

**ORDINANCE AUTHORIZING THE EXECUTION, ACKNOWLEDGMENT AND DELIVERY BY THE BOROUGH OF SPRING LAKE, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, OF A MANASQUAN RESERVOIR WATER TREATMENT SYSTEM TREATED WATER PURCHASE CONTRACT WITH THE SOUTHEAST MONMOUTH MUNICIPAL UTILITIES AUTHORITY IN RELATION TO, AMONG OTHER THINGS, THE TREATMENT AND TRANSMISSION OF WATER BY SUCH AUTHORITY**

**WHEREAS**, pursuant to the Municipal and County Utilities Authorities Law, constituting Chapter 183 of the Laws of New Jersey of 1957, as amended and supplemented (N.J.S.A. 40:14B-1 *et seq.*) (the "Act"), the governing bodies of the Boroughs of Brielle, Sea Girt, Spring Lake and Spring Lake Heights and the Township of Wall (each individually, the "Municipality" or collectively, the "Municipalities"), by their respective ordinances created The Southeast Monmouth Municipal Utilities Authority (the "Authority") as a public body politic and corporate of the State, organized and existing under the Act; and

**WHEREAS**, the Authority is charged with the accumulation, supply or distribution of water and to provide for such utility services to the Municipalities; and

**WHEREAS**, the Borough of Spring Lake, located in the County of Monmouth, a municipal corporation of the State of New Jersey (the "Borough"), along with the other Municipalities and the Authority is in the process of acquiring the Manasquan Water Treatment Plant and Transmission System (the "System") from the Monmouth County Improvement Authority; and

**WHEREAS**, the Borough and the Authority have determined to enter into a Manasquan Reservoir Water Treatment System Treated Water Purchase Contract (the "Water Purchase Contract") in accordance with the Act to provide for the payment of certain costs in connection with the use of the System and payment for water by the Borough in accordance with N.J.S.A. 40:14B-49 and other provisions of the Act; and

**WHEREAS**, the Borough believes: (i) it is in the public interest to accomplish such purpose; (ii) said purpose is for the health, welfare, convenience or betterment of the inhabitants of the Borough; and (iii) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the Borough and will not create an undue financial burden to be placed upon the Borough.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE BOROUGH OF SPRING LAKE, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY, as follows:**

Section 1. The Mayor and/or the Chief Financial Officer of the Borough (each an "Authorized Officer") are hereby each authorized and directed, upon the satisfaction of all the legal conditions precedent to the execution or acknowledgment and delivery by the Borough of the Water Purchase Contract, to execute or acknowledge said document on behalf of the Borough, in accordance with N.J.S.A. 40:14B-49 and other provisions of the Act for the purpose of providing for the treatment and transmission of water and the payment of certain costs in connection with the use of the System by the Borough. The form of the Water Purchase Contract, attached hereto as Exhibit A, is hereby approved, along with any and all changes, insertions or omissions, as an Authorized Officer of the Borough, may deem, upon the advice of Counsel, necessary and advisable to be made to such Water Purchase Contract. The execution by such Authorized Officer of the Water Purchase Contract with such changes, insertions or omissions, shall be conclusive evidence of the approval of such changes, insertions or omissions, and no further ratification or other action by the Borough shall be required with respect thereto.

Section 2. The full faith and credit of the Borough are hereby pledged to the punctual payment of the payment obligations set forth in the Water Purchase Contract, including the Annual Payment. The Purchaser's Share of Treatment Facilities Debt Service Cost set forth in (a) of the definition of Annual Payment, the Purchaser's Share of Transmission Facilities Debt Service Cost set forth

in (b) of the definition of Annual Payment and the Purchaser's Share of Debt Service Costs on Additional Output Capacity Bonds set forth in (h) of the definition of Annual Payment and any other payment of debt service costs of the Authority by the Borough to pay for and secure debt service on the Authority's bonds or other obligations shall be considered the equivalent of debt service of the Borough and shall be a direct, unlimited and general obligation of the Borough, not subject to annual appropriation by the Borough, and unless paid from other sources, the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the such debt service costs without limitation as to rate or amount. All other amounts payable by the Borough and set forth in (c), (d), (e), (f), (g), (i), (j) and (k) of the definition of Annual Payment and any other payments of operating, maintenance and administrative costs of the Authority by the Borough shall be considered the equivalent of operating expenses of the Borough.

Section 3. The Clerk of the Borough is hereby authorized and directed, upon the execution or acknowledgment of the Water Purchase Contract in accordance with the terms of Section 1 hereof, to attest to the Authorized Officer's execution or acknowledgment of such document, and is hereby further authorized and directed to thereupon affix the seal of the Borough to such documents.

Section 4. Upon the execution or acknowledgment and attestation of, and if required, the placing of the seal on the Water Purchase Contract as contemplated by Sections 1 and 2 hereof, the Authorized Officer is hereby authorized and directed to (i) deliver the fully executed or acknowledged, attested and sealed document to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 5. A public hearing shall be held on this ordinance on March 23, 2009 at 423 Warren Avenue, Spring Lake, New Jersey 07762.

Section 6. The Borough Clerk is hereby directed to publish and post notice of this ordinance as required by law.

Section 7. Upon the adoption hereof, the Borough Clerk shall forward certified copies of this ordinance to the Mayor, Chief Financial Officer, Borough Attorney, the Authority, and Bond Counsel to the Authority.

Section 8. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Water Purchase Contract.

Section 9. This ordinance shall take effect at the time and in the manner prescribed by law.

INTRODUCED: March 9, 2009

ADOPTED: March 23, 2009

APPROVED: \_\_\_\_\_

  
JENNIFER NAUGHTON, Mayor

Attest:

  
JANE L. GILLESPIE, BOROUGH CLERK