businesses interested in the Tower, and that nothing herein grants Gotham any priority or reservation of use of the Tower or any space thereon.

14. **Termination.** No separate consideration is being paid to PVWC hereunder, other than the Gotham performances expressly set forth herein, and PVWC therefore reserves the right to terminate the access authorization granted hereunder on forty-eight (48) hours' notice to Gotham, forwarded to Gotham via email addressed to the email address provided in Section 11 hereof.

15. **Independent Experts.** Gotham and its agents, employees, and consultants possess expertise in the field of LOS Testing with respect to the safety and security aspects thereof, including, but not limited to, Gotham' engineering consultant, and, in conducting LOS Testing hereunder no reliance is being placed on PVWC or its agents or employees with respect to information or the condition of either the Tower or the Property.

16. Counterparts. This Agreement may be executed in counterparts which together will constitute one original.

PASSAIC VALLEY WATER COMMISSION

By:

Gotham Communications, LLC

By:

DATED: October ____, 2020