

Absent:

1. Flag Salute
2. Opening Prayer
3. Open Public Meetings Act Announcement
4. Resolution 2021-157 Re: Executive Session \_\_\_\_ P.M.

Topics to be Discussed:

M:                      S:                      RC:                      MC:

5. Return from Executive Session P.M.

M:                      S:                      RC:                      MC:

## 6. Approval of Payroll, Requisition List and Operating Expenses

M:                      S:                      RC:                      MC:

7. Approval of Council Meeting Minutes for 8/18/2021

M:                      S:                      RC:                      MC:

## 8. Public Comment on Agenda Items Only

## 9. Presentation of 2020 Annual Audit

## 10. Resolution 2021-158 Re: Governing Body Certification of the Annual Audit

M:                      S:                      RC:                      MC:

11. Resolution 2021-159 Re: Award of Contract to Utility Service Co., Inc. (A Suez Company), for Maintenance Services for a Portion of the City's Municipal Water System, Including Three Water Towers

M:                      S:                      RC:                      MC:

12. Resolution 2021-160 Re: Award of Contract – Supply and Delivery of Heavy-Duty Equipment Rental

M:                      S:                      RC:                      MC:

13. Resolution 2021-161 Re: Special Event Permit Refund

M: S: RC: MC:

14. Resolution 2021-162 Re: Re-Appointment of Municipal Court Administrator

M: S: RC: MC:

15. Resolution 2021-163 Re: Approving Participation and Acceptance of State Funds for Body Worn Camera Grant Program

M: S: RC: MC:

16. Resolution 2021-164 Re: Authorizing Execution of AFSCME Council 63 Agreement

M: S: RC: MC:

17. Resolution 2021-165 Re: Designating a Conditional Redeveloper for the Bayside Marina Redevelopment Area Located at Block 5702, Lots 7, 7.01, 7.02, 8 and 9

M: S: RC: MC:

18. Resolution 2021-166 Re: Appointing the Floodplain Management Planning Committee and Program for Public Information Committee (PPI) to Advise on FEMA Community Rating System Activities

M: S: RC: MC:

19. Consent Agenda

- A. Marine Mammal Stranding Center Pup Strut Request
- B. Riptide Fishing Derby Request

M: S: RC: MC:

20. Council Manager/Committee Discussion:

21. Public Comments

22. Council Comments

23. Adjourn \_\_\_\_\_ P.M.

The City Council of the City of Brigantine reserves the right to consider, discuss and/or take any formal action upon resolutions or ordinances not appearing on the printed agenda.

**CITY OF BRIGANTINE  
RESOLUTION 2021-**

**GOVERNING BODY CERTIFICATION OF THE ANNUAL AUDIT**

**WHEREAS, N.J.S.A.40A:5-4** requires the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

**WHEREAS,** the Annual Report of Audit for the year 2020 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A.40A:5-6, and a copy has been received by each member of the governing body; and

**WHEREAS, R.S.52:27BB-34** authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

**WHEREAS,** the Local Finance Board has promulgated N.J.S.A.5:30-6.5, a regulation requiring that the governing body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled, "Comments and Recommendations"; and

**WHEREAS,** the members of the governing body have personally reviewed, as a minimum, the Annual Report of Audit, and specifically the sections of the Annual Audit entitled "Comments and Recommendations", as evidenced by the group affidavit form of the governing body attached hereto; and

**WHEREAS,** such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, pursuant to N.J.S.A.5:30-6.5; and

**WHEREAS,** all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

**WHEREAS,** failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S.52:27BB-52, to wit:

R.S.52:27BB52 a local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the director (Director of Local Government Services), under the provisions of this article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of Brigantine, hereby states that it has complied with N.J.S.A.5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

This is to certify that the above is a true and lawful copy of a resolution adopted by the City Council of the City of Brigantine, County of Atlantic, New Jersey at its meeting of September 1, 2021.

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Lynn Sweeney, RMC  
City Clerk

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY OF BRIGANTINE, COUNTY OF ATLANTIC, NEW JERSEY AWARDING A CONTRACT TO UTILITY SERVICE CO., INC. (A SUEZ COMPANY), FOR MAINTENANCE SERVICES FOR A PORTION OF THE CITY'S MUNICIPAL WATER SYSTEM, INCLUDING THREE WATER TOWERS**

**WHEREAS**, the City of Brigantine, Atlantic County, New Jersey (the "City"), a municipal corporation organized and existing under the laws of the State of New Jersey, provides, among other things, certain water services to the residents of the City; and

**WHEREAS**, the City owns the water system, including sources of storage, transmission and distribution facilities, all properties, assets and franchises and all improvements, additions and extensions thereto which relate to the purposes of providing potable water service to residents and commercial and industrial establishments in the City (the "System"); and,

**WHEREAS**, the System provides water storage, transmission and distribution services to the City's residents and customers; and,

**WHEREAS**, the proper provision of such water storage, transmission and distribution services is necessary for the public health, safety and welfare of the City's residents and customers and the financial well-being of the City; and,

**WHEREAS**, the System includes three water towers identified as the 1,000,000 gallon elevated water storage vessel located on 14<sup>th</sup> Street (the "14<sup>th</sup> Street Tank"), the 750,000 gallon elevated water storage vessel located on Bayshore Avenue, (the "Bayshore Avenue Tank"), and the 500,000 gallon elevated water storage vessel located on Roosevelt Avenue (the "Roosevelt Avenue Tank" and together with the 14<sup>th</sup> Street Tank and the Bayshore Avenue Tank, the "Water Towers") which are critical to maintaining the quality, quantity and security of the water provided within the System; and

**WHEREAS**, the City has determined to enter into an agreement to provide for the maintenance of the Water Towers; and

**WHEREAS**, on April 21, 2021, the Council of the City (the "City Council") adopted Resolution #2021-81 authorizing the use of the competitive contracting provisions of the Local Public Contracts Law *N.J.S.A. 40A:11-4.1 et seq.* ("LPCL") to seek proposals for a maintenance contract for the Water Towers (the "Services"); and

**WHEREAS**, for the purpose of determining the best candidate to provide the Services, the City issued a Request for Proposals ("RFP") through the competitive contracting process of the LPCL on May 11, 2021, to solicit proposals from qualified and experienced firms or entities to enter into a maintenance agreement (the "Contract") with the City for a ten (10) year term for the provision of the Services: and

**WHEREAS**, the City advertised the issuance of the RFP and issued six (6) addenda to the RFP which were emailed to all recipients of the RFP; and

**WHEREAS**, on July 1, 2021, the City received a proposal from Utility Service Co., Inc., (a Suez Company) (“Suez”) in response to the RFP (the “7/1 Proposal”); and

**WHEREAS**, due to an error in the publication of the Notice of RFP, the City re-issued the RFP on July 7, 2021; and

**WHEREAS**, on July 28, 2021, the City received a proposal from Suez in response to the re-issued RFP (the “7/28 Proposal”, and, together with the 7/1 Proposal, the “Proposal”); and

**WHEREAS**, the City formed an evaluation committee (the “Committee”) to review and evaluate the proposals submitted in response to the RFP in accordance with the criteria set forth in the RFP; and

**WHEREAS**, the Committee conducted a comprehensive review and evaluation of the Proposal from Suez; and

**WHEREAS**, the review of the Proposal was based upon (i) cost proposal; (ii) ability to meet or satisfy the procurement timetable; (iii) whether the proposal follows the RFP format; (iv) ability to satisfy the surety, letter of credit and related financial requirements; (v) legal compliance; and (vi) administrative, technical, experience, and financial strength requirements as set forth in the Proposal; and

**WHEREAS**, the review and evaluation of the Proposal was conducted in accordance with the proposal evaluation criteria set forth in the RFP; and

**WHEREAS**, on August 4, 2021, the City Council adopted an ordinance authorizing the issuance of Bonds or Notes of the City to finance a portion of the cost of the Services (the “Ordinance”) and notice of adoption of the Ordinance was published on August 13, 2021; and

**WHEREAS**, in the report prepared by the Committee and Special Counsel in accordance with *N.J.S.A.* 40A:11-4.5(d) (the “Evaluation Report”) and attached hereto as Exhibit A, the Committee concluded that Suez has the experience, administrative and technical capability and financial strength to work with the City and efficiently and effectively provide the Services sought under the RFP and that the Cost Proposal in the amount of \$6,802,885.00 for the total aggregate cost is reasonable and justifiable based on the Services to be provided; and

**WHEREAS**, the Committee recommended that the City Council award the Contract to Suez in the total contract amount of \$6,802,885.00 for the ten (10) year term set forth in the RFP.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE AS FOLLOWS:**

1. The aforementioned recitals are incorporated herein as though fully set forth at length.

2. The City hereby awards the Contract for the maintenance services for the Water Towers to Utility Service Co., Inc. (a Suez Company), at the annual fees attached hereto as Exhibit B. Following the conclusion of the 20 day estoppel period for the Ordinance on September 2, 2021, the City Manager and City Clerk are hereby authorized to execute the Contract in substantially the form attached hereto as Exhibit C with such changes, omissions or amendments and any and all other documents necessary to effectuate the purposes therein as the City Manager deems appropriate in consultation with the City counsel and consultants.

3. A copy of this Resolution and the Evaluation Report shall be available for distribution to the public and for public inspection at the City offices.

4. Notice of Award of the Contract shall be published in the local paper in accordance with *N.J.S.A 40A:11-4.5(g)*.

5. This Resolution shall take effect immediately.

**EXHIBIT A**  
**EVALUATION REPORT**



**EVALUATION REPORT  
AND  
RECOMMENDATION OF CONTRACT AWARD  
REGARDING  
REQUEST FOR PROPOSALS  
FOR MAINTENANCE SERVICES FOR A PORTION OF THE  
CITY OF BRIGANTINE, NEW JERSEY  
MUNICIPAL WATER SYSTEM**

**By: Evaluation Committee**

**Dated: August 12, 2021**

**EVALUATION REPORT AND RECOMMENDATION  
OF THE CONTRACT AWARD  
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**ATTACHMENTS**

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- A: Proposal Evaluation Form**  
**B: Proposed Contract**

This Evaluation Report and Recommendation of Contract Award (the “Report”) is being provided pursuant to and in accordance with the requirements of the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-4.1 et seq.) (the “LPCL”). The purpose of this Report is to provide the Council (the “City Council”) of the City of Brigantine, New Jersey (the “City”) with an evaluation of the proposal received in response to a Request for Proposals issued by the City, and to provide a recommendation to the City Council of a Respondent for the award of a contract (the “Selected Respondent”).

## **Recommendation**

Based on the information and analysis set forth in this Report, the Evaluation Committee (defined herein) recommends the City Council award the ten year contract with the City for the provision of maintenance services associated with the a portion of the City Water System (the “City System”) including, (i) the 500,000 gallon water storage tank located on Roosevelt Avenue, (ii) the 750,000 gallon water storage tank located on Bayshore Avenue, and (iii) the 1,000,000 gallon water storage tank located on 14<sup>th</sup> Street (the “Contract”) to Utility Service Co., Inc., (a Suez Company).

### **I. EXECUTIVE SUMMARY**

#### **A. Initial Request for Proposals**

On May 11, 2021 the City issued a Request for Proposals (“RFP”) through the competitive contracting process of the LPCL, to solicit proposals from qualified and experienced firms or entities to enter into the Contract with the City for a ten (10) year term for the provision of the appropriate and necessary maintenance services associated with the City System, as more particularly described in the RFP (the “Services”). The City issued six (6) addenda to the RFP which were e-mailed to all recipients of the RFP.

#### **B. Initial Proposals**

On July 1, 2021, the City received a proposal (the “7/1 Proposal”) from the following entity in response to the RFP:

1. Utility Service Co., Inc. (a Suez Company) (“Suez”)  
1230 Peachtree Street NE, Suite 1100, Atlanta, GA 30309

#### **C. Re-Issuance of RFP and 7/28 Proposals**

Due to an error in the publication of the Notice of RFP, the City re-issued the RFP on July 7, 2021. On July 28, 2021, the City received a proposal (the “7/28 Proposal” and together with the 7/1 Proposal, the “Proposal”) from the following entity in response to the re-issued RFP:

1. Suez  
1230 Peachtree Street NE, Suite 1100, Atlanta, GA 30309

## **D. Evaluation**

To evaluate the Proposal, the City formed an Evaluation Committee comprised of: John Doring, Superintendent of Brigantine Department of Public Works; Matthew Doran, City Engineer; Dennis Krause, Purchasing Agent; Jim Bennett, City Manager (collectively, the "Evaluation Committee" or "Committee") as assisted by Edward McManimon, III, Esq. and Frances McManimon, Esq. of McManimon, Scotland & Baumann, LLC, Special Counsel to the City ("Special Counsel"). The evaluation process was undertaken in accordance with the competitive contracting provisions of the LPCL and all other applicable law. The Evaluation Committee conducted a comprehensive review and evaluation of the Proposal. The review of the Proposal was based upon qualifications, experience, proposed maintenance plan and approach, project team, cost proposal and other factors, as set forth in the Proposal. The review and evaluation of Proposal was conducted in accordance with the proposal evaluation criteria set forth in the RFP and the evaluation form ("Evaluation Form"). This criteria was developed to meet the specific needs of the City in obtaining the Services. The total score of the Proposal was 4.9 out of 5. The Evaluation Committee, with the assistance of the Special Counsel, drafted this Report for the City Council.

## **II. COMPREHENSIVE RFP CONTENT DETAILS**

It is the intent of the City to enter into a Contract with a qualified vendor for a term of ten (10) years commencing September 15, 2021. The Contract, which was provided as an attachment to the RFP and is attached hereto as Attachment B, requires the Selected Respondent to maintain the City System in accordance with the Contract. The RFP also requires the Selected Respondent to provide the Services in accordance with all Federal, State and local requirements, laws, rules and regulations, and to meet and implement certain processes and procedures as minimum standards. The RFP also advised potential respondents, that the City would evaluate each proposal on the basis of established criteria as set forth in the RFP, and in accordance with the competitive contracting provisions of the LPCL and applicable law.

### **A. Form of Proposals and Required Forms**

Respondents were required to submit, as part of their proposal submission, the documents and information described in the RFP, to demonstrate that the Respondent meets or exceeds the required technical, administrative and financial criteria of the RFP. Respondents were invited to submit supplemental information, in addition to the required information, that might be useful in evaluating the Respondent's qualifications. Respondents were encouraged to be clear, factual, and concise in the presentation of their information.

Proposal submissions were required to include:

- General Information (RFP- Section II, 2.5.2)
- Administrative Information (RFP Section III, 2.5.3);
- Financial Information (RFP Section IV, 2.5.4);
- Technical Information (RFP Section V, 2.5.5);
- Supplemental Information; and

- Cost Proposal (RFP Section VII, 2.5.7)

Proposal submissions were required to include the following, among other items:

- Proposal Form D-1: Respondent Form/Cover Letter
- Proposal Form D-2: Ownership Disclosure Statement
- Proposal Form D-3: Consent to Investigate
- Proposal Form D-4: Non-Collusion Affidavit
- Proposal Form D-5: Equal Employment Opportunity Certificate
- Proposal Form D-6/Form D-7/Form D-8: Form of Performance Bond/Form of Performance Letter of Credit/ Guaranty Agreement
- Proposal Form D-9: Financial Information
- Proposal Form D-10: Cost Proposal
- Proposal Form D-11: Acknowledgement of Contract Acceptance

## **B. Evaluation Process**

The City formed an Evaluation Committee to review the Proposal and developed a comprehensive Evaluation Form to guide the Committee in its review of the Proposal. The review and evaluation of proposals were based on the model evaluation criteria and methodology set forth in N.J.A.C. 5:34-4.2 and the competitive contracting review process set forth in N.J.S.A. 40A:11-4.5 of the LPCL. Prior to reviewing the Proposal, each member of the Committee, along with Special Counsel, submitted a Certification confirming no conflict in accordance with N.J.A.C. 5:34-4.3(f). A copy of the Proposal was also sent to the Special Counsel, for technical review to determine if the Respondent included and completed the documentation and information set forth in the RFP.

