

**A RESOLUTION AUTHORIZING EXECUTION OF MEMORANDUM OF AGREEMENT
NO.2 BETWEEN THE TOWNSHIP OF NORTH BRUNSWICK AND AMERICAN WATER
FOR THE 2002-2022 WATER SERVICES MANAGEMENT
AND MAINTENANCE AGREEMENT FOR
THE TOWNSHIP'S WATER TREATMENT AND DISTRIBUTION SYSTEM**

WHEREAS, the Township is the owner of its water treatment plant and distribution system (the "system") which services North Brunswick and currently has a twenty-year Water Services Agreement (the "contract") with American Water (which includes all of the pertinent American Water entities in contract with North Brunswick) for management and maintenance of the system that includes, but is not limited to, American Water providing billing and collections for water and sewer usage, customer service, and plant operation services; and

WHEREAS, in 2018, it was determined to be in the best interest of the Township to amend the contract with American Water and bring in-house billing and collections, that will enable the Township to efficiently provide customers monthly billing, online access to their water consumption, and usage alerts to resident of unusual consumption; and

WHEREAS, representatives for the Township and American Water have met and agreed on Memorandum of Agreement (the "Memorandum No. 1") amending terms and conditions within the contract to address billing and collections as well as other change in conditions items; and

WHEREAS, the Township is the owner of the approximate 12,000 water meters that are part of the water distribution system; and

WHEREAS, in 2019, the Township determined it is the best interest of the Township to replace the meters, most of which were approximately 20 years old and exceeded their useful life, along with installing an automated system, to enable the Township to efficiently provide customers monthly billing, online access to their water consumption, and usage alerts to curtail a resident receiving an unanticipated high bill; and

WHEREAS, in 2019, pursuant to Resolution 157-5.19, the Township entered into a contract with In-Line Services Inc. for Purchase and Installation of Water Meters, BID19004, in the amount of \$5,426,404.50 for Items 1 through 17, subject to approval by the New Jersey Department of Environmental Protection (NJDEP), plus \$217,600.00 for the Alternate (Software), for a total bid of \$5,644,004.50; and

WHEREAS, subsequent to the award, Change Order 1 -\$38,630.98 and Change Order 2 \$11,591.75 were authorized for a revised contract authorization of \$5,616,964.77; and

WHEREAS, as of November 2021, most of the residents have received a new meter, leaving less than 100 customers that have been unresponsive to requests have their meter changed; and

WHEREAS, In-Line Services Inc. has agreed to turn the remaining new water meters that are now the property of the Township over to American Water for installation as these homes become accessible; and

WHEREAS, American Water is agreeable to providing meter replacement services, which currently not included within the scope of the agreement; and

WHEREAS, pursuant to the Memorandum dated November ___, 2021 attached hereto, the Township and American Water have reviewed the current contract terms and conditions and have agreed on the amendments and language changes.

NOW, THEREFORE, BE IT RESOLVED, on this 6th day of December 2021, the Township Council of the Township of North Brunswick does hereby authorize the Memorandum of Agreement to be executed in substantially similar form to the attached draft Memorandum for aforesaid contract changes; and

BE IT FURTHER RESOLVED, that the Township Council of the Township of North Brunswick hereby authorizes the Mayor and/or Business Administrator to take necessary steps to execute the Memorandum of Agreement.

Justine Progebin
Business Administrator

Ronald Gordon, Esq.
Township Attorney
Approved as to legal form

RECORDED VOTE:

COUNCIL MEMBER	YES	NO	ABSTAIN	NOTES
MEHTA				
LOPEZ				
GUADAGNINO				
ANDREWS				
DAVIS				
SOCIO				
MAYOR WOMACK				

I hereby certify that the above Resolution was duly adopted by the Township Council of the Township of North Brunswick, County of Middlesex, at its meeting held on December 6, 2021.

Lisa Russo
Township Clerk

**AMENDMENT NO. 2
TO THE
WATER SERVICES AGREEMENT FOR THE TOWNSHIP OF NORTH BRUNSWICK
WATER SYSTEM**

This Amendment No. 2 (the “Amendment”) to the Water Services Agreement for the Township of North Brunswick Water System (the “Agreement”) is made and dated this _____ day of _____, 2021 (“Effective Date”) by and between the Township of North Brunswick (the “Township”) and American Water Enterprises, LLC (the “Company”). The Township and Company are sometimes herein referred to individually as a “Party” and collectively as the “Parties.”

WITNESSETH:

WHEREAS, on August 27, 2002, Company, and the Township entered into the Agreement, which provided for the operation and maintenance of the Township’s water system; and

WHEREAS, on August 17, 2021, the Parties amended the Agreement to document the removal of customer billing services from Company’s scope of work in October of 2018 and to have Company begin performing certain service line work for the Township; and

WHEREAS, the Township now wishes to further amend the Company’s scope of work such that the Company will perform certain meter replacement services for the Township’s customers.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereby agree that the Agreement be amended as follows:

1. Section 6.1—General. The following language is added to section 6.1:

(l) Meter Replacements. Company will perform certain customer meter replacements for the Township. The Township will supply the Company the locations for which meters need to be replaced (including names, addresses, contact info (e.g., phone number and/or email addresses), existing meter sizes, serial numbers, and RFID numbers) Notwithstanding the foregoing, the Parties acknowledge and agree that, although Company will exercise commercially reasonable efforts to replace all of the meters identified. Company cannot guarantee that it will be able to replace all meters identified prior to the expiration of the Agreement.

The Township acknowledges and agrees that the Company will only be held responsible for any damages to customer property while Company is performing meter replacements to the extent any such damages are caused by Company’s fault, failure or negligence. Township will fully indemnify Company for any claims and/or damages that arise out of any meter replacement work performed by Company, except to the extent such claims and/or damages are caused by Company’s fault, failure or negligence.

The Township and Company further acknowledge and agree that: i) completion of any meter replacement work is dependent on customer participation and cooperation; ii) if a customer is unable to be available during his/her scheduled appointment, Company will not be held responsible for the completion of any meter replacement work; and iii) the Township will pay a meter change fee to Company if any customer is unavailable for a scheduled appointment.

In performing the meter replacements, the Township and Company will adhere to all of the following:

- i) The Township will supply all requisite materials for the meter installation work, including but not limited to all meters, MIUs, cable and connectors.
- ii) The Township will be responsible for the scheduling of all meter replacements, as follows:
 - a. The Township will provide Company with a minimum of 2 weeks' written notice prior to any scheduled appointment.
 - b. All appointments will be scheduled by the Township during normal business hours of 7:00 am—4:00 pm ET, Monday through Friday (excluding holidays). A two (2) hour start of appointment window (9-11, 11-1 and 1-3) is required.
 - c. The Township may schedule meter replacements on weekends or outside of normal business hours only: 1) if both Company and the Township have agreed in writing to have Company perform the specific meter replacement outside of normal business hours; and 2) as a last resort.
- iii) Company will locate curb boxes and make same operable at each location prior to the Township scheduling any meter replacement appointments.
- iv) Should excavation be required, all associated costs, including but not limited to subcontractor, materials, restoration, inspection and overtime costs, will be invoiced by Company and reimbursed by the Township. The Township will also pay a 12.5% mark-up on all such costs to Company.
- v) Company will obtain the services of a licensed plumbing subcontractor to perform any emergency work that arises from the replacement of a meter. All associated costs, including but not limited to subcontractor, materials, restoration, inspection and overtime costs, will be invoiced by Company and reimbursed by the Township. The Township will also pay a 12.5% mark-up on all such costs to Company.

- vi) Company will only operate customer-owned valves that are located adjacent to a water meter; however (as noted in section (v) above), Company will address, via the use of a licensed plumbing subcontractor, any plumbing issues that may arise from replacing the meter, such as leaks on the piping or clogged faucets throughout the structure.
- vii) Company will document each meter replacement with a service order. Company will provide each service order to the Township via email so that the Township can upload all requisite information into its billing system. The Township will provide proof of receipt of this information to Company.
- viii) Company will take both before and after photos of each meter replacement.
- ix) Company will test all newly installed meters for proper operation (including ensuring that the MIU is transmitting a signal) prior to submission of the service order to the Township.

Notwithstanding anything to the contrary in the Agreement, all meter replacement work performed by Company will be based upon the following payment terms:

1. Company will have full discretion on deciding how each meter replacement will be completed:
 - a. AW may utilize their employees for the meter replacement.
 - b. AW may utilize contracted labor to complete the meter replacement.
 2. All associated costs, including but not limited to subcontractor, materials, restoration, inspection, overtime and travel time will be reimbursed by the Township plus a 12.5% mark-up.
 3. In addition to reimbursing Company for all costs associated with performing the meter replacement work, the Township will pay Company a flat fee of \$125.00 for every meter that is replaced.
2. This Amendment may be executed in any number of original counterparts. All such counterparts shall constitute one and the same Amendment.

[signature page follows]

N WITNESS WHEREOF, Township and Company have executed this Amendment as of the Effective Date.

TOWNSHIP OF NORTH BRUNSWICK

Name

Title

**AMERICAN WATER ENTERPRISES,
LLC**

Name

Title

DRAFT