

September 30, 2021

VIA E-MAIL (BOARD.SECRETARY@BPU.NJ.GOV)

Ira G. Megdal

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Aida Camacho-Welch
Secretary
NJ Board of Public Utilities
44 South Clinton Street, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625

**Re: In the Matter of the Petition of New Jersey-American Water Company, Inc. for
Approval of a Municipal Consent Granted by the Township of Mullica, Atlantic
County, New Jersey
BPU Docket No.: _____**

Dear Secretary Camacho-Welch:

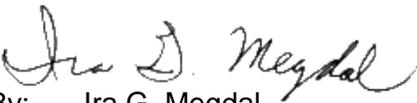
On behalf of New Jersey-American Water Company ("NJAWC") enclosed for filing is NJAWC's verified Petition for Approval of a Municipal Consent Granted by the Township of Mullica, Atlantic County, New Jersey.

This Petition is being filed with the Board Secretary electronically only, consistent with the Board's Order dated March 19, 2020 (Docket No. EO20030254) directing that all submissions to the Board, of any kind, be submitted electronically. I hereby certify that copies of the verified Petition and Exhibits have this day been transmitted to all persons copied below via electronic mail.

No paper copies will follow and we would appreciate if the Board Secretary's office would please acknowledge receipt of this letter and the verified Petition. Thank you for your anticipated courtesy and cooperation.

Sincerely,

COZEN O'CONNOR



By: Ira G. Megdal

IGM:kn
Enclosure

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cc: Brian O. Lipman, Litigation Manager
Susan McClure, Esquire
Christine Juarez, Esquire
Emily Smithman, Esquire
Michael Kammer, Director, Division of Water
Robert Brabston, Executive Director
Debbie Albrecht, Vice President & General Counsel
Stephen Bishop, Corporate Counsel
Nicholas DeVecchis, Senior Manager Business Development
John Tomac, Senior Director Rates and Regulation
Donald Shields, Vice President and Director of Engineering

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC. FOR APPROVAL OF A MUNICIPAL CONSENT GRANTED BY THE TOWNSHIP OF MULLICA, ATLANTIC COUNTY, NEW JERSEY : BPU DOCKET NO.:
: PETITION**

**TO THE HONORABLE COMMISSIONERS OF THE
NEW JERSEY BOARD OF PUBLIC UTILITIES:**

I. PRELIMINARY STATEMENT

New Jersey-American Water Company, Inc. (“NJAWC”, the “Company” or “Petitioner”), a public utility corporation of the State of New Jersey, with its principal office at 1 Water Street, Camden, New Jersey 08102, hereby petitions the State of New Jersey Board of Public Utilities (the “Board” or “BPU”), pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:3-11 to 15, N.J.S.A. 48:19-17, N.J.S.A. 48:19-20 and N.J.A.C. 14:1-5.5, and such other regulations and statutes as may be deemed applicable and appropriate by the Board, for approval of a municipal consent ordinance granted to NJAWC by the Township of Mullica, Atlantic County (“Mullica”) to serve the portion of Mullica currently served by Egg Harbor City, Atlantic County, New Jersey (the “City”).

The Municipal Consent is granted in anticipation of the sale of the City’s potable water system and a wastewater collection and conveyance system (collectively, the “Systems”) to NJAWC pursuant to the provisions of the Water Infrastructure Protection Act, N.J.S.A. 58:30-1 et seq., *et seq.* (“WIPA”)¹. In support thereof, Petitioner states as follows:

II. INTRODUCTION

1. NJAWC is a regulated, public utility corporation engaged in the production, treatment and distribution of water and collection and treatment of sewage within its defined service territory within the State of New Jersey. Said service territory includes portions of the following

¹ NJAWC is seeking approval of the purchase of the Systems pursuant to WIPA in a separate docket.

counties: Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union and Warren. NJAWC maintains its principal office at 1 Water Street Camden, New Jersey 08102. Within its service territory, NJAWC serves approximately 657,000 water and fire service customers and approximately 54,900 wastewater service customers.

2. The City owns and operates the Systems, which also serve five (5) wastewater customers in Mullica located along Hamburg Avenue from U.S. Route 30 to West Moss Mill Road in Mullica.

3. By this Petition, NJAWC is seeking approval of the Municipal Consent – officially Municipal Consent Ordinance No. 14-2021, introduced by Mullica on July 27, 2021, and adopted on August 31, 2021. The Municipal Consent was introduced and adopted pursuant to N.J.S.A. 48:3-11 to 15, and N.J.S.A. 48:13-11 to permit Petitioner to construct, lay, maintain, and operate the necessary wastewater treatment facilities, water and wastewater mains, pipes and appurtenances (collectively, the “Facilities”) throughout a portion of Mullica as noted in the Municipal Consent, which consists of those properties situated along Hamburg Avenue from U.S. Route 30 to West Moss Mill Road (hereinafter the “Proposed Franchise Area”) and to provide water and wastewater services to the Proposed Franchise Area. A certified copy of the Municipal Consent is attached hereto as **Exhibit A** and incorporated into this Petition by reference.

III. BACKGROUND

4. In 2015, the State Legislature enacted WIPA, finding that proper maintenance and operation of water and wastewater systems is critical to protect public health and that it is in the public interest for public water and wastewater systems facing challenges in doing so to be provided a feasible option to transfer, sell or lease their “assets to a capable private or public

entity with the financial resources and expertise to improve management, operation, and continued maintenance of the assets.”²

5. The Municipal Consent that is the subject matter of this petition was granted in contemplation of an Agreement of Sale of the City’s Systems to NJAWC, conducted in compliance with, and pursuant to, the procedures set forth in WIPA (the “Agreement”).

6. The Municipal Consent for Mullica was introduced and adopted pursuant to N.J.S.A. 48:3-11 to 15, and N.J.S.A. 48:13-11 to permit NJAWC to construct, lay, maintain and operate the Systems through the Proposed Franchise Area and to provide water and wastewater service within the Proposed Franchise Area. See Schedule A to the Municipal Consent Ordinance No. 14-2021 attached hereto as Exhibit B.

IV. APPROVAL OF MUNICIPAL CONSENT

7. By this Petition, NJAWC is only seeking approval by the Board of the Municipal Consent. In a separate docket, NJAWC will seek approval of the Agreement and ratemaking recognition for the Facilities pursuant to WIPA. Pursuant to WIPA, the approval of the Agreement must be decided within ninety (90) days, and to the extent possible, this petition should also be decided in the same timeframe.

8. The governing body of Mullica recognized that, as a result of the Agreement, the Facilities will be operated by a company that is a subsidiary of the largest provider of regulated water and wastewater services in the United States and concluded that it is in the public interest for the Facilities to be owned and operated by Petitioner.

9. The Facilities will be subject to reasonable and prudent practices of Petitioner; safe and reliable service, including access to customer service representatives 24/7 in emergency situations; and the financial wherewithal to maintain and improve the Facilities. In essence, the City determined that NJAWC was best positioned to address Emergent Condition No. 5, as

² See N.J.S.A. 58:30-2.

determined by DEP, the City's lack of financial, technical or managerial capacity to adequately address necessary investment, repair or maintenance on a sustainable basis or own, operate the Systems in a way that supports economic activity on a sustainable basis.

10. Approval of the Municipal Consent submitted to the Board with this Petition will serve the public interest by permitting NJAWC to begin providing water and wastewater utility service to those customers in Mullica currently served by the City Systems, and to leverage its experience, expertise and economies of scale to benefit the customers of those systems and of NJAWC. NJAWC's significant resources will help provide more safe, efficient service as well as additional system reliability to Mullica.

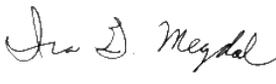
11. For the reasons stated above, approval of the Municipal Consent will serve the public convenience and properly serve the public interests pursuant to N.J.S.A. 48:2-14. As a result, the Board should approve the Municipal Consent.

12. The Petitioner has not yet commenced water and wastewater service within the service area of Mullica covered by the Municipal Consent.

V. CONCLUSION

WHEREFORE, Petitioner respectfully requests that the Board approve Municipal Consent Ordinance No. 14-2021 of Mullica and grant such other and further relief as the Board may deem reasonable and appropriate under the circumstances.

COZEN O'CONNOR
Attorneys for New Jersey-American Water
Company, Inc.

By: 
Ira G. Megdal

DATED: September 30, 2021

Communications in this matter on behalf of Petitioner should be addressed to the following:

Ira G. Megdal, Esquire
Cozen O'Connor
1010 Kings Highway South
Cherry Hill, NJ 08034
856.910.5007
imegdal@cozen.com

And

Stephen R. Bishop
Deputy General Counsel
New Jersey-American Water Company, Inc.
1 Water Street
Camden, New Jersey 08102
Office: 856.955.4877
Cell: 856.364.0965
stephen.bishop@amwater.com

VERIFICATION

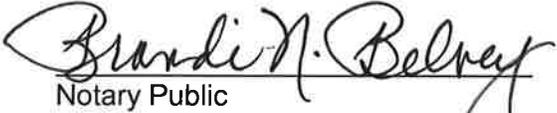
I, John S. Tomac, of full age, being duly sworn, according to law, deposes and says:

1. I am the Director of Rates and Regulation of New Jersey American Water Company, Inc., the Petitioner, and am authorized to make this Verification on behalf of said Petitioner.
2. I have read the contents of the foregoing Petition and hereby verify that the statements therein contained are true and accurate to the best of my knowledge and belief.



John S. Tomac

Sworn to and subscribed before
me this 30th day of September, 2021



Notary Public

My Commission Expires 03/06/2026



EXHIBIT A

MUNICIPAL CONSENT

**TOWNSHIP OF MULLICA
ORDINANCE NO. 14-2021**

**AN ORDINANCE CREATING APPENDIX A263, OF THE CODE OF THE TOWNSHIP
OF MULLICA, GRANTING FRANCHISE RIGHTS TO NEW JERSEY - AMERICAN
WATER TO FURNISH POTABLE WATER AND WASTEWATER CONVEYANCE IN
A PORTION OF MULLICA TOWNSHIP NEW JERSEY AND GRANTING
MUNICIPAL CONSENT TO USE TOWNSHIP RIGHT-OF-WAY TO PROVIDE SAID
SERVICES.**

WHEREAS, the Township of Mullica, County of Atlantic and State of New Jersey (the "Township"), hereby grants consent and permission to New Jersey-American Water Company, Inc. ("New Jersey-American"), a New Jersey corporation, to furnish potable water conveyance to and wastewater conveyance from properties situated along Hamburg Avenue from U.S. Route 30 to West Moss Mill Road; and

WHEREAS, New Jersey-American is in the process of acquiring the water and wastewater systems (the "Systems") currently owned and operated by the City of Egg Harbor City, New Jersey, ("Egg Harbor") subject to regulatory approvals; and

WHEREAS, Egg Harbor is desirous of having New Jersey-American acquire the Systems; and

WHEREAS, the Egg Harbor wastewater system currently provides wastewater conveyance service to five (5) customers located along Hamburg Avenue in the Township, more specifically:

412 Hamburg Avenue	Block 10703 / Lot 4
700 Hamburg Avenue	Block 10701 / Lot 12
900 Hamburg Avenue	Block 10706 / Lot 4
1110 Hamburg Avenue	Block 9902 / Lot 12
1226 Hamburg Avenue	Block 9905 / Lot 3: and

WHEREAS, New Jersey-American is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Township to permit New Jersey-American to provide water and wastewater services in the Township to properties situated along Hamburg Avenue from U.S. Route 30 to West Moss Mill Road, as shown on **Schedule A**; and

WHEREAS, New Jersey-American has requested the consent of the Township as required by N.J.S.A. 48:19-17 and 48:19-20, as amended, to lay its pipes beneath and restore such public roads, streets and places as it may deem necessary for its corporate purposes, free from all charges to be made for said privilege (except that fees for road opening permits shall be paid), provided that all said pipes installed after the date of this Ordinance shall be laid at least three feet (3') below the surface and shall not in any way unnecessarily obstruct or interfere with

the public travel or cause or permit other than temporary damage to public or private property; and

WHEREAS, it is deemed to be in the best interests of the citizens of the Township to provide this consent; and

WHEREAS, the Mayor and Township Committee have concluded that granting of said consent shall enhance the health, safety, and welfare of the citizens of the Township.

NOW THEREFORE, BE IT RESOLVED BY THE TOWSHIP COMMITTEE AS FOLLOWS:

SECTION 1.1 EXCLUSIVE FRANCHISE RIGHT: An exclusive and perpetual consent and permission to furnish water to and wastewater conveyance from residents, businesses and government buildings on properties situated within Mullica Township along Hamburg Avenue from U.S. Route 30 to West Moss Mill Road, as shown on **Schedule A (the "Designated Right-of-Way Area")** is hereby given, and granted to New Jersey-American, its successors and assigns.

SECTION 1.2. MUNICIPAL CONSENT TO USE DESIGNATED PUBLIC RIGHTS-OF-WAY FOR A TERM OF FIFTY (50) YEARS:

Section 1.2.a. An exclusive consent and permission is given to New Jersey-American, its successors and assigns, under the provisions of N.J.S.A. 48:19-17 and N.J.S.A. 48:19-20, as amended, without charge therefore, (except fees for road opening permits which shall be paid) as the same may be required in order to permit New Jersey American Water to own and operate the Systems add to, extend, replace, operate and maintain said water and wastewater Systems in the public property described herein in order to provide said potable water and wastewater conveyance service within the Designated Right-of-Way Area. This shall include permission to lay pipes, valves, pumps, manholes and other necessary equipment beneath the public roads, streets, public property, and public places within the Designated Right-of-Way Area. The privilege granted herein shall include the right to construct, install, and maintain fire hydrants in and along the Designated Right-of-Way area.

Section 1.2.b. As permitted by N.J.S. 48:3-15, the term of this Municipal Consent shall be fifty (50) years commencing on the effective date of this Ordinance.

SECTION 1.3. CONDITIONS OF APPROVAL: The grants of a Municipal Franchise and a Municipal Consent are subject to the following terms and conditions:

Section 1.3.a. A final order issued by the New Jersey Board of Public Utilities approving the acquisition by New Jersey American Water of the assets of the Egg Harbor City Municipal Utility as contemplated by the Agreement of Sale between those parties dated March 29, 2021;

Section 1.3.b. A final order issued by the New Jersey Board of Public Utilities approving the Franchise and Municipal Consent Ordinance(s)- which may be included in the same Docket as 1.3.a.;

Section 1.3.c. Approval of the acquisition of the assets by the New Jersey Department of Community Affairs; and

Section 1.3.d. All water and sewer mains and appurtenant facilities constructed, modified, or replaced within the Designated Right-of-Way Area, and any such mains and appurtenant facilities shall be subject to compliance with all federal, State, and local regulations, administrative agency rules, and approvals including, but not limited to, the New Jersey Department of Environmental Protection and the New Jersey Pinelands Commission.

Section 1.3.e. New Jersey American Water Company shall be responsible for the repair of any damage to paving, existing utility lines, or any surface or subsurface installations, arising from its construction, installation, or maintenance of its facilities.

SECTION 2. NO EXPANSION OF FRANCHISE OR MUNICIPAL CONSENT: No expansion or extension of water and / or sewer service beyond the Designated Right-of-Way Area shall be permitted unless the Township Committee shall adopt a subsequent ordinance expanding the franchise area and granting municipal consent to use such additional rights-of-way.

Section 3. NOTICES:

Section 3.1.a. Upon final passage the Township Clerk shall send a certified copy of this ordinance to:

New Jersey American Water
1 Water Street
Camden, NJ 08102

to the attention of:
Stephen R. Bishop, Corporate Counsel

Section 3.1.b. New Jersey American Water Company shall submit this Ordinance to the New Jersey Board of Public Utilities and shall provide the Township Clerk and Township Attorney with a copy of all applications filed with the New Jersey Board of Public Utilities; and shall include the Township Clerk and Township Attorney on the Service List for all such filings.

SECTION 4. AUTHORITY TO EXECUTE AND DELIVER DOCUMENTS NECESSARY TO EFFECTUATE THE INTENT OF THIS ORDINANCE: The Mayor and the Clerk of the Township are authorized to execute the documents and agreements necessary to effectuate this municipal consent.

SECTION 5. CODIFICATION: This Ordinance shall be codified in the Township Municipal Code as Section A263.

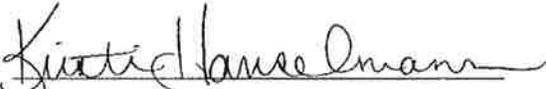
SECTION 6. SAVINGS CLAUSE: Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

SECTION 7. REPEALER CLAUSE: All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 8. EFFECTIVE DATE: This Ordinance shall take effect after final passage, approval, and publication as required by law.

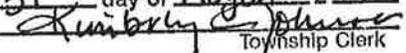
First Reading: July 27, 2021

Adoption: August 31, 2021


KRISTI HANSELMANN, MAYOR

ATTEST:


KIMBERLY JOHNSON
TOWNSHIP CLERK

Certified to be a true and correct copy of an ordinance which passed final reading at a meeting held by governing body the 31 day of August 2021

Township Clerk

SCHEDULE A
Mullica Franchise Map

Hedden Ave

1st St

Frederick Ave

MULLICA TWP

Landing Creek Tributary

Carroll Dr
Lawn Ln
Hick Dr
Caldwell St

1000 St

1000 St

Doss Ave

New York Ave

1st Ter

Norfolk Ave

1st Ter

Acorn St

White Horse

New York Ave

1st Ter

EGG HARBOR CITY

Norfolk Ave

1st Ter

1st Ter

1st Ter

1st Ter

1st Ter

Daniel St

Lewis Ave

Proposed Water/Wastewater Franchise Area Boundary

Legend