Each member of the Evaluation Committee reviewed the Proposal, particularly with respect to the Respondent's Administrative, Technical and Financial information and Cost Proposal. The Evaluation Committee met to discuss their review, and as a Committee, evaluated the information and documentation based on the evaluation criteria and categories set forth in the RFP (Section 3). The Committee completed the Evaluation Form for the Respondent. The Proposal Evaluation Form is attached hereto as Attachment A.

## **III. PROPOSAL EVALUATION CRITERIA**

The following sets forth the evaluation criteria and percentage weighing that was applied by the Evaluation Committee in their review and evaluation of the Proposal. The Administrative, Financial and Technical criteria were considered collectively while the Cost Proposal was weighted 50% as set forth in the RFP.

1. Administrative Criteria: Proposal follows RFP format, corporate resources and staff, organizational chart, experience of personnel dedicated to the City System, pending/threatened legal and administrative proceedings and corporate restructuring which could materially affect ability to provide Services, material pending legal and administrative proceedings in which respondent/guarantor officers, directors, employees, principals, property is subject, criminal charges brought against the respondent and disposition, civil proceedings, disqualification/prevented from bidding/contract termination of federal, state local government project, default, compliance history, refusal to testify, permit violations
2. Financial Criteria: Performance security, financial strength and resources
3. Technical Criteria: Regulated Utility/wholly owned subsidiary of regulated utility, years in the business providing similar services, ability to meet or satisfy procurement timetable, number of systems of equivalent size they currently maintain under services contracts, soundness of Pandemic Response Plan, previous experience with similar systems
4. Cost Proposal (50%): The total of the Annual Fee over the term of the Contract.

#### IV. COST PROPOSAL

The Cost Proposal is set forth below.

##### **SUEZ Cost Proposal**

**Total Aggregate Cost: \$6,802,885**

	Annual Fee
2021	\$1,712,626.00
2022	\$1,455,890.00
2023	\$31,691.00
2024	\$1,030,292.00
2025	\$2,072,444.00
2026	\$93,155.00
2027	\$96,453.00
2028	\$99,868.00
2029	\$103,403.00
2030	\$107,063.00

**Cost of Scheduled Capital Improvements  
as Included in the Total Aggregate Cost:**

Storage Tank	Scheduled Capital Improvements Cost
14 <sup>th</sup> Street	\$2,429,194.00
Bayshore	\$2,010,900.00
Roosevelt	\$1,702,426.00
Total Cost of Scheduled Capital Improvements	\$6,142,520.00

**V. RECOMMENDATION – SELECTED RESPONDENT**

The Evaluation Committee applied the Evaluation Criteria set forth in the RFP to the Proposal. The Proposal was also reviewed for legal compliance, as well as administrative, technical, experience, financial strength requirements and cost proposal, all as set forth in the RFP. The Evaluation Committee believes that the Utility Service Co., Inc., (a Suez Company), has the experience, administrative and technical capability and financial strength to work with the City and efficiently and effectively provide the Services sought under the RFP. The Evaluation Committee also believes the Cost Proposal submitted by Suez, is competitive, feasible and justifiable based on the Services to be provided. Accordingly, the Evaluation Committee recommends that the City Council award the Contract to Suez in the total contract amount of \$6,802,885.00. The proposed form of Contract, attached hereto as Attachment B, sets forth the terms, Services and other provisions described in this Report.

## ATTACHMENT A PROPOSAL EVALUATION FORM

Evaluation Criteria	
A. Cost Proposal (50%) Maximum = 5	5
B. Ability to meet or satisfy the procurement timetable Maximum = 5	5
C. Whether the Proposal clearly and concisely follows the RFP format Maximum = 5	5
D. Ability to satisfy the surety, letter of credit and related financial requirements hereof Maximum = 5	4
E. ADMINISTRATIVE INFORMATION –corporate resources and staff, organizational chart, experience of personnel dedicated to the City System, pending/threatened legal and administrative proceedings and corporate restructuring which could materially affect ability to provide Services, material pending legal and administrative proceedings in which respondent/guarantor officers, directors, employees, principals, property is subject, criminal charges brought against the respondent and disposition, civil proceedings, disqualification/prevented from bidding/contract termination of federal, state local government project, default, compliance history, refusal to testify, permit violations Maximum = 5	5
F. TECHNICAL INFORMATION - Regulated Utility/wholly owned subsidiary of regulated utility, years in the business providing similar services, ability to meet or satisfy procurement timetable, number of systems of equivalent size they currently maintain under services contracts, past (limited to 5 years prior to the submission of Respondent's response), present, pending or threatened material claims, litigation, notices of violations, administrative enforcement actions, or other liability arising out of the maintenance of the systems of equivalent size and any public contract for maintenance services for which it has been terminated for cause, soundness of Pandemic Response Plan, the breadth and depth of the Respondent's previous experience with similar systems and vicinity of other storage tank	5



systems presently maintained by the Respondent Maximum = 5	
Total weighted score	4.9

**ATTACHMENT B**  
**PROPOSED CONTRACT**

**CONTRACT  
BETWEEN  
THE CITY OF BRIGANTINE, NEW JERSEY AND  
UTILITY SERVICE CO., INC. (A SUEZ COMPANY)**

This Contract (the “**Contract**”) dated as of the 3<sup>rd</sup> day of September, 2021 (the “**Execution Date**”) and effective as of the 15<sup>th</sup> day of September, 2021 (the “**Effective Date**”), is between the **CITY OF BRIGANTINE**, Atlantic County, New Jersey (the “**City**”), a municipal corporation organized and existing under the laws of the State of New Jersey and Utility Service Co., Inc. (a Suez Company), (the “**Company**”), a corporation organized under the laws of the State of New Jersey, a public utility regulated by the New Jersey Board of Public Utilities (the City and the Company each a “**Party**” and together the “**Parties**” hereto) .

**WHEREAS**, the City owns the water system which provides potable water service to residents and commercial and industrial establishments in the City (the “**City Water System**”, as further defined herein); and,

**WHEREAS**, the City Water System provides water storage, transmission and distribution services to the City’s residents and customers; and,

**WHEREAS**, the proper provision of such water storage, transmission and distribution services is necessary for the public health, safety and welfare of the City’s residents and customers and the financial well-being of the City; and,

**WHEREAS**, the City Water System includes three elevated water storage vessels identified as the 1,000,000 gallon elevated water storage vessel located on 14<sup>th</sup> Street in the City (the “**14<sup>th</sup> Street Tank**”), the 750,000 gallon elevated water storage vessel located on Bayshore Avenue in the City (the “**Bayshore Tank**”) and the 500,000 gallon elevated water storage vessel located on Roosevelt Avenue in the City (the “**Roosevelt Tank**”, and together with the 14<sup>th</sup> Street Tank and the Bayshore Tank, the “**Storage Tank System**”) which are critical to maintaining the quality, quantity and security of the water provided within the City Water System; and

**WHEREAS**, the City Water System distributes water from five (5) wells owned and operated by the City and the Storage Tank System. The wells divert groundwater from the Kirkwood aquifer which is approximately 775 feet below sea level; and

**WHEREAS**, the City has determined to enter into an agreement to provide for the maintenance of that portion of the City Water System consisting of the Storage Tank System; and

**WHEREAS**, the City has determined that the officers and employees of the Company include staff that are able to properly maintain the Storage Tank System in accordance with Federal, State and local laws and regulations; and

**WHEREAS**, the maintenance of the Storage Tank System as described in *N.J.S.A. 40A:11-15(37)* is an appropriate purpose for which competitive contracting may be used as set forth in *N.J.S.A. 40A:11-4.1(b)(1)*; and

**WHEREAS**, the City has complied with the requirements for “competitive contracting” as set forth in *N.J.S.A.* 40A:11-4.1 through 4.5; and

**WHEREAS**, the City has determined that the public health, safety and welfare of the residents of the City can best be protected by entering into an agreement to provide for the maintenance of the Storage Tank System;

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, the City and the Company agree as follows:

## **ARTICLE I DEFINITIONS**

**Section 1.1. Definitions.** Capitalized terms used in this Contract are defined below.

**“14<sup>th</sup> Street Tank”** shall have the meaning assigned to such term in the recitals

**“Annual Fee”** shall have the meaning assigned to such term in Section 4.1(A).

**“Asset Management Plan”** means the asset management plan for the Storage Tank System as required by the WQAA.

**“Authorized Representative of the City”** means the City Manager or his/her designee.

**“Authorized Representative of the Company”** means Joe Jasinski.

**“Authorized Representatives”** shall mean the Authorized Representative of the City and the Authorized Representative of the Company.

**“Bayshore Tank”** shall have the meaning assigned to such term in the recitals.

**“City”** means the City of Brigantine, a public body corporate and politic of the State of New Jersey, located in the County of Atlantic.

**“City Contracts”** mean all contracts executed by the City related to the Storage Tank System, including the lease agreements in connection with cell towers located on the Storage Tank System and the arrangement between the City and the Atlantic County in connection with the public safety radio system located on the Storage Tank System.

**“City Event of Default”** shall have the meaning assigned to such term in Section 3.3.

**“Capital Improvements and Major Repairs”** shall mean those capital improvement items, other than the Scheduled Capital Improvements, and all renewals, repairs, replacements, additions, improvements, materials or equipment related to the Storage Tank System, that: (i) have a five year or greater useful life; (ii) cost in excess of FIVE THOUSAND DOLLARS (\$5,000); (iii) are approved by the City as provided herein; and (iv) can be capitalized in accordance with the principles set forth in the Local Bond Law, *N.J.S.A. 40A:2-1 et seq.* and are otherwise consistent with the policies of the Local Finance Board within the Division of Local Government Services in the New Jersey Department of Community Affairs. Any uncertainty regarding improvement and/or repairs shall be resolved by the Authorized Representatives.

**“Change in Law”** means the adoption, implementation, amendment, withdrawal, revision or modification of or in any federal, state, county, local, legislative or administrative or other governmental law, including any statute, ordinance, code or other legislation, regulation, rule or other promulgation or pronouncement, or any permit or approval issued thereunder, or any order, judgment, action, interpretation, and/or determination of any federal, state or local court, administrative agency or governmental body with jurisdiction in the City, that is applicable from time to time concerning the maintenance of the Storage Tank System as described herein, or to which the Storage Tank System, the Company or the City may otherwise be subject.

**“City Water System”** means the infrastructure owned and/or used by the City, including but not limited to transmission, distribution and storage facilities; the Storage Tank System, all properties, assets (tangible and intangible) and franchises of the City and all improvements, additions and extension thereto, purchased, constructed or otherwise acquired by the City which relate to the purposes of providing potable water service to residents and commercial and industrial establishments in the City.

**“Company”** means Utility Service Co., Inc. (a Suez Company) and its permitted successors or assignors.

**“Company Event of Default”** shall have the meaning assigned to such term in Section 3.2 hereof.

**“Contract”** means this agreement as same may be amended from time to time.

**“Contract Year”** means each twelve (12) month period after the Effective Date.

**“Debt Service”** means the amount of money required, on an annual basis, to pay the principal and interest obligations of the City related to all debt issued to finance costs related to the Storage Tank System.

**“Execution Date”** shall mean September 3, 2021.

**“Effective Date”** shall mean September 15, 2021.

**“Existing City Employees”** means the eight (8) persons employed by the City in connection with the operation and management of the Storage Tank System as of the Effective Date.

**“Force Majeure”** means those events set forth in Section 4.5 of this Contract.

**“Limitation of Company Liability”** means the liability limitation set forth in Section 3.6.

**“LPCL”** mean the Local Public Contracts Law, *N.J.S.A. 40A: 11-1 et seq.*,

**“Maintenance Items and Minor System Repairs”** means those items set forth in Article IV and *Exhibit B* hereof or otherwise identified in the Contract.

**“Minor System Repairs”** mean those repairs that (i) occur routinely in the operation of the Storage Tank System; and (ii) can not be capitalized in accordance with the principles set forth in the Local Bond Law, *N.J.S.A. 40A:2-1 et seq.* and are otherwise consistent with the policies of the Local Finance Board within the Division of Local Government Services in the New Jersey Department of Community Affairs. Material costs for individual Minor System Repairs exceeding \$500 and Minor System Repairs exceeding an aggregate of \$2,500 per year will be reimbursed by the City to the Company following the City's receipt and acceptance of satisfactory documentation of said material expenses. Any uncertainty regarding repairs shall be resolved by the Authorized Representatives.

**“OSHA”** means the Occupational Safety and Health Act, 29 U.S.C. 651 et seq.

**“Ordinances”** means the municipal ordinances and/or resolutions governing the maintenance of the Storage Tank System.

**“Permits”** means permits, approvals and/or licenses issued by a federal, state or local regulatory agency or private party that is necessary for the proper maintenance of the Storage Tank System.

**“PEOSHA”** means the Public Employees Occupational Safety and Health Act, *N.J.S.A.* 34:6A-25.

**“RCRA”** means the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.,

**“Roosevelt Tank”** shall have the meaning assigned to such term in the recitals.

**“Scheduled Capital Improvements”** shall have the meaning assigned to such term in Section 4.1 and as identified in *Exhibit C* hereto.

**“SWDA”** means the Safe Drinking Water Act, 42 U.S.C. 300f et seq.,

**“Services”** mean all the duties, obligations and services as described herein to be provided by the Company that are related to the maintenance of the Storage Tank System, including, but not limited to, the development, installation and provision of the Scheduled Capital Improvements.

**“State”** means the State of New Jersey.

**“Storage Tank System”** shall have the meaning assigned to such term in the recitals.

**“Term”** shall have the meaning assigned to such term in Section 3.1.

**“WQAA”** means the Water Quality Accountability Act, *N.J.S.A.* 58:31-1 et seq.

**Section 1.2. Interpretation and Construction.** In this Contract, unless the context otherwise requires:

- (a) All references to Articles, Sections or Exhibits shall, unless otherwise indicated, refer to the Articles, Sections or Exhibits in this Contract.
- (b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice-a-versa.
- (c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

- (d) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within reasonable time.
- (e) Unless otherwise indicated, any “fees and expenses” shall be required to be customary and reasonable.



## **ARTICLE II CONTRACT**

**Section 2.1. Relationship Between the City and the Company.** On and after the Effective Date, the Company shall maintain the Storage Tank System on the terms and conditions set forth in this Contract. This Contract shall not establish any relationship other than as set forth herein. Services shall be provided by the Company to the City as an independent contractor.

### ARTICLE III TERM

**Section 3.1. Term.** The term of this Contract will commence on the Effective Date and, unless earlier terminated in accordance herewith, will expire on September 14, 2031 (the “**Term**”).

**Section 3.2. Termination of Contract by the City for Cause.** (A) Upon the happening of any of the following events of default (each a “**Company Event of Default**”), and subject to the provisions set forth in Section 6.3 regarding the resolution of disputes by arbitration, the City shall have the right to terminate this Contract and/or to pursue a cause of action for actual damages, as appropriate:

(1) The failure by the Company to provide the Services in accordance with the terms and provisions of this Contract, the Ordinances and/or applicable law;

(2) The failure of the Company to perform or observe any of its covenants, agreements, obligations and/or duties created by this Contract;

(3) If any representation, warranty and/or covenant made by the Company is false and/or misleading in any material respect and the legality of this Contract or the ability of the Company to perform the Services is thereby adversely affected;

(4) Commencement of any bankruptcy, insolvency, liquidation and/or similar proceeding against the Company, its parent corporation, and/or any of their subsidiaries and/or related companies which materially and adversely affects the Company's ability to perform the Services;

(5) The consent by the Company, its parent corporation, and/or any of its subsidiaries and/or related companies to the appointment of a receiver, liquidator, assignee, trustee or custodian, or the making by any such parties of an assignment for the benefit of creditors which materially and adversely affects the Company's ability to perform the Services; and

(6) The failure on the part of the Company, its parent corporation, and/or any of their subsidiaries and/or related companies to generally pay their debts as they come due which materially and adversely affects the Company's ability to perform the Services.

(B) Upon the happening of any Company Event of Default, the City shall provide written notice to the Company setting forth in detail the alleged Company Event of Default. The Company shall have thirty (30) days after the receipt of such written notice from the City to cure and/or correct such Company Event of Default or to deliver to the City a written notice alleging that no such Company Event of Default has occurred and setting forth in detail its reasoning as to why no such Company Event of Default has occurred. If the Company does not cure or correct such Company Event of Default within the thirty (30) day period indicated, or does not deliver to

the City the written notice described above within such thirty (30) day period, the City may immediately terminate this Contract. Notwithstanding the above, if there is a Company Event of Default as described in Section 3.2(A)(4) or (5), the City shall have the right to immediately terminate the Contract upon written notice to the Company and to seek any remedies or damages available at law or in equity. If the City terminates this Contract in accordance with the above provisions, the City shall be obligated to pay to the Company the proportionate share of the Annual Fee, or any other amounts, due for the Services provided by the Company to the date of termination of the Contract net of any amounts owed to the City due to such Company Event of Default

**Section 3.3. Termination of Contract by the Company for Cause.** (A) Upon the happening of any of the following events of default (each a “City Event of Default”), and subject to the provisions set forth in Section 6.3 hereof regarding the resolution of disputes by arbitration, the Company shall have the right to terminate this Contract:

(1) The failure by the City to pay the Annual Fee or make any other payment required to be made by the City pursuant to the terms hereof;

(2) If any representation, warranty and/or covenant made by the City is false and/or misleading in any material respect and the legality of this Contract or the ability of the City to carry out its duties or obligations hereunder is thereby adversely affected;

(3) Commencement of any bankruptcy, insolvency, liquidation and/or similar proceeding by or against the City which materially and adversely affects the City’s ability to perform its duties or obligations hereunder;

(4) The consent by the City to the appointment of a receiver, liquidator, assignee, trustee or custodian, or the making by the City of an assignment for the benefit of creditors which materially and adversely affects the City’s ability to perform its duties or obligations hereunder; and

(5) The failure on the part of the City to generally pay its debts as they come due which materially and adversely affects the City’s ability to perform its duties or obligations hereunder.

(B) Upon the happening of any City Event of Default described above, the Company shall provide written notice to the City setting forth in detail the alleged City Event of Default. The City shall have thirty (30) days after the receipt of such written notice from the Company to cure and/or correct such City Event of Default or to deliver to the Company a written notice alleging that no such City Event of Default has occurred and setting forth in detail its reasoning as to why no such City Event of Default has occurred. If the City does not cure or correct such City Event of Default within the thirty (30) day period indicated, or does not deliver to the Company the written notice described above within such thirty (30) day period, the Company may immediately terminate this Contract. Notwithstanding the above, if there is a City Event of Default as described in Section 3.3(A)(3) or (4), the Company shall have the right to immediately terminate the Contract upon written notice to the City. If the Company terminates this Contract in accordance with the above provisions, the City shall be obligated to pay to the Company the proportionate share of the Annual Fee, or any other amounts, due for the Services provided by the

Company to the date of termination of the Contract. Such payments shall constitute total satisfaction of any right, claim, cause of action or entitlement that the Company has or may have against the City as a result of any City Event of Default.

**Section 3.4 Termination of the Contract Due to Unenforceability.** If any court, agency or other entity with competent jurisdiction shall finally determine that this Contract is unenforceable and/or prohibited by law, then the Contract shall be terminated. If this Contract is terminated in accordance with this Section 3.4, the City shall be obligated to pay to the Company the proportionate share of the Annual Fee, or other amounts, due for the Services provided by the Company to the date of termination of the Contract.

**Section 3.5 Transition.** The Company shall cooperate in good faith with the City, its agents, contractors, and subcontractors and shall provide for the orderly transition of Services from the City and/or its contractors to the Company.

**Section 3.6 Limitation of Company Liability for Company Event of Default** . In the event of default resulting in termination of the Contract by the City as set forth in Section 3.2(B) hereof, the liability of the Company to the City, the residents and customers served by the Storage Tank System for the Company's performance or non-performance under this Contract shall not exceed, in the aggregate, an amount equal to one hundred percent (100%) of all payments paid by the City and received by the Company pursuant to Section 4.1 of this Contract. The Company or its respective affiliates, subsidiaries, officers, directors, officials, and employees or its suppliers will not be held liable for special, indirect, consequential, incidental or punitive damages however caused and regardless of the theory of liability.

**ARTICLE IV  
MAINTENANCE OF AND CAPITAL IMPROVEMENTS  
TO THE STORAGE TANK SYSTEM**

**Section 4.1. (A) Annual Fee.** (1) The Annual Fee paid to the Company by the City for each year shall be as set forth in *Exhibit A* (the “Annual Fee”) and shall not include, and shall be independent from, the payments made to the Company for the Scheduled Capital Improvements and/or any Capital Improvements and Major Repairs and shall be paid to the Company in arrears in twelve equal monthly installments on the last day of each month commencing on September 30, 2021.

(2) The Annual Fee is intended to cover all costs for all Services provided for in this Contract (including Maintenance Items and Minor System Repairs, unless otherwise provided herein, and other costs specifically identified herein) other than for Scheduled Capital Improvements or Capital Improvements and Major Repairs or for costs otherwise specifically identified herein as being the responsibility of the City.

(3) Any payments required to be made by the City to the Company pursuant to this Section 4.1 which are paid later than thirty (30) days from the required date shall bear interest until paid at the rate of two percent per annum.

**(B) Scheduled Capital Improvements.** (1) In accordance with the schedule set forth in *Exhibit C* hereto, the Company shall undertake and complete the Scheduled Capital Improvements identified in *Exhibit C* hereto (the “Scheduled Capital Improvements”). The Scheduled Capital Improvements shall be funded by the City.

(2) The cost of the Scheduled Capital Improvements paid to the Company by the City shall be as set forth in *Exhibit A* in accordance with the payment procedure in Section 4.4(A)(5).

**Section 4.2. City Responsibilities.** The City shall:

(A) Own the fixed assets of the Storage Tank System.

(B) Control all finances including billing for and collection of rents, budgeting, capital improvement financing and payment of any fees and charges in connection with the Storage Tank System.

(C) Promptly procure and continually maintain in full force and effect and in accordance with their respective terms those Permits that it is responsible for under the terms of this Contract.

(D) Adopt all resolutions and enact all ordinances necessary to carry out the provisions of this Contract and enforce all such resolutions and/or ordinances.

(E) Provide access to the Storage Tank System for the Company, its agents and

employees at all times.

(F) Designate the Authorized Representative of the City to act as contract administrator and liaison with the Company in connection with the performance of Services by the Company.

(G) Refrain from enacting any ordinances and/or adopting any resolution that would impair the ability of the City or the Company from complying with this Contract.

(H) Promptly pay all Debt Service, when due on any bonds or notes or other obligations by or on behalf of the City issued with respect to the Storage Tank System.

(I) Establish any and all annual budgets, rents, rates, City fees and other charges to be collected from the customers of the City Water System, which rents, rates, City fees and charges shall be at least sufficient to pay all amounts due to the Company, other vendors and necessary for Debt Service hereunder.

(J) Acquire and maintain all access, rights of way and easements necessary for the Company to maintain the Storage Tank System.

(K) The City shall comply with SWDA, RCRA, CERCLA (as owner), OSHA, PEOSHA, WQAA, LPCL, and any and all other applicable local, State and Federal laws, codes, ordinances and regulations as they pertain to the Storage Tank System. The City shall pay all regulatory fines and penalties, without limitations, assessed against the Company and/or the City for the City's non-compliance therewith.

**Section 4.3. Company Responsibilities.** (A) The Company shall maintain and repair the Storage Tank System during the term of this Contract on behalf of the City in compliance with all Federal, State and Local laws, regulations and permits consistent with this Contract.

(B) During the term of this Contract, the Company shall keep the Storage Tank System in good repair and working order, consistent with industry standards and shall maintain and repair the Storage Tank System in an efficient and economical manner all in accordance with this Contract.

(C) The Company shall develop and implement an approach for future rehabilitation of the Storage Tank System and ensure coordination of Storage Tank System operations with the City.

(D) The Company is responsible for all costs of materials, equipment and supplies in maintenance of the Storage Tank System.

(E) The materials for Minor System Repairs shall be purchased by the Company and the costs thereof in excess of \$500 per individual repair and Minor System Repairs exceeding an aggregate of \$2,500 per year, with an appropriate accounting, shall be reimbursed by the City as a City cost responsibility.

(F) The Company shall provide annual reporting to the City, the form of which shall be determined by the Authorized Representatives, for Services performed for the Storage Tank System.

(G) The Company is responsible for all labor and equipment costs for the Maintenance Items and Minor System Repairs.

(H) All purchases that utilize City funds must comply with the provisions of the LPCL, the City's purchasing regulations, the Business Registration Certificate (BRC) requirements, and the IRS requirement for an executed W-9 all for submission to the City's Purchasing Agent.

(I) Materials, Labor, Vehicles. The Company shall provide, at its cost and expense, all labor, materials, machinery, vehicles, equipment, fuel, power, chemicals, supplies, spare parts, expendables, consumables, and all else necessary therefor or incidental thereto which is necessary for the, maintenance or repair of the Storage Tank System in accordance with applicable laws, regulations and ordinances and the Contract.

(J) Hazardous Substances. The Company is responsible for testing the current materials in place on the tanks for hazardous content. If, while providing the Services and/or during the course work necessary to make the Scheduled Capital Improvements or repairs and/or improvements to the Storage Tank System, hazardous or toxic waste or materials (as defined in applicable Federal and/or State laws and regulations) are discovered by the Company, it shall NOT be the obligation of the Company to remove and dispose of such hazardous substance. The Company shall immediately notify the City upon becoming aware of the presence of such hazardous or toxic waste or materials, and shall immediately notify such other governmental agencies as may be required by laws and shall take such further actions to assist the City in protecting the Health, Safety and Welfare of the Public. The City shall indemnify the Company for any and all costs or expenses it may incur in connection with this Section. If a hazardous substance impairs the maintenance of the Storage Tank System, the City shall remediate the hazardous substance so as to permit the Company to maintain the Storage Tank System pursuant to the Contract. The City shall pay for all costs for the removal of the hazardous substance and any clean-up activities associated with such disposal, discharge, spill or leak. The City shall have the right to pursue the parties legally responsible for the disposal, discharge, spill or leak for the costs of the removal of the offending materials and any clean-up activities.

(K) Response Requirements for Emergencies. The Company shall respond to Storage Tank System emergencies as soon as reasonably possible, but in any event the Company shall begin planning and staging to mobilize to respond to an emergency at least twelve (12) hours after the Company's receipt of written notice, which may be sent via email, of an emergency from the City.

(L) Maintenance Program. The Company shall maintain a comprehensive maintenance program for the Storage Tank System. The maintenance management program shall:

1) Seek to ensure efficiency, long-term reliability and conservation of capital investment in accordance with industry standards, if any;

2) Be otherwise in accordance with industry standards; local, State and Federal codes; manufacturer's equipment recommendations;

3) Be documented; and

4) Provide all warranties on new equipment purchased after the Effective Date of the Contract to the Authorized Representative of the City.

5) Any modifications or major maintenance affecting the appearance of the facilities in the Storage Tank System which are visible to the public shall be performed only after receipt of the prior written approval of the Authorized Representative of the City.

(M) Reporting Requirements.

(1) The Company shall provide comprehensive annual reports in a format reasonably satisfactory to the City for maintenance plans and activities including conditions of the Storage Tank Systems, ; and safety reports regarding accidents, injuries, and damages to City property and other relevant information.

(2) The Company shall maintain up-to-date financial records as they apply to the Services rendered under the terms of this Contract. All records shall be kept in a manner that shall enable the City to comply with State municipal accounting procedures.

(3) The Company shall provide the City with its periodic financial reports as they apply to the Services rendered under the terms of this Contract. At a minimum, such reports shall include the following:

a) Monthly reports on or before the twenty-fifth (25th) Day of each month with respect to the prior month and on or before twenty-fifth (25th) Day after the end of each Contract Year a cumulative report as of the end of each prior Contract

b) The Company shall deliver a year-end report to the City consisting of a compilation of the monthly and quarterly reports set forth above

c) The Company shall provide such other reports as may be reasonably requested from time to time by the City.

(N) Staffing.

(1) The Existing City Employees will continue their employment with the City.

(2) The Company shall provide a staff of qualified and experienced employees who have direct experience in maintaining systems similar in nature and character to the Storage Tank System and shall provide such additional third party support as may be needed to perform its duties and obligations hereunder. Said third parties shall be equally qualified for the particular services to be performed and shall not have any direct claim against the City whatsoever. The Company shall at all times maintain the necessary number of employees, staff and/or third-party contractors to maintain the Storage Tank System in accordance with this Contract and to adequately maintain the Storage Tank System in good repair and working order.



(O) Licenses. The Company, its employees and/or its contractors shall acquire and hold, all required Federal, State and local approvals, licenses and certifications necessary maintain the Storage Tank System required to be obtained by the Company in accordance with this Contract.

(P) Compliance with Laws, Regulations and Permits.

(1) After the Effective Date, the Company shall comply with all applicable local, State and Federal laws, codes, ordinances and regulations as they pertain to the Services. The Company shall pay all regulatory fines and penalties, without limitation, assessed against the City, and/or the Company for the Company's non-compliance therewith.

(2) The Company shall, where applicable, comply with, satisfy, and pay all costs or fees (but not remediation) associated with, all regulatory requirements pertaining to the Services.

(3) All repairs and/or improvements to the Storage Tank System made by the Company shall be in accordance with existing City ordinances.

(4) The Company shall comply with the provisions of all City Contracts. The City reserves the right to enter into future agreements in connection with the Storage Tank System provided those agreements do not interfere with the Company's ability to perform its obligations under this Contract.

(Q) Safety and Security. The Company shall provide, be responsible for and maintain security and safety for the Storage Tank Systems while providing the Services as is reasonably appropriate. The Company shall be responsible for initiating, maintaining and supervising all safety precautions in connection with its performance of the Services and shall take all reasonable precautions for safety of, and shall provide protection to prevent damage, injury or loss to the property and all materials; employees; subcontractor employees, agents, servants and invitees; and the premises where work is performed and all occupants or other persons at the premises. Security of all access points to the Storage Tank System, including fences, when reasonably required, shall be maintained in neat order and structural integrity. Gates, access points and doors, when reasonably required, shall be kept locked, structures shall be protected from unauthorized entry and security alarms, when reasonably required, shall be maintained. The Company shall conduct all maintenance of any facilities in compliance with applicable health and safety regulations, including, but not limited to: OSHA, general industry regulations, including requirements for confined space entry, respiratory protection and hazard communication. Notwithstanding the foregoing, the City and the Company agree that the intent of this Section 4.3(Q) is to ensure that the Company secures its project sites while it is performing the Services on the Storage Tank System. This Section 4.3(Q) is not intended to shift responsibility to the Company for the overall security of the Storage Tank System during the Term of this Contract.

(R) Notwithstanding Section 4.3(K), the Company shall immediately notify the City of any activity, problem or circumstances in connection with the Storage Tank System that it becomes aware of that threatens the health, safety and welfare of the users of the Storage Tank System or the residents of the City.

(S) The Company shall maintain the Storage Tank System in accordance with all applicable laws and regulations.

(T) The Company shall dispose of all sludge, scum, grit, screenings, trash and refuse generated by or resulting from the maintenance of the Storage Tank System in accordance with applicable regulations pertaining thereto.

(U) The Company shall cooperate with and assist police, emergency management and fire personnel in times of fire or other emergencies. Notwithstanding the foregoing, the Company is not responsible or liable for the operation of the Storage Tank System or the City Water System, and events that are impacted by low water pressure (e.g., fire fighting activity, etc.) or other operational issues shall be addressed by the City. However, the Company is willing to cooperate and assist the City in such emergencies to the best of its abilities.

(V) Maintenance Items and Minor System Repairs of the Storage Tank System shall include, but not be limited to: those items identified in *Exhibit B*, routine painting and repairs of structures, both interior and exterior; inspection services and maintain and update the Asset Management Plan for the Storage Tank System;.

(W) Water Quality Standards. The Company shall comply with all Federal, State and local regulations concerning safe drinking water standards in the provision of Services during the term of this Contract.

(X) The Company shall prepare, maintain and update, with input from the City, an Asset Management Plan for the Storage Tank System as required by the WQAA.

(Y) Access to and Maintenance of Records. The Company shall ensure the maintenance of all records of information relevant to the maintenance of Storage Tank System during the term of the Contract. The Company shall cause to be maintained a computerized recordkeeping system for all maintenance functions performed, which shall be backed up offsite at a secure facility. The Company shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request. The City shall maintain ownership of all records and data maintained in connection with the Storage Tank System which shall be provided by the Company to the City, in a format agreed to by the City, upon request of the City.

(Z) Operations Review by City. The City shall have the right to and intends to exercise its right to actively participate in the review of the Services performed by the Company and any subcontractor throughout the term of this Contract.

#### **4.4 Capital Improvements to the Storage Tank System.**

(A) Scheduled Capital Improvements to the Storage Tank Systems.

(1) Scheduled Capital Improvements shall be funded by the City and include the development, installation and/or provision, as applicable, by the Company in accordance with this Contract, of those Capital Improvements identified in *Exhibit C*.

- (2) The City may finance the Scheduled Capital Improvements pursuant to the provisions of the Local Bond Law, *N.J.S.A. 40A:2-1 et seq.*, or otherwise by issuing its bonds or notes. The Company shall assist the City in making necessary applications, meeting with appropriate agencies or other parties and otherwise assisting the City as is necessary to secure said financing.
- (3) The City shall have the right to review and approve the design and development of, plans for and construction of, as applicable, the Scheduled Capital Improvements. The City may engage a separate qualified engineer for purposes of fulfilling this need at the City's cost.
- (4) Design and Performance Standards. All Scheduled Capital Improvements shall adhere to generally accepted water industry standards and practices.
- (5) Payment Request for Scheduled Capital Improvements; Submission of Progress Reports; Procedures - As payments are required for the Scheduled Capital Improvements under this Contract, the Company shall prepare and assemble and submit to the City's Finance Office, in a form as determined by the City Manager: (i) a request for payment from the Company accompanied by the original invoice from the Company, or the sub-contractor as applicable, detailing the project and costs therefor and (ii) evidence of completion of the improvement or repair.
- (6) All Scheduled Capital Improvements shall adhere to the project schedule set forth in *Exhibit C*.

(B) Design and Performance Standards. All Scheduled Capital Improvements and Capital Improvements and Major Repairs to the Storage Tank System shall adhere to generally accepted water industry standards and practices.

(C) Payment Request for Capital Improvements and Major Repairs; Submission of Progress Reports; Procedures. As payments are required for the Capital Improvements and Major Repairs under this Contract, the Company shall prepare and assemble and submit to the City's Finance Office, in a form as determined by the City Manager: (i) a request for payment from the Company accompanied by the original invoice from the Company, or the sub-contractor as applicable, detailing the project and costs therefor and (ii) evidence of completion of the improvement or repair.

(D) Engineering and Related Services to be Supplied by the Company.

- 1) Complete the Scheduled Capital Improvements; and
- 2) Complete Minor System Repairs to the Storage Tank System.

**Section 4.5. Force Majeure.** Any one or more of the duties and obligations of the City and/or the Company shall be suspended so long as, and only to the extent that, performance thereof is prevented or impeded by an Act of God, civil disturbance, act of terrorism, governmental action (including, without limitation, any Change in Law), severe and unusual weather, plague, epidemic, pandemic, quarantine restrictions, or any other act or event that has had, or may reasonably be expected to have, a material adverse effect upon either party in its ability to perform its obligations under this Contract, if such acts or events are beyond the control of that party. Any cost relief resulting from a Force Majeure event shall be determined by the parties hereto.

## **ARTICLE V REPRESENTATIONS AND WARRANTIES**

**Section 5.1. Representations of the City.** The City makes the following representations and warranties to and for the benefit of the Company:

(A) The City is a municipal corporation organized, existing and in good standing under the laws of the State of New Jersey, with full legal right, power and authority to enter into and perform its obligations under this Contract.

(B) The City has duly authorized the execution and delivery of this Contract and this Contract has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

(C) Neither the execution and delivery by the City of this Contract, nor the performance by the City of its obligations in connection with the transactions contemplated hereby, or the fulfillment by the City of the terms and conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the City, (ii) conflicts with, violates or results in a breach of any term or condition of, or constitutes a default under any judgment or decree, or any agreement or instrument to which the City is a party or by which the City or any of its properties or assets is bound, (iii) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the revenues, properties or assets of the City, or (iv) will result in the acceleration of any obligation by which the City is bound or to which the City is a party.

(D) The City is in compliance with all applicable laws, rules and regulations concerning the management, operation or maintenance of the Storage Tank System.

(E) All requisite approvals, authorizations, orders, consents of, registrations or filings with, all governmental authorities necessary as of the date hereof for the maintenance of the Storage Tank System have been obtained or made by or on behalf of the City and are in full force and effect.

(F) To the City's knowledge, there are and have been no violations of environmental laws or environmental permits relating to the Storage Tank System.

**Section 5.2. Representations of the Company.** The Company hereby makes the following representations and warranties to and for the benefit of the City:

(A) The Company is a corporation duly organized and existing under the laws of the State of New Jersey and has full legal right, power and authority to enter into and perform its obligations under this Contract.

(B) The Company has duly authorized the execution and delivery of this Contract and this Contract has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(C) Neither the execution and delivery by the Company of this Contract, nor the performance by the Company of its obligations in connection with the transactions contemplated hereby, or the fulfillment by the Company of the terms and conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the Company, (ii) conflicts with, violates or results in a breach of any term or condition of, or constitutes a default under, any judgment or decree, or any agreement or instrument to which the Company is a party or by which the Company or any of its properties or assets is bound, (iii) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the revenues, properties or assets of the Company, or (iv) will result in the acceleration of any obligation by which the Company is bound or to which the Company is a party.

(D) The Company has sufficient experience and expertise to provide the Services in accordance with this Contract.

(E) The Company is not in breach of any applicable law that could have a material adverse effect on the ability of the Company to comply with its obligations under this Contract. Neither the Company nor, to its knowledge, any Affiliate of the Company is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List or the Debarred List, list of persons engaging in investment activities in Iran, or on any other publicly available list of persons with which the State may not do business under applicable law.

(F) The Company shall use products manufactured in the United States of America wherever available for repairs and improvements to the Storage Tank System.

## **ARTICLE VI MISCELLANEOUS**

**Section 6.1. Notices.** All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered by email and in person to the following addresses (or such other or additional addresses provided by notice to the other party) or by email and sent by certified or registered mail, postage prepaid with return receipt requested at such addresses; provided if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or day on which United States mail is not delivered:

If to City: City of Brigantine  
City of Brigantine  
1417 W. Brigantine Ave  
Brigantine, NJ 08203  
Attention: City Manager  
Email: [jbennett@brigantinebeachnj.com](mailto:jbennett@brigantinebeachnj.com)

with a copy to: Frances Ciesla McManimon, Esq.  
McManimon, Scotland & Baumann, LLC  
427 Riverview Plaza  
Trenton, New Jersey 08611  
Email: [fmcmanimon@msbnj.com](mailto:fmcmanimon@msbnj.com)

If to the Company: Utility Service Co., Inc. (A Suez Company)  
1230 Peachtree Street NE  
Suite 1100  
Atlanta, GA 30309  
Att: Catherine Ricou, President

with a copy to: Joe Jasinski, Water System Consultant  
Utility Service Co., Inc. (A Suez Company)  
1230 Peachtree Street NE  
Suite 1100  
Atlanta, GA 30309

**Section 6.3. Dispute Resolution.** In the event a dispute arises among the Parties, the disputing Party shall provide the other party with written notice of the dispute, and within twenty (20) days after receipt of said notice, the receiving Party shall submit to the other a written response. The notice and response shall include a statement of each Party's position and a summary of the evidence and arguments supporting its position. Each Party shall designate a high level manager to work together in good faith to resolve the dispute; the name and title of said employee shall also be included in the notice and response. The managers shall meet at a mutually acceptable time and place within thirty (30) days of the date of the disputing Party's notice and thereafter as they deem reasonably necessary to resolve the dispute. If the managers, having acted in good faith, have not resolved the dispute within ninety (90) days of receipt of the initial written notice, then the Parties shall try in good faith to resolve the dispute by non-binding mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Rules. If either Party is unsatisfied with the results of mediation and cannot resolve the dispute and/or claim at mediation, it shall be submitted to binding arbitration. Any such dispute and/or claim will be resolved by binding arbitration in accordance with the Rules for Commercial Arbitration of the American Arbitration Association before a panel of three (3) arbitrators, one appointed by each party, and the third appointed by the agreement of the first two arbitrators. The decision or award of a majority of the arbitrators shall be final and binding upon the Parties. Any arbitral award may be entered as a judgment or order in any court of competent jurisdiction. Each Party's costs and expenses attributed to the negotiation, mediation, and/or arbitration shall be borne by such Party.

**Section 6.5. No Waiver.** The failure of a Party to insist on strict performance of any or all of the terms of this Contract, or to exercise any right or remedy under this Contract, shall not constitute a waiver or relinquishment of any nature regarding such right or remedy or any other right or remedy. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

**Section 6.6. Severability.** In case one or more of the covenants, terms or provisions contained in this Contract shall be held invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, terms and provisions contained herein shall be in no way affected, prejudiced or disturbed and the remaining covenants, terms and provisions shall remain in full force and effect.

**Section 6.7. No Third-Party Beneficiaries.** No employees of the City or any other third party shall be deemed a third-party beneficiary of this Contract.

**Section 6.8. Assignment.** This Contract shall be binding upon the Parties' respective successors and permitted assigns. Neither of the Parties may assign this Contract or any rights or obligations hereunder without the prior written consent of the other Party (which consent shall not be unreasonably withheld), and any such attempted assignment shall be void, except that the Company may assign this Contract, or any of its rights or obligations hereunder, to a subsidiary or affiliate of the Company, so long as such assignment does not relieve the Company of its obligations to the City as set forth herein, and the Company shall give prompt notice to the City of any such assignment and that assignee should assume all of the Company obligations under the Contract.

**Section 6.9. Indemnification.** (A) The City shall indemnify, defend and hold harmless the Company, its employees, officers and directors, from and against all liabilities, actions, damages, fines, penalties, claims, demands, judgments, losses, costs, expenses, suits and actions (including reasonable attorney's fees), in connection with or arising out of the Storage Tank System, except to the extent caused by negligence on the part of the Company

(B) The Company shall indemnify, defend and hold harmless the City, its officers, elected officials and employees, from and against all liabilities, actions, damages, fines, penalties, claims, demands, judgments, losses, costs, expenses, suits and actions (including reasonable attorney's fees), or threat thereof, to the extent caused by negligence on the part of the Company in connection with the Company's maintenance of the Storage Tank System during the Term of this Contract,. Any indemnification by the Company shall be limited to the liability limitations of the Limitation of Company Liability.

**Section 6.10. Complete Contract.** This Contract sets forth the entire understanding of the Parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the Parties relating to the subject matter hereof and may not be modified except in a writing executed by both Parties.

**Section 6.11. Titles and Headings.** Titles and headings to sections or paragraphs herein are inserted merely for convenience of reference and are not intended to be a part of or to affect the meaning or interpretation of this Contract.

**Section 6.12. Counterparts.** This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**Section 6.13. Governing Law.** This Contract and all amendments hereof shall be governed by and construed in accordance with the internal laws of the State of New Jersey applicable to contracts made and to be performed therein.

**Section 6.14 Insurance.** The Company shall not commence the performance of the Services under this Contract until it has provided insurance of the types and in such amounts as set forth herein and such other insurance as shall be requested by the City provided such insurance is commercially available and such insurance has been approved by the City (which approval shall not be unreasonably withheld) nor shall the Company allow any subcontractor to work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved or the Company has determined that the Company's insurance is sufficient to cover the actions of the subcontractor. The Company shall maintain such insurance in full force and effect for the Term of this Contract and thereafter for a period of two (2) years. The cancellation of any insurance policy provided by the Company hereunder shall not invalidate the requirement of the Company to fully insure the liability, damages and accidents of the City as provided herein. The provisions of this Section 6.14 are intended to survive termination of this Contract.

The insurance policies provided by the Company at its expense and more particularly described hereafter shall specifically designate the City as additional insured to the extent of the negligent acts, errors or omissions of the Company and shall further contain such provisions and shall insure the City and City officials, officers, employees, consultants and agents, pursuant to the terms and requirements set forth herein and to the fullest extent allowed by the law.

Within the Limitation of Company Liability set forth herein, the Company shall be solely responsible for all injuries to persons or property (other than to the extent such costs are paid by worker's compensation insurance) occurring on account of the performance of the Services hereunder, regardless of who is performing the Services.

Certificates from the insurance carrier stating the limits of liability and the expiration date for each policy and type of coverage shall be filed with the City before the execution of the Contract. The certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or non-renewal in a policy affecting the certificate holder, thirty (30) days prior written notice shall be given the certificate holder except in the event of a cancellation for failure to pay the insurance premium wherein ten (10) days prior written notice shall be given to the certificate holder"

Such certificates shall specifically refer to this Contract and article, and paragraph 6.14 (a), (b), (c), (d) or (e) as applicable, in accordance with which the insurance is being furnished, and state that such insurance is as required by such paragraphs of this Contract.

All insurance coverage shall be with acceptable insurance companies only which possess



an A.M. Best Company rating of at least A+. All insurance policies herein required of the Company shall be written by a company duly authorized and licensed to do business in the State and be executed by an agent therein duly licensed as an agent in said State.

Insurance shall include the type of insurance specified below in not less than the amounts stated. Neither approval by the City nor a failure to disapprove insurance furnished by the Company, shall release the Company from full responsibility for liability, damages and accidents as set forth herein.

The Company shall take out and maintain during the Term of this Contract the following types of insurance in an amount, for each policy, not less than the amounts stated:

(a) Commercial General Liability Insurance (i) The Company shall maintain during the Term of this Contract such commercial general liability insurance as shall protect it against claims for damages resulting from bodily injury, including wrongful death and property damages, which may arise from the performance of the Services hereunder regardless of by whom performed. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

Bodily Injury Limits and Property Damage - \$1,000,000 each occurrence/\$2,000,000 aggregate.

Products liability and completed operations - \$2,000,000 aggregate.

Personal injury liability - \$2,000,000 aggregate.

(ii) The commercial general liability insurance required by the preceding subparagraph shall include the following extensions of coverage:

(A) The coverage shall be provided under a commercial general liability form of policy or similar thereto.

(B) XCU Coverage - If the Contract requires any work procedures involving blasting, excavating, tunneling or other underground work, the liability coverage shall include standard blasting or explosion coverage, standard collapse coverage and standard underground coverage, commonly referred to as XCU property damage liability coverage with limits of \$1,000,000 CSL.

(C) Contractual liability coverage shall be included.

(D) Protective liability coverage shall be included to protect the Company against claims arising out of operations performed by others, including but not limited to contractors and their subcontractors.

(b) Worker's Compensation and Employer's Liability Insurance in accordance with the requirements of the laws of the State and all other applicable laws and regulations. If any class of employees engaged in hazardous work cannot be protected by workmen's compensation and

liability insurance, the Company shall provide adequate insurance for each class of employees.

The Company shall take out and maintain during the Term of this Agreement the applicable statutory Worker's Compensation Insurance with an insurance company authorized to write such insurance covering all of its employees, and in the case of any work sublet, the Company shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. The Company shall take out and maintain during the Term of this Contract, Employer's Liability Insurance with a minimum limit of \$1,000,000 with an insurance company authorized to write such insurance and the Company shall require each of its subcontractors similarly to maintain Employer's Liability Insurance on its employees.

(c) Automobile Liability and Property Damage Insurance

The Company shall take out and maintain during the Term of the Contract such Automobile Liability Insurance as shall protect it against claims for damages resulting from bodily injury, including wrongful death and property damage, which may arise from the operations of any owned, hired or non-owned automobiles used by or for it in any capacity connection with the performance of the Services hereunder. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits and Property Damage - \$5,000,000 each occurrence/annual aggregate by the Company (or \$1,000,000 each occurrence/annual aggregate by each subcontractor).

(d) Excess Liability Insurance - \$5,000,000.

(e) Professional Liability Insurance in the case of any consulting engineering firm hired by the Company or any engineers, architects or other professionals to the extent the coverage is not provided by the comprehensive general liability insurance, in an amount not less than \$2,000,000.

To the extent the Company does not required subcontractors to maintain the same insurance coverage as required of the Company herein, the Company shall be responsible for the actions and liability of the subcontractors regardless of the insurance coverage obtained by the subcontractors.

If the Company receives insurance proceeds to cover any liabilities under this Contract, the Company shall have no claim against the City for such amounts provided that the City did not cause the events that result in the claim against the applicable insurance company.

If at any time the Company fails to maintain any of the foregoing policies, the Company shall, upon notice to that effect from such party, promptly obtain a new policy, submit the same to the City for its approval and submit a certificate of insurance as described above. Failure of the Company to take out and/or maintain any required insurance shall not relieve the Company of any liability under the Contract.

The City shall maintain insurance on the Storage Tank System during the Term of this Contract substantially similar in kind, scope and amount as that maintained by the Company as of the Effective Date. If any damage occurs to the Storage Tank System in connection with or as a result of the Services provided by the Company during the Term of this Agreement that is an

insured risk under the policies described in this Section 6.14, the Company agrees that its policies provide coverage on a primary and non-contributory basis and should be used as the first basis of recovery. The Company, however, may request the City to file a claim under its insurance policy or policies for any amounts not covered under the policies maintained by the Company, and if insurance proceeds are paid to the City for such amounts, the City shall reimburse the Company but solely from such proceeds for the actual, documented cost it incurs to repair the damage to the Storage Tank System in an amount not to exceed such insurance proceeds.

**Section 6.15. Limitation of Liability.**

(A) No Consequential or Indirect Damages. Except as expressly provided below, in no event shall either Party be liable under this Contract for consequential, indirect, incidental, special, exemplary, punitive or enhanced damages arising out of, relating to, or in connection with any breach of this Contract, regardless of (A) whether such damages were foreseeable, (B) whether or not the Party was advised of the possibility of such damages and (C) the legal or equitable theory (contract, tort or otherwise) upon which the claim is based.

(B) Exceptions. The limitations set forth above shall not apply to damages or liabilities arising from any: (I) grossly negligent acts of omissions of a Party; or (II) willful or intentional misconduct of a Party.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed by their duly authorized representatives, as of the day and year first above written.

**WITNESS:** **CITY OF BRIGANTINE**

**By: \_\_\_\_\_**  
**Lynn Sweeney, Clerk**

**By: \_\_\_\_\_**  
**James C. Bennett, City Manager**

**WITNESS:** **UTILITY SERVICE CO., Inc. (A SUEZ COMPANY)**

**By: \_\_\_\_\_**

**By: \_\_\_\_\_**  
**Catherine Ricou, President**

## **EXHIBIT A**

### **COST PROPOSAL**

<b><u>CONTRACT YEAR</u></b>	<b><u>ANNUAL FEE</u></b>
2021	\$1,712,626.00
2022	\$1,455,890.00
2023	\$31,691.00
2024	\$1,030,292.00
2025	\$2,072,444.00
2026	\$93,155.00
2027	\$96,453.00
2028	\$99,868.00
2029	\$103,403.00
2030	\$107,063.00

### **SCHEDULED CAPITAL IMPROVEMENTS**

SCHEDULED CAPITAL IMPROVEMENTS TO 14 <sup>TH</sup> STREET TANK	\$2,429,194.00
SCHEDULED CAPITAL IMPROVEMENTS TO BAYSHORE TANK	\$2,010,900.00
SCHEDULED CAPITAL IMPROVEMENTS TO ROOSEVELT TANK	\$1,702,426.00
TOTAL COST OF SCHEDULED CAPITAL IMPROVEMENTS	\$6,142,520.00

**EXHIBIT B**  
**MAINTENANCE ITEMS AND MINOR SYSTEM REPAIRS**

**Roosevelt Tank (Maintenance Program)**

**YEAR 2 (2022):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 3 (2023):**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan

Evaluate the interior before the end of the third year to determine if any warranty work is required. If any warranty work is needed it will be scheduled with the City.

**YEAR 4 (2024):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 5 (2025):**

**Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 6 (2026):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 7 (2027):**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan

**YEAR 9 (2029):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 10 (2030):**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

## **Bayshore Tank**

### **YEAR 1 (2021):**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Power tool clean paint failed or burn through areas from welding to an SSPC-SP11
4. Power tool to bare metal cleanliness. Min 1.5 mil anchor profile required.
5. TNEMEC FC22 100% solids modified polyamine epoxy or equivalent touchup kits applied to achieve 15-25 DFT mils.
6. Provide overall tank emergency repair service.
7. Ensure Tank complies with all federal and state regulations.

#### **Tank Repairs:**

1. Install (22) new 1 1/4" epoxied in anchor bolts w/ welded chairs.
2. Blast new & old chairs/anchor bolts, coat insides with zinc primer. Then weld 44 cover plates w/ grease fittings over front of chairs, fill/seal weld around tops of old anchor bolts, fill chairs with grease. Blast exteriors of chairs/bolts, touchup to match existing color/coatings.
3. SPOT WELD PATCH PLATE OVER HOLES IN ACCESS TUBE FROM THE DRY SIDE @ THE TOP: Cut out bad areas along bottom of man access door and weld in new steel, spot blast this & touch up to match existing coatings (2 strips needed, 16" x 2" & 13" x 1 1/2")
4. Wrap screen around access tube air gap @ roof

### **YEAR 2 (2022):**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

### **YEAR 3 (2023):**

#### **Inspection Service including Remote Operated Vehicle Interior Inspection:**



1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan

#### **YEAR 4 (2024):**

##### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 6 (2026):**

##### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 7 (2027):**

##### **Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

Evaluate the interior before the end of the third year to determine if any warranty work is required. If any warranty work is needed it will be scheduled with the City.

#### **YEAR 8 (2028):**

##### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

### **YEAR 9 (2029):**

#### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

### **YEAR 10 (2030):**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Management Plan.

### **14<sup>Th</sup> Street Tank**

### **YEAR 1 (2021)**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Provide emergency repair service.
3. Ensure tank complies with all federal and state regulations.
4. Maintain as per the Asset Management Plan.

### **YEAR 3 (2023):**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

### **YEAR 5 (2025):**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 6 (2026):**

##### **Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 7 (2027):**

##### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 8 (2028):**

##### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 9 (2029):**

##### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 10 (2030) – 1,000,000 Gallon Elevated Tank:**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per Asset Management Plan.

## EXHIBIT C SCHEDULED CAPITAL IMPROVEMENTS

*All products and materials contained herein are recommendations and may be substituted with products and materials of equivalent quality as reviewed by the Authorized Representatives.*

### **Roosevelt Tank**

#### **YEAR 1 (2021)**

##### **Exterior Surface Preparation and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blasting surface preparation to an SSPC-SP6 commercial cleanliness standard. Min 2 mil angular anchor profile required.
2. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
3. Containment to adhere to SSPC Guide 6 Class 2a containment standard
4. **Primer:** TNEMEC 91H2O or 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils (If intermediate coat is sprayed, a full stripe coat of 27 series or 135 series epoxy must be applied by brush and roller prior to intermediate coat application)
5. **Intermediate:** TNEMEC 27 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 27 is for colder weather application) or approved equivalent
6. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or equivalent applied to achieve 2-3 DFT mils.

##### **Interior Water Chamber Surface Prep and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blast complete interior water chamber to SSPC-SP10 near white metal cleanliness. Min 2 mil angular anchor profile required.
2. **Primer:** 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils
3. **Stripe coat along all interior water chamber welds, edges, connections, bolts & apparatus:** TNEMEC N140 epoxy, applied by brush and roller only to achieve 4-6 DFT mils.
4. **Full interior finish coat:** TNEMEC 22 or FC22 (FC22 is cold weather version) 100% solids modified polyamine epoxy or equivalent applied to achieve 25-35 DFT mils utilizing plural component application only
5. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
6. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
7. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.

8. The Tank shall be sealed and made ready for service.

**Interior dry prep & paint specs:**

1. SP6 blast access tube, landing floors, spot blast rest of dry interior.
2. Spot abrasive blast any paint failed/corroded areas to an SSPC-SP6 commercial blast cleanliness standard. Min 2 mil angular anchor profile required.
3. Once touchups have been completed & cured, pressure wash the entire dry interior with min 2000 psi.
4. **Spot primer:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils.
5. **Spot finish:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils to closely match the existing coating color
6. **Inside wood room in base of tank, SP6 blast valves, piping & flanges, then apply 2 coat epoxy. Replace no more than 48 nuts & bolts on pipe flanges that are badly deteriorated. Protect walls of this room during blasting by hanging rubber sheeting along the walls. (this work inside this room is a one- time repair and not to be added to the long-term program)**

**Tank Repairs:**

1. Replace 2 curved (est. 5"x3" angle) rafters running parallel across the roof
2. Cut estimated 10" wide length of the roof plate out & full penetration weld new plate in directly above rafters
3. Replace top 3' of access tube including top & 24" hatch
4. Cut roof collar off around access tube and weld in a doubler plate welded to the roof surface and the access tube to do away with air gap altogether.
5. Pit & plate welding contingency needed due to corrosion present on interior bowl
6. Replace painters' rings (2) & stand mounts at top of stem
7. Add (22) 1 1/4" epoxy in place 24" long anchor bolts with anchor saddles to match existing.
8. Install 24" pallet vent
9. Install 7" OD screened/flapper combo
10. Replace all interior dry ladders w/ 16" wide (especially don't go wider in access tube), do not install cages back to ladders
11. Install flex cable safety climbs on interior dry ladders (3 total)
12. Replace interior wet ladder (est. 45')
13. Cut old 24" roof hatch to wet area out, weld plate in existing opening, move location over away from inlet bell, install new 24" roof hatch (install new wet area ladder in this location as well)
14. Replace FAA beacon & conduit stand on top of access tube w/ new double FAA beacon
15. Add flat-bar mid rail to top landing handrail on either side to comply w/ OSHA
16. Install mixing system, run rigid conduit through dry interior for the mixer wires
17. Remove existing containment outrigger lugs, grind smooth. New outrigger lugs will need to be installed.
18. Remove existing rigging holes & plate weld over (5 in center & 10 outer ones by

outrigger lugs)

19. Weld in 12 new 2 1/2" roof rigging couplers above the high-water line

20. Seal weld 44 cover plates over anchor bolt chairs and install a grease plug to fill the saddles with grease.

#### **YEAR 8 (2028:**

##### **Exterior Surface Preparation and Coatings Specifications – Overcoat:**

1. Pressure wash all exterior surfaces with 4000 psi min to remove dirt, chalk, lightly adhered rust and coatings.
2. Spot prepare any paint failed/corroded areas to an SSPC-SP11 Power tool to bare metal. Surface profile should be min 1.5 mils.
3. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
4. Containment to adhere to SSPC Guide 6 Class 2a containment standard
5. **Spot primer:** TNEMEC series 1 Omnithane modified aromatic polyurethane primer or approved equivalent applied to achieve 2.5-3.5 DFT mils.
6. **Spot intermediate coat:** TNEMEC 72 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 72 is for colder weather application) or equivalent
7. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or approved equivalent applied to achieve 2-3 DFT mils
8. **NOTE:** Cost for containment system if required for overcoat, shall be separate and negotiated in advance with Township.

##### **Interior dry areas:**

1. Inspect all interior dry areas of the tank.
2. Coatings touchups and renovations as needed.

##### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Full- Service Asset Management Program.

## **Bayshore Tank**

### **YEAR 1 (2021):**

#### **Tank Repairs:**

1. Install (22) new 1 1/4" epoxied in anchor bolts w/ welded chairs.
2. Blast new & old chairs/anchor bolts, coat insides with zinc primer. Then weld 44 cover plates w/ grease fittings over front of chairs, fill/seal weld around tops of old anchor bolts, fill chairs with grease. Blast exteriors of chairs/bolts, touchup to match existing color/coatings.
3. SPOT WELD PATCH PLATE OVER HOLES IN ACCESS TUBE FROM THE DRY SIDE @ THE TOP: Cut out bad areas along bottom of man access door and weld in new steel, spot blast this & touch up to match existing coatings (2 strips needed, 16" x 2" & 13" x 1 1/2")

Wrap screen around access tube air gap @ roof

### **YEAR 5 (2025):**

#### **Exterior Surface Preparation and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blasting surface preparation to an SSPC-SP6 commercial cleanliness standard. Min 2 mil angular anchor profile required.
2. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
3. Containment to adhere to SSPC Guide 6 Class 2a containment standard
4. **Primer:** TNEMEC 91H2O or 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils (If intermediate coat is sprayed, a full stripe coat of 27 series or 135 series epoxy must be applied by brush and roller prior to intermediate coat application)
5. **Intermediate:** TNEMEC 27 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 27 is for colder weather application) or approved equivalent
6. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or equivalent applied to achieve 2-3 DFT mils.
7. Logo reinstallation or new logo if required by City

#### **Interior Water Chamber Surface Prep and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blast complete interior water chamber to SSPC-SP10 near white metal cleanliness. Min 2 mil angular anchor profile required.
2. **Primer:** 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils



3. **Stripe coat along all interior water chamber welds, edges, connections, bolts & apparatus:** TNEMEC N140 epoxy, applied by brush and roller only to achieve 4-6 DFT mils.
4. **Full interior finish coat:** TNEMEC 22 or FC22 (FC22 is cold weather version) 100% solids modified polyamine epoxy or equivalent applied to achieve 25-35 DFT mils utilizing plural component application only
5. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
6. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
7. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.
8. The Tank shall be sealed and made ready for service.

**Interior dry prep & paint specs:**

1. SP6 blast access tube, landing floors, spot blast rest of dry interior.
2. Spot abrasive blast any paint failed/corroded areas to an SSPC-SP6 commercial blast cleanliness standard. Min 2 mil angular anchor profile required.
3. Once touchups have been completed & cured, pressure wash the entire dry interior with min 2000 psi.
4. **Spot primer:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils.
5. **Spot finish:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils to closely match the existing coating color.
6. Piping in insulated room- One time (not included in long term program): Blast to SP6, 2 coat epoxy system, replace any bolts on flanges needed where 50% or more steel loss (price up to 50 bolts). Will have to drape rubber sheeting to protect walls while blast, protect any electrical wiring & small copper tubing as well. Remove & install new bats insulation in roof when painting is completed as blasting will damage the existing.

**Tank Repairs:**

1. Replace top 3' of access tube w/ new top plate & 24" round hatch.
2. Remove roof collar, install doubler donut plate welded to roof and to access tube to remove the air gap altogether
3. Replace both roof rafters that run parallel to each other (est 5"x3" angle 43' long each rafter)
4. Install 24" Frost proof vent
5. Install (16) 2 1/2" seal welded roof rigging couplers (if possible above water line, if below seal weld both sides)
6. Replace dry interior lighting & conduit, remove old
7. Replace FAA beacon & rigid conduit on roof, install new dual LED beacon, pull new wire to beacon through new dry interior lighting conduit from panel up.
8. Replace insulation jackets on both the 10" & the 12" inlet pipes

9. Remove dry interior ladder cages
10. Cut bottom ladder @ bottom landing, reposition so it doesn't block access & re-weld it)
11. Seal weld around 30 bolts that are threaded into roof plate for past rigging
12. Install 7" OD screened/flapper combo on O-flow
13. Cut O-flow @ termination, add elbow to realign the overflow so it dumps over basin

**Chemical Clean Interior Washout Inspection:**

8. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
9. Washout, disinfect, and inspect the tank.
10. Power tool clean paint failed or burn through areas from welding to an SSPC-SP11
11. Power tool to bare metal cleanliness. Min 1.5 mil anchor profile required.
12. TNEMEC FC22 100% solids modified polyamine epoxy or equivalent touchup kits applied to achieve 15-25 DFT mils.
13. Provide overall tank emergency repair service.
14. Ensure Tank complies with all federal and state regulations.
- 4.

**14<sup>Th</sup> Street Tank**

**YEAR 2 (2022):**

**Interior Water Chamber Surface Prep and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blast complete interior water chamber to SSPC-SP10 near white metal cleanliness. Min 2 mil angular anchor profile required.
2. **Primer:** 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils
3. **Stripe coat along all interior water chamber welds, edges, connections, bolts & apparatus:** TNEMEC N140 epoxy, applied by brush and roller only to achieve 4-6 DFT mils.
4. **Full interior finish coat:** TNEMEC 22 or FC22 (FC22 is cold weather version) 100% solids modified polyamine epoxy or equivalent applied to achieve 25-35 DFT mils utilizing plural component application only
5. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
6. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
7. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.
8. The Tank shall be sealed and made ready for service.

### **Interior dry prep & paint specs:**

1. Spot abrasive blast any paint failed/corroded areas to an SSPC-SP6 commercial blast cleanliness standard. Min 2 mil angular anchor profile required.
2. Once touchups have been completed & cured, pressure wash the entire dry interior with min 2000 psi.
3. **Spot primer:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils.
4. **Spot finish:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils to closely match the existing coating color.

### **Exterior Tank Wash if needed**

### **TANK REPAIRS**

1. Replace (24) est. 24' long 4"x3"x3/8" angle rafters.
2. Cut roof collar off around access tube, weld in doubler plate from roof to access tube to do away with air gap. Match steel thickness of roof plate for doubler.
3. Cut out bad sections and coaxial penetrations of top flat plate on access tube on roof, replace.
4. Seal weld patch plates over coupler penetrations at top of stem w/ matched steel thickness.
5. Replace 30" round hinged lid roof hatch to water chamber.
6. Replace 6' of ladder to water chamber balcony.
7. Replace water chamber access ladder (estimate 50').
8. Remove 28 bolts on roof that are threaded into roof plate for previous rigging, plate weld over holes.
9. Install (18) 2 1/2" welded roof rigging couplers (all above high water level if possible, if any below, seal weld inside as well)
10. Remove lower interior dry ladder cage.
11. Remove 3 bolted elbows on 8" O-flow termination, extend pipe to center over dry, re-install 1 of the existing elbows, install a screened/flapper combo w/ counter weight
12. Replace FAA beacon & photo cell switch on roof w/ double LED fixture.
13. Replace both the 10" & 12" inlet pipe insulation & jackets in dry interior.
14. Install PAX mixer (use rigid conduit in dry interior)
15. Possible patch plates needed @ top of access tube where collar currently is @ roof.
16. Install 22 seal welded cover plates w/ grease fittings on anchor bolt chairs, fill with grease.

#### **YEAR 4 (2024):**

##### **Exterior Surface Preparation and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blasting surface preparation to an SSPC-SP6 commercial cleanliness standard. Min 2 mil angular anchor profile required.
2. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
3. Containment to adhere to SSPC Guide 6 Class 2a containment standard
4. **Primer:** TNEMEC 91H2O or 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils (If intermediate coat is sprayed, a full stripe coat of 27 series or 135 series epoxy must be applied by brush and roller prior to intermediate coat application)
5. **Intermediate:** TNEMEC 27 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 27 is for colder weather application) or approved equivalent
6. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or equivalent applied to achieve 2-3 DFT mils.

##### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Power tool clean paint failed or burn through areas from welding to an SSPC-SP11
4. Power tool to bare metal cleanliness. Min 1.5 mil anchor profile required.
5. TNEMEC FC22 100% solids modified polyamine epoxy or equivalent touchup kits applied to achieve 15-25 DFT mils.
6. Provide overall tank emergency repair service.
7. Ensure Tank complies with all federal and state regulations.
8. Maintain as per the Full- Service Asset Management Program.

Evaluate the interior before the end of the third year to determine if any warranty work is required. If any warranty work is needed it will be scheduled with the City.

## **EXHIBIT B**

### **Fee Schedule**

	Annual Fee
2021	\$1,712,626.00
2022	\$1,455,890.00
2023	\$31,691.00
2024	\$1,030,292.00
2025	\$2,072,444.00
2026	\$93,155.00
2027	\$96,453.00
2028	\$99,868.00
2029	\$103,403.00
2030	\$107,063.00

**EXHIBIT C**  
**FORM OF CONTRACT**

**CONTRACT  
BETWEEN  
THE CITY OF BRIGANTINE, NEW JERSEY AND  
UTILITY SERVICE CO., INC. (A SUEZ COMPANY)**

This Contract (the “**Contract**”) dated as of the 3<sup>rd</sup> day of September, 2021 (the “**Execution Date**”) and effective as of the 15<sup>th</sup> day of September, 2021 (the “**Effective Date**”), is between the **CITY OF BRIGANTINE**, Atlantic County, New Jersey (the “**City**”), a municipal corporation organized and existing under the laws of the State of New Jersey and Utility Service Co., Inc. (a Suez Company), (the “**Company**”), a corporation organized under the laws of the State of New Jersey, a public utility regulated by the New Jersey Board of Public Utilities (the City and the Company each a “**Party**” and together the “**Parties**” hereto) .

**WHEREAS**, the City owns the water system which provides potable water service to residents and commercial and industrial establishments in the City (the “**City Water System**”, as further defined herein); and,

**WHEREAS**, the City Water System provides water storage, transmission and distribution services to the City’s residents and customers; and,

**WHEREAS**, the proper provision of such water storage, transmission and distribution services is necessary for the public health, safety and welfare of the City’s residents and customers and the financial well-being of the City; and,

**WHEREAS**, the City Water System includes three elevated water storage vessels identified as the 1,000,000 gallon elevated water storage vessel located on 14<sup>th</sup> Street in the City (the “**14<sup>th</sup> Street Tank**”), the 750,000 gallon elevated water storage vessel located on Bayshore Avenue in the City (the “**Bayshore Tank**”) and the 500,000 gallon elevated water storage vessel located on Roosevelt Avenue in the City (the “**Roosevelt Tank**”, and together with the 14<sup>th</sup> Street Tank and the Bayshore Tank, the “**Storage Tank System**”) which are critical to maintaining the quality, quantity and security of the water provided within the City Water System; and

**WHEREAS**, the City Water System distributes water from five (5) wells owned and operated by the City and the Storage Tank System. The wells divert groundwater from the Kirkwood aquifer which is approximately 775 feet below sea level; and

**WHEREAS**, the City has determined to enter into an agreement to provide for the maintenance of that portion of the City Water System consisting of the Storage Tank System; and

**WHEREAS**, the City has determined that the officers and employees of the Company include staff that are able to properly maintain the Storage Tank System in accordance with Federal, State and local laws and regulations; and

**WHEREAS**, the maintenance of the Storage Tank System as described in *N.J.S.A. 40A:11-15(37)* is an appropriate purpose for which competitive contracting may be used as set forth in *N.J.S.A. 40A:11-4.1(b)(1)*; and

**WHEREAS**, the City has complied with the requirements for “competitive contracting” as set forth in *N.J.S.A.* 40A:11-4.1 through 4.5; and

**WHEREAS**, the City has determined that the public health, safety and welfare of the residents of the City can best be protected by entering into an agreement to provide for the maintenance of the Storage Tank System;

**NOW, THEREFORE**, in consideration of the mutual promises set forth herein, the City and the Company agree as follows:



## ARTICLE I DEFINITIONS

**Section 1.1. Definitions.** Capitalized terms used in this Contract are defined below.

**“14<sup>th</sup> Street Tank”** shall have the meaning assigned to such term in the recitals

**“Annual Fee”** shall have the meaning assigned to such term in Section 4.1(A).

**“Asset Management Plan”** means the asset management plan for the Storage Tank System as required by the WQAA.

**“Authorized Representative of the City”** means the City Manager or his/her designee.

**“Authorized Representative of the Company”** means Joe Jasinski.

**“Authorized Representatives”** shall mean the Authorized Representative of the City and the Authorized Representative of the Company.

**“Bayshore Tank”** shall have the meaning assigned to such term in the recitals.

**“City”** means the City of Brigantine, a public body corporate and politic of the State of New Jersey, located in the County of Atlantic.

**“City Contracts”** mean all contracts executed by the City related to the Storage Tank System, including the lease agreements in connection with cell towers located on the Storage Tank System and the arrangement between the City and the Atlantic County in connection with the public safety radio system located on the Storage Tank System.

**“City Event of Default”** shall have the meaning assigned to such term in Section 3.3.

**“Capital Improvements and Major Repairs”** shall mean those capital improvement items, other than the Scheduled Capital Improvements, and all renewals, repairs, replacements, additions, improvements, materials or equipment related to the Storage Tank System, that: (i) have a five year or greater useful life; (ii) cost in excess of FIVE THOUSAND DOLLARS (\$5,000); (iii) are approved by the City as provided herein; and (iv) can be capitalized in accordance with the principles set forth in the Local Bond Law, *N.J.S.A. 40A:2-1 et seq.* and are otherwise consistent with the policies of the Local Finance Board within the Division of Local Government Services in the New Jersey Department of Community Affairs. Any uncertainty regarding improvement and/or repairs shall be resolved by the Authorized Representatives.

**“Change in Law”** means the adoption, implementation, amendment, withdrawal, revision or modification of or in any federal, state, county, local, legislative or administrative or other governmental law, including any statute, ordinance, code or other legislation, regulation, rule or other promulgation or pronouncement, or any permit or approval issued thereunder, or any order, judgment, action, interpretation, and/or determination of any federal, state or local court, administrative agency or governmental body with jurisdiction in the City, that is applicable from time to time concerning the maintenance of the Storage Tank System as described herein, or to which the Storage Tank System, the Company or the City may otherwise be subject.

**“City Water System”** means the infrastructure owned and/or used by the City, including but not limited to transmission, distribution and storage facilities; the Storage Tank System, all properties, assets (tangible and intangible) and franchises of the City and all improvements, additions and extension thereto, purchased, constructed or otherwise acquired by the City which relate to the purposes of providing potable water service to residents and commercial and industrial establishments in the City.

**“Company”** means Utility Service Co., Inc. (a Suez Company) and its permitted successors or assignors.

**“Company Event of Default”** shall have the meaning assigned to such term in Section 3.2 hereof.

**“Contract”** means this agreement as same may be amended from time to time.

**“Contract Year”** means each twelve (12) month period after the Effective Date.

**“Debt Service”** means the amount of money required, on an annual basis, to pay the principal and interest obligations of the City related to all debt issued to finance costs related to the Storage Tank System.

**“Execution Date”** shall mean September 3, 2021.

**“Effective Date”** shall mean September 15, 2021.

**“Existing City Employees”** means the eight (8) persons employed by the City in connection with the operation and management of the Storage Tank System as of the Effective Date.

**“Force Majeure”** means those events set forth in Section 4.5 of this Contract.

**“Limitation of Company Liability”** means the liability limitation set forth in Section 3.6.

**“LPCL”** mean the Local Public Contracts Law, *N.J.S.A. 40A: 11-1 et seq.*,

**“Maintenance Items and Minor System Repairs”** means those items set forth in Article IV and *Exhibit B* hereof or otherwise identified in the Contract.

**“Minor System Repairs”** mean those repairs that (i) occur routinely in the operation of the Storage Tank System; and (ii) can not be capitalized in accordance with the principles set forth in the Local Bond Law, *N.J.S.A. 40A:2-1 et seq.* and are otherwise consistent with the policies of the Local Finance Board within the Division of Local Government Services in the New Jersey Department of Community Affairs. Material costs for individual Minor System Repairs exceeding \$500 and Minor System Repairs exceeding an aggregate of \$2,500 per year will be reimbursed by the City to the Company following the City's receipt and acceptance of satisfactory documentation of said material expenses. Any uncertainty regarding repairs shall be resolved by the Authorized Representatives.

**“OSHA”** means the Occupational Safety and Health Act, 29 U.S.C. 651 et seq.

**“Ordinances”** means the municipal ordinances and/or resolutions governing the maintenance of the Storage Tank System.

**“Permits”** means permits, approvals and/or licenses issued by a federal, state or local regulatory agency or private party that is necessary for the proper maintenance of the Storage Tank System.

**“PEOSHA”** means the Public Employees Occupational Safety and Health Act, *N.J.S.A.* 34:6A-25.

**“RCRA”** means the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.,

**“Roosevelt Tank”** shall have the meaning assigned to such term in the recitals.

**“Scheduled Capital Improvements”** shall have the meaning assigned to such term in Section 4.1 and as identified in *Exhibit C* hereto.

**“SWDA”** means the Safe Drinking Water Act, 42 U.S.C. 300f et seq.,

**“Services”** mean all the duties, obligations and services as described herein to be provided by the Company that are related to the maintenance of the Storage Tank System, including, but not limited to, the development, installation and provision of the Scheduled Capital Improvements.

**“State”** means the State of New Jersey.

**“Storage Tank System”** shall have the meaning assigned to such term in the recitals.

**“Term”** shall have the meaning assigned to such term in Section 3.1.

**“WQAA”** means the Water Quality Accountability Act, *N.J.S.A.* 58:31-1 et seq.

**Section 1.2. Interpretation and Construction.** In this Contract, unless the context otherwise requires:

- (a) All references to Articles, Sections or Exhibits shall, unless otherwise indicated, refer to the Articles, Sections or Exhibits in this Contract.
- (b) Words importing a particular gender mean and include correlative words of every other gender and words importing the singular number mean and include the plural number and vice-a-versa.
- (c) Words importing persons mean and include firms, associations, partnerships (including limited partnerships), trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, as well as natural persons.

- (d) All notices to be given hereunder and responses thereto shall be given, unless a certain number of days is specified, within reasonable time.
- (e) Unless otherwise indicated, any “fees and expenses” shall be required to be customary and reasonable.

## **ARTICLE II CONTRACT**

**Section 2.1. Relationship Between the City and the Company.** On and after the Effective Date, the Company shall maintain the Storage Tank System on the terms and conditions set forth in this Contract. This Contract shall not establish any relationship other than as set forth herein. Services shall be provided by the Company to the City as an independent contractor.

### ARTICLE III TERM

**Section 3.1. Term.** The term of this Contract will commence on the Effective Date and, unless earlier terminated in accordance herewith, will expire on September 14, 2031 (the “**Term**”).

**Section 3.2. Termination of Contract by the City for Cause.** (A) Upon the happening of any of the following events of default (each a “**Company Event of Default**”), and subject to the provisions set forth in Section 6.3 regarding the resolution of disputes by arbitration, the City shall have the right to terminate this Contract and/or to pursue a cause of action for actual damages, as appropriate:

(1) The failure by the Company to provide the Services in accordance with the terms and provisions of this Contract, the Ordinances and/or applicable law;

(2) The failure of the Company to perform or observe any of its covenants, agreements, obligations and/or duties created by this Contract;

(3) If any representation, warranty and/or covenant made by the Company is false and/or misleading in any material respect and the legality of this Contract or the ability of the Company to perform the Services is thereby adversely affected;

(4) Commencement of any bankruptcy, insolvency, liquidation and/or similar proceeding against the Company, its parent corporation, and/or any of their subsidiaries and/or related companies which materially and adversely affects the Company's ability to perform the Services;

(5) The consent by the Company, its parent corporation, and/or any of its subsidiaries and/or related companies to the appointment of a receiver, liquidator, assignee, trustee or custodian, or the making by any such parties of an assignment for the benefit of creditors which materially and adversely affects the Company's ability to perform the Services; and

(6) The failure on the part of the Company, its parent corporation, and/or any of their subsidiaries and/or related companies to generally pay their debts as they come due which materially and adversely affects the Company's ability to perform the Services.

(B) Upon the happening of any Company Event of Default, the City shall provide written notice to the Company setting forth in detail the alleged Company Event of Default. The Company shall have thirty (30) days after the receipt of such written notice from the City to cure and/or correct such Company Event of Default or to deliver to the City a written notice alleging that no such Company Event of Default has occurred and setting forth in detail its reasoning as to why no such Company Event of Default has occurred. If the Company does not cure or correct such Company Event of Default within the thirty (30) day period indicated, or does not deliver to

the City the written notice described above within such thirty (30) day period, the City may immediately terminate this Contract. Notwithstanding the above, if there is a Company Event of Default as described in Section 3.2(A)(4) or (5), the City shall have the right to immediately terminate the Contract upon written notice to the Company and to seek any remedies or damages available at law or in equity. If the City terminates this Contract in accordance with the above provisions, the City shall be obligated to pay to the Company the proportionate share of the Annual Fee, or any other amounts, due for the Services provided by the Company to the date of termination of the Contract net of any amounts owed to the City due to such Company Event of Default

**Section 3.3. Termination of Contract by the Company for Cause.** (A) Upon the happening of any of the following events of default (each a “**City Event of Default**”), and subject to the provisions set forth in Section 6.3 hereof regarding the resolution of disputes by arbitration, the Company shall have the right to terminate this Contract:

(1) The failure by the City to pay the Annual Fee or make any other payment required to be made by the City pursuant to the terms hereof;

(2) If any representation, warranty and/or covenant made by the City is false and/or misleading in any material respect and the legality of this Contract or the ability of the City to carry out its duties or obligations hereunder is thereby adversely affected;

(3) Commencement of any bankruptcy, insolvency, liquidation and/or similar proceeding by or against the City which materially and adversely affects the City’s ability to perform its duties or obligations hereunder;

(4) The consent by the City to the appointment of a receiver, liquidator, assignee, trustee or custodian, or the making by the City of an assignment for the benefit of creditors which materially and adversely affects the City’s ability to perform its duties or obligations hereunder; and

(5) The failure on the part of the City to generally pay its debts as they come due which materially and adversely affects the City’s ability to perform its duties or obligations hereunder.

(B) Upon the happening of any City Event of Default described above, the Company shall provide written notice to the City setting forth in detail the alleged City Event of Default. The City shall have thirty (30) days after the receipt of such written notice from the Company to cure and/or correct such City Event of Default or to deliver to the Company a written notice alleging that no such City Event of Default has occurred and setting forth in detail its reasoning as to why no such City Event of Default has occurred. If the City does not cure or correct such City Event of Default within the thirty (30) day period indicated, or does not deliver to the Company the written notice described above within such thirty (30) day period, the Company may immediately terminate this Contract. Notwithstanding the above, if there is a City Event of Default as described in Section 3.3(A)(3) or (4), the Company shall have the right to immediately terminate the Contract upon written notice to the City. If the Company terminates this Contract in accordance with the above provisions, the City shall be obligated to pay to the Company the proportionate share of the Annual Fee, or any other amounts, due for the Services provided by the

Company to the date of termination of the Contract. Such payments shall constitute total satisfaction of any right, claim, cause of action or entitlement that the Company has or may have against the City as a result of any City Event of Default.

**Section 3.4 Termination of the Contract Due to Unenforceability.** If any court, agency or other entity with competent jurisdiction shall finally determine that this Contract is unenforceable and/or prohibited by law, then the Contract shall be terminated. If this Contract is terminated in accordance with this Section 3.4, the City shall be obligated to pay to the Company the proportionate share of the Annual Fee, or other amounts, due for the Services provided by the Company to the date of termination of the Contract.

**Section 3.5 Transition.** The Company shall cooperate in good faith with the City, its agents, contractors, and subcontractors and shall provide for the orderly transition of Services from the City and/or its contractors to the Company.

**Section 3.6 Limitation of Company Liability for Company Event of Default** . In the event of default resulting in termination of the Contract by the City as set forth in Section 3.2(B) hereof, the liability of the Company to the City, the residents and customers served by the Storage Tank System for the Company's performance or non-performance under this Contract shall not exceed, in the aggregate, an amount equal to one hundred percent (100%) of all payments paid by the City and received by the Company pursuant to Section 4.1 of this Contract. The Company or its respective affiliates, subsidiaries, officers, directors, officials, and employees or its suppliers will not be held liable for special, indirect, consequential, incidental or punitive damages however caused and regardless of the theory of liability.



**ARTICLE IV**  
**MAINTENANCE OF AND CAPITAL IMPROVEMENTS**  
**TO THE STORAGE TANK SYSTEM**

**Section 4.1. (A) Annual Fee.** (1) The Annual Fee paid to the Company by the City for each year shall be as set forth in *Exhibit A* (the “**Annual Fee**”) and shall not include, and shall be independent from, the payments made to the Company for the Scheduled Capital Improvements and/or any Capital Improvements and Major Repairs and shall be paid to the Company in arrears in twelve equal monthly installments on the last day of each month commencing on September 30, 2021.

(2) The Annual Fee is intended to cover all costs for all Services provided for in this Contract (including Maintenance Items and Minor System Repairs, unless otherwise provided herein, and other costs specifically identified herein) other than for Scheduled Capital Improvements or Capital Improvements and Major Repairs or for costs otherwise specifically identified herein as being the responsibility of the City.

(3) Any payments required to be made by the City to the Company pursuant to this Section 4.1 which are paid later than thirty (30) days from the required date shall bear interest until paid at the rate of two percent per annum.

**(B) Scheduled Capital Improvements.** (1) In accordance with the schedule set forth in *Exhibit C* hereto, the Company shall undertake and complete the Scheduled Capital Improvements identified in *Exhibit C* hereto (the “**Scheduled Capital Improvements**”). The Scheduled Capital Improvements shall be funded by the City.

(2) The cost of the Scheduled Capital Improvements paid to the Company by the City shall be as set forth in *Exhibit A* in accordance with the payment procedure in Section 4.4(A)(5).

**Section 4.2. City Responsibilities.** The City shall:

(A) Own the fixed assets of the Storage Tank System.

(B) Control all finances including billing for and collection of rents, budgeting, capital improvement financing and payment of any fees and charges in connection with the Storage Tank System.

(C) Promptly procure and continually maintain in full force and effect and in accordance with their respective terms those Permits that it is responsible for under the terms of this Contract.

(D) Adopt all resolutions and enact all ordinances necessary to carry out the provisions of this Contract and enforce all such resolutions and/or ordinances.

(E) Provide access to the Storage Tank System for the Company, its agents and

employees at all times.

(F) Designate the Authorized Representative of the City to act as contract administrator and liaison with the Company in connection with the performance of Services by the Company.

(G) Refrain from enacting any ordinances and/or adopting any resolution that would impair the ability of the City or the Company from complying with this Contract.

(H) Promptly pay all Debt Service, when due on any bonds or notes or other obligations by or on behalf of the City issued with respect to the Storage Tank System.

(I) Establish any and all annual budgets, rents, rates, City fees and other charges to be collected from the customers of the City Water System, which rents, rates, City fees and charges shall be at least sufficient to pay all amounts due to the Company, other vendors and necessary for Debt Service hereunder.

(J) Acquire and maintain all access, rights of way and easements necessary for the Company to maintain the Storage Tank System.

(K) The City shall comply with SWDA, RCRA, CERCLA (as owner), OSHA, PEOSHA, WQAA, LPCL, and any and all other applicable local, State and Federal laws, codes, ordinances and regulations as they pertain to the Storage Tank System. The City shall pay all regulatory fines and penalties, without limitations, assessed against the Company and/or the City for the City's non-compliance therewith.

**Section 4.3. Company Responsibilities.** (A) The Company shall maintain and repair the Storage Tank System during the term of this Contract on behalf of the City in compliance with all Federal, State and Local laws, regulations and permits consistent with this Contract.

(B) During the term of this Contract, the Company shall keep the Storage Tank System in good repair and working order, consistent with industry standards and shall maintain and repair the Storage Tank System in an efficient and economical manner all in accordance with this Contract.

(C) The Company shall develop and implement an approach for future rehabilitation of the Storage Tank System and ensure coordination of Storage Tank System operations with the City.

(D) The Company is responsible for all costs of materials, equipment and supplies in maintenance of the Storage Tank System.

(E) The materials for Minor System Repairs shall be purchased by the Company and the costs thereof in excess of \$500 per individual repair and Minor System Repairs exceeding an aggregate of \$2,500 per year, with an appropriate accounting, shall be reimbursed by the City as a City cost responsibility.

(F) The Company shall provide annual reporting to the City, the form of which shall be determined by the Authorized Representatives, for Services performed for the Storage Tank System.

(G) The Company is responsible for all labor and equipment costs for the Maintenance Items and Minor System Repairs.

(H) All purchases that utilize City funds must comply with the provisions of the LPCL, the City's purchasing regulations, the Business Registration Certificate (BRC) requirements, and the IRS requirement for an executed W-9 all for submission to the City's Purchasing Agent.

(I) Materials, Labor, Vehicles. The Company shall provide, at its cost and expense, all labor, materials, machinery, vehicles, equipment, fuel, power, chemicals, supplies, spare parts, expendables, consumables, and all else necessary therefor or incidental thereto which is necessary for the, maintenance or repair of the Storage Tank System in accordance with applicable laws, regulations and ordinances and the Contract.

(J) Hazardous Substances. The Company is responsible for testing the current materials in place on the tanks for hazardous content. If, while providing the Services and/or during the course work necessary to make the Scheduled Capital Improvements or repairs and/or improvements to the Storage Tank System, hazardous or toxic waste or materials (as defined in applicable Federal and/or State laws and regulations) are discovered by the Company, it shall NOT be the obligation of the Company to remove and dispose of such hazardous substance. The Company shall immediately notify the City upon becoming aware of the presence of such hazardous or toxic waste or materials, and shall immediately notify such other governmental agencies as may be required by laws and shall take such further actions to assist the City in protecting the Health, Safety and Welfare of the Public. The City shall indemnify the Company for any and all costs or expenses it may incur in connection with this Section. If a hazardous substance impairs the maintenance of the Storage Tank System, the City shall remediate the hazardous substance so as to permit the Company to maintain the Storage Tank System pursuant to the Contract. The City shall pay for all costs for the removal of the hazardous substance and any clean-up activities associated with such disposal, discharge, spill or leak. The City shall have the right to pursue the parties legally responsible for the disposal, discharge, spill or leak for the costs of the removal of the offending materials and any clean-up activities.

(K) Response Requirements for Emergencies. The Company shall respond to Storage Tank System emergencies as soon as reasonably possible, but in any event the Company shall begin planning and staging to mobilize to respond to an emergency at least twelve (12) hours after the Company's receipt of written notice, which may be sent via email, of an emergency from the City.

(L) Maintenance Program. The Company shall maintain a comprehensive maintenance program for the Storage Tank System. The maintenance management program shall:

1) Seek to ensure efficiency, long-term reliability and conservation of capital investment in accordance with industry standards, if any;

2) Be otherwise in accordance with industry standards; local, State and Federal codes; manufacturer's equipment recommendations;

3) Be documented; and

4) Provide all warranties on new equipment purchased after the Effective Date of the Contract to the Authorized Representative of the City.

5) Any modifications or major maintenance affecting the appearance of the facilities in the Storage Tank System which are visible to the public shall be performed only after receipt of the prior written approval of the Authorized Representative of the City.

(M) Reporting Requirements.

(1) The Company shall provide comprehensive annual reports in a format reasonably satisfactory to the City for maintenance plans and activities including conditions of the Storage Tank Systems, ; and safety reports regarding accidents, injuries, and damages to City property and other relevant information.

(2) The Company shall maintain up-to-date financial records as they apply to the Services rendered under the terms of this Contract. All records shall be kept in a manner that shall enable the City to comply with State municipal accounting procedures.

(3) The Company shall provide the City with its periodic financial reports as they apply to the Services rendered under the terms of this Contract. At a minimum, such reports shall include the following:

a) Monthly reports on or before the twenty-fifth (25th) Day of each month with respect to the prior month and on or before twenty-fifth (25th) Day after the end of each Contract Year a cumulative report as of the end of each prior Contract

b) The Company shall deliver a year-end report to the City consisting of a compilation of the monthly and quarterly reports set forth above

c) The Company shall provide such other reports as may be reasonably requested from time to time by the City.

(N) Staffing.

(1) The Existing City Employees will continue their employment with the City.

(2) The Company shall provide a staff of qualified and experienced employees who have direct experience in maintaining systems similar in nature and character to the Storage Tank System and shall provide such additional third party support as may be needed to perform its duties and obligations hereunder. Said third parties shall be equally qualified for the particular services to be performed and shall not have any direct claim against the City whatsoever. The Company shall at all times maintain the necessary number of employees, staff and/or third-party contractors to maintain the Storage Tank System in accordance with this Contract and to adequately maintain the Storage Tank System in good repair and working order.

(O) Licenses. The Company, its employees and/or its contractors shall acquire and hold, all required Federal, State and local approvals, licenses and certifications necessary maintain the Storage Tank System required to be obtained by the Company in accordance with this Contract.

(P) Compliance with Laws, Regulations and Permits.

(1) After the Effective Date, the Company shall comply with all applicable local, State and Federal laws, codes, ordinances and regulations as they pertain to the Services. The Company shall pay all regulatory fines and penalties, without limitation, assessed against the City, and/or the Company for the Company's non-compliance therewith.

(2) The Company shall, where applicable, comply with, satisfy, and pay all costs or fees (but not remediation) associated with, all regulatory requirements pertaining to the Services.

(3) All repairs and/or improvements to the Storage Tank System made by the Company shall be in accordance with existing City ordinances.

(4) The Company shall comply with the provisions of all City Contracts. The City reserves the right to enter into future agreements in connection with the Storage Tank System provided those agreements do not interfere with the Company's ability to perform its obligations under this Contract.

(Q) Safety and Security. The Company shall provide, be responsible for and maintain security and safety for the Storage Tank Systems while providing the Services as is reasonably appropriate. The Company shall be responsible for initiating, maintaining and supervising all safety precautions in connection with its performance of the Services and shall take all reasonable precautions for safety of, and shall provide protection to prevent damage, injury or loss to the property and all materials; employees; subcontractor employees, agents, servants and invitees; and the premises where work is performed and all occupants or other persons at the premises. Security of all access points to the Storage Tank System, including fences, when reasonably required, shall be maintained in neat order and structural integrity. Gates, access points and doors, when reasonably required, shall be kept locked, structures shall be protected from unauthorized entry and security alarms, when reasonably required, shall be maintained. The Company shall conduct all maintenance of any facilities in compliance with applicable health and safety regulations, including, but not limited to: OSHA, general industry regulations, including requirements for confined space entry, respiratory protection and hazard communication. Notwithstanding the foregoing, the City and the Company agree that the intent of this Section 4.3(Q) is to ensure that the Company secures its project sites while it is performing the Services on the Storage Tank System. This Section 4.3(Q) is not intended to shift responsibility to the Company for the overall security of the Storage Tank System during the Term of this Contract.

(R) Notwithstanding Section 4.3(K), the Company shall immediately notify the City of any activity, problem or circumstances in connection with the Storage Tank System that it becomes aware of that threatens the health, safety and welfare of the users of the Storage Tank System or the residents of the City.

(S) The Company shall maintain the Storage Tank System in accordance with all applicable laws and regulations.

(T) The Company shall dispose of all sludge, scum, grit, screenings, trash and refuse generated by or resulting from the maintenance of the Storage Tank System in accordance with applicable regulations pertaining thereto.

(U) The Company shall cooperate with and assist police, emergency management and fire personnel in times of fire or other emergencies. Notwithstanding the foregoing, the Company is not responsible or liable for the operation of the Storage Tank System or the City Water System, and events that are impacted by low water pressure (e.g., fire fighting activity, etc.) or other operational issues shall be addressed by the City. However, the Company is willing to cooperate and assist the City in such emergencies to the best of its abilities.

(V) Maintenance Items and Minor System Repairs of the Storage Tank System shall include, but not be limited to: those items identified in *Exhibit B*, routine painting and repairs of structures, both interior and exterior; inspection services and maintain and update the Asset Management Plan for the Storage Tank System;.

(W) Water Quality Standards. The Company shall comply with all Federal, State and local regulations concerning safe drinking water standards in the provision of Services during the term of this Contract.

(X) The Company shall prepare, maintain and update, with input from the City, an Asset Management Plan for the Storage Tank System as required by the WQAA.

(Y) Access to and Maintenance of Records. The Company shall ensure the maintenance of all records of information relevant to the maintenance of Storage Tank System during the term of the Contract. The Company shall cause to be maintained a computerized recordkeeping system for all maintenance functions performed, which shall be backed up offsite at a secure facility. The Company shall maintain all documentation related to products, transactions or services under this contract for a period of five years from the date of final payment. Such records shall be made available to the New Jersey Office of the State Comptroller upon request. The City shall maintain ownership of all records and data maintained in connection with the Storage Tank System which shall be provided by the Company to the City, in a format agreed to by the City, upon request of the City.

(Z) Operations Review by City. The City shall have the right to and intends to exercise its right to actively participate in the review of the Services performed by the Company and any subcontractor throughout the term of this Contract.

#### **4.4 Capital Improvements to the Storage Tank System.**

(A) Scheduled Capital Improvements to the Storage Tank Systems.

(1) Scheduled Capital Improvements shall be funded by the City and include the development, installation and/or provision, as applicable, by the Company in accordance with this Contract, of those Capital Improvements identified in *Exhibit C*.

- (2) The City may finance the Scheduled Capital Improvements pursuant to the provisions of the Local Bond Law, *N.J.S.A. 40A:2-1 et seq.*, or otherwise by issuing its bonds or notes. The Company shall assist the City in making necessary applications, meeting with appropriate agencies or other parties and otherwise assisting the City as is necessary to secure said financing.
- (3) The City shall have the right to review and approve the design and development of, plans for and construction of, as applicable, the Scheduled Capital Improvements. The City may engage a separate qualified engineer for purposes of fulfilling this need at the City's cost.
- (4) Design and Performance Standards. All Scheduled Capital Improvements shall adhere to generally accepted water industry standards and practices.
- (5) Payment Request for Scheduled Capital Improvements; Submission of Progress Reports; Procedures - As payments are required for the Scheduled Capital Improvements under this Contract, the Company shall prepare and assemble and submit to the City's Finance Office, in a form as determined by the City Manager: (i) a request for payment from the Company accompanied by the original invoice from the Company, or the sub-contractor as applicable, detailing the project and costs therefor and (ii) evidence of completion of the improvement or repair.
- (6) All Scheduled Capital Improvements shall adhere to the project schedule set forth in *Exhibit C*.

(B) Design and Performance Standards. All Scheduled Capital Improvements and Capital Improvements and Major Repairs to the Storage Tank System shall adhere to generally accepted water industry standards and practices.

(C) Payment Request for Capital Improvements and Major Repairs; Submission of Progress Reports; Procedures. As payments are required for the Capital Improvements and Major Repairs under this Contract, the Company shall prepare and assemble and submit to the City's Finance Office, in a form as determined by the City Manager: (i) a request for payment from the Company accompanied by the original invoice from the Company, or the sub-contractor as applicable, detailing the project and costs therefor and (ii) evidence of completion of the improvement or repair.

(D) Engineering and Related Services to be Supplied by the Company.

- 1) Complete the Scheduled Capital Improvements; and
- 2) Complete Minor System Repairs to the Storage Tank System.

**Section 4.5. Force Majeure.** Any one or more of the duties and obligations of the City and/or the Company shall be suspended so long as, and only to the extent that, performance thereof is prevented or impeded by an Act of God, civil disturbance, act of terrorism, governmental action (including, without limitation, any Change in Law), severe and unusual weather, plague, epidemic, pandemic, quarantine restrictions, or any other act or event that has had, or may reasonably be expected to have, a material adverse effect upon either party in its ability to perform its obligations under this Contract, if such acts or events are beyond the control of that party. Any cost relief resulting from a Force Majeure event shall be determined by the parties hereto.

## **ARTICLE V REPRESENTATIONS AND WARRANTIES**

**Section 5.1. Representations of the City.** The City makes the following representations and warranties to and for the benefit of the Company:

(A) The City is a municipal corporation organized, existing and in good standing under the laws of the State of New Jersey, with full legal right, power and authority to enter into and perform its obligations under this Contract.

(B) The City has duly authorized the execution and delivery of this Contract and this Contract has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

(C) Neither the execution and delivery by the City of this Contract, nor the performance by the City of its obligations in connection with the transactions contemplated hereby, or the fulfillment by the City of the terms and conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the City, (ii) conflicts with, violates or results in a breach of any term or condition of, or constitutes a default under any judgment or decree, or any agreement or instrument to which the City is a party or by which the City or any of its properties or assets is bound, (iii) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the revenues, properties or assets of the City, or (iv) will result in the acceleration of any obligation by which the City is bound or to which the City is a party.

(D) The City is in compliance with all applicable laws, rules and regulations concerning the management, operation or maintenance of the Storage Tank System.

(E) All requisite approvals, authorizations, orders, consents of, registrations or filings with, all governmental authorities necessary as of the date hereof for the maintenance of the Storage Tank System have been obtained or made by or on behalf of the City and are in full force and effect.

(F) To the City's knowledge, there are and have been no violations of environmental laws or environmental permits relating to the Storage Tank System.



**Section 5.2. Representations of the Company.** The Company hereby makes the following representations and warranties to and for the benefit of the City:

(A) The Company is a corporation duly organized and existing under the laws of the State of New Jersey and has full legal right, power and authority to enter into and perform its obligations under this Contract.

(B) The Company has duly authorized the execution and delivery of this Contract and this Contract has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

(C) Neither the execution and delivery by the Company of this Contract, nor the performance by the Company of its obligations in connection with the transactions contemplated hereby, or the fulfillment by the Company of the terms and conditions hereof (i) conflicts with, violates or results in a breach of any constitution, law or governmental regulation applicable to the Company, (ii) conflicts with, violates or results in a breach of any term or condition of, or constitutes a default under, any judgment or decree, or any agreement or instrument to which the Company is a party or by which the Company or any of its properties or assets is bound, (iii) will result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the revenues, properties or assets of the Company, or (iv) will result in the acceleration of any obligation by which the Company is bound or to which the Company is a party.

(D) The Company has sufficient experience and expertise to provide the Services in accordance with this Contract.

(E) The Company is not in breach of any applicable law that could have a material adverse effect on the ability of the Company to comply with its obligations under this Contract. Neither the Company nor, to its knowledge, any Affiliate of the Company is listed on any of the following lists maintained by the Office of Foreign Assets Control of the United States Department of the Treasury, the Bureau of Industry and Security of the United States Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List or the Debarred List, list of persons engaging in investment activities in Iran, or on any other publicly available list of persons with which the State may not do business under applicable law.

(F) The Company shall use products manufactured in the United States of America wherever available for repairs and improvements to the Storage Tank System.

## **ARTICLE VI MISCELLANEOUS**

**Section 6.1. Notices.** All notices, demands, requests and other communications hereunder shall be deemed sufficient and properly given if in writing and delivered by email and in person to the following addresses (or such other or additional addresses provided by notice to the other party) or by email and sent by certified or registered mail, postage prepaid with return receipt requested at such addresses; provided if such notices, demands, requests or other communications are sent by mail, they shall be deemed as given on the third day following such mailing which is not a Saturday, Sunday or day on which United States mail is not delivered:

If to City: City of Brigantine  
City of Brigantine  
1417 W. Brigantine Ave  
Brigantine, NJ 08203  
Attention: City Manager  
Email: [jbennett@brigantinebeachnj.com](mailto:jbennett@brigantinebeachnj.com)

with a copy to: Frances Ciesla McManimon, Esq.  
McManimon, Scotland & Baumann, LLC  
427 Riverview Plaza  
Trenton, New Jersey 08611  
Email: [fmcmanimon@msbnj.com](mailto:fmcmanimon@msbnj.com)

If to the Company: Utility Service Co., Inc. (A Suez Company)  
1230 Peachtree Street NE  
Suite 1100  
Atlanta, GA 30309  
Att: Catherine Ricou, President

with a copy to: Joe Jasinski, Water System Consultant  
Utility Service Co., Inc. (A Suez Company)  
1230 Peachtree Street NE  
Suite 1100  
Atlanta, GA 30309

**Section 6.3. Dispute Resolution.** In the event a dispute arises among the Parties, the disputing Party shall provide the other party with written notice of the dispute, and within twenty (20) days after receipt of said notice, the receiving Party shall submit to the other a written response. The notice and response shall include a statement of each Party's position and a summary of the evidence and arguments supporting its position. Each Party shall designate a high level manager to work together in good faith to resolve the dispute; the name and title of said employee shall also be included in the notice and response. The managers shall meet at a mutually acceptable time and place within thirty (30) days of the date of the disputing Party's notice and thereafter as they deem reasonably necessary to resolve the dispute. If the managers, having acted in good faith, have not resolved the dispute within ninety (90) days of receipt of the initial written notice, then the Parties shall try in good faith to resolve the dispute by non-binding mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Rules. If either Party is unsatisfied with the results of mediation and cannot resolve the dispute and/or claim at mediation, it shall be submitted to binding arbitration. Any such dispute and/or claim will be resolved by binding arbitration in accordance with the Rules for Commercial Arbitration of the American Arbitration Association before a panel of three (3) arbitrators, one appointed by each party, and the third appointed by the agreement of the first two arbitrators. The decision or award of a majority of the arbitrators shall be final and binding upon the Parties. Any arbitral award may be entered as a judgment or order in any court of competent jurisdiction. Each Party's costs and expenses attributed to the negotiation, mediation, and/or arbitration shall be borne by such Party.

**Section 6.5. No Waiver.** The failure of a Party to insist on strict performance of any or all of the terms of this Contract, or to exercise any right or remedy under this Contract, shall not constitute a waiver or relinquishment of any nature regarding such right or remedy or any other right or remedy. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

**Section 6.6. Severability.** In case one or more of the covenants, terms or provisions contained in this Contract shall be held invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, terms and provisions contained herein shall be in no way affected, prejudiced or disturbed and the remaining covenants, terms and provisions shall remain in full force and effect.

**Section 6.7. No Third-Party Beneficiaries.** No employees of the City or any other third party shall be deemed a third-party beneficiary of this Contract.

**Section 6.8. Assignment.** This Contract shall be binding upon the Parties' respective successors and permitted assigns. Neither of the Parties may assign this Contract or any rights or obligations hereunder without the prior written consent of the other Party (which consent shall not be unreasonably withheld), and any such attempted assignment shall be void, except that the Company may assign this Contract, or any of its rights or obligations hereunder, to a subsidiary or affiliate of the Company, so long as such assignment does not relieve the Company of its obligations to the City as set forth herein, and the Company shall give prompt notice to the City of any such assignment and that assignee should assume all of the Company obligations under the Contract.

**Section 6.9. Indemnification.** (A) The City shall indemnify, defend and hold harmless the Company, its employees, officers and directors, from and against all liabilities, actions, damages, fines, penalties, claims, demands, judgments, losses, costs, expenses, suits and actions (including reasonable attorney's fees), in connection with or arising out of the Storage Tank System, except to the extent caused by negligence on the part of the Company

(B) The Company shall indemnify, defend and hold harmless the City, its officers, elected officials and employees, from and against all liabilities, actions, damages, fines, penalties, claims, demands, judgments, losses, costs, expenses, suits and actions (including reasonable attorney's fees), or threat thereof, to the extent caused by negligence on the part of the Company in connection with the Company's maintenance of the Storage Tank System during the Term of this Contract. Any indemnification by the Company shall be limited to the liability limitations of the Limitation of Company Liability.

**Section 6.10. Complete Contract.** This Contract sets forth the entire understanding of the Parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the Parties relating to the subject matter hereof and may not be modified except in a writing executed by both Parties.

**Section 6.11. Titles and Headings.** Titles and headings to sections or paragraphs herein are inserted merely for convenience of reference and are not intended to be a part of or to affect the meaning or interpretation of this Contract.

**Section 6.12. Counterparts.** This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**Section 6.13. Governing Law.** This Contract and all amendments hereof shall be governed by and construed in accordance with the internal laws of the State of New Jersey applicable to contracts made and to be performed therein.

**Section 6.14 Insurance.** The Company shall not commence the performance of the Services under this Contract until it has provided insurance of the types and in such amounts as set forth herein and such other insurance as shall be requested by the City provided such insurance is commercially available and such insurance has been approved by the City (which approval shall not be unreasonably withheld) nor shall the Company allow any subcontractor to work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved or the Company has determined that the Company's insurance is sufficient to cover the actions of the subcontractor. The Company shall maintain such insurance in full force and effect for the Term of this Contract and thereafter for a period of two (2) years. The cancellation of any insurance policy provided by the Company hereunder shall not invalidate the requirement of the Company to fully insure the liability, damages and accidents of the City as provided herein. The provisions of this Section 6.14 are intended to survive termination of this Contract.

The insurance policies provided by the Company at its expense and more particularly described hereafter shall specifically designate the City as additional insured to the extent of the negligent acts, errors or omissions of the Company and shall further contain such provisions and shall insure the City and City officials, officers, employees, consultants and agents, pursuant to the terms and requirements set forth herein and to the fullest extent allowed by the law.

Within the Limitation of Company Liability set forth herein, the Company shall be solely responsible for all injuries to persons or property (other than to the extent such costs are paid by worker's compensation insurance) occurring on account of the performance of the Services hereunder, regardless of who is performing the Services.

Certificates from the insurance carrier stating the limits of liability and the expiration date for each policy and type of coverage shall be filed with the City before the execution of the Contract. The certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or non-renewal in a policy affecting the certificate holder, thirty (30) days prior written notice shall be given the certificate holder except in the event of a cancellation for failure to pay the insurance premium wherein ten (10) days prior written notice shall be given to the certificate holder"

Such certificates shall specifically refer to this Contract and article, and paragraph 6.14 (a), (b), (c), (d) or (e) as applicable, in accordance with which the insurance is being furnished, and state that such insurance is as required by such paragraphs of this Contract.

All insurance coverage shall be with acceptable insurance companies only which possess

an A.M. Best Company rating of at least A+. All insurance policies herein required of the Company shall be written by a company duly authorized and licensed to do business in the State and be executed by an agent therein duly licensed as an agent in said State.

Insurance shall include the type of insurance specified below in not less than the amounts stated. Neither approval by the City nor a failure to disapprove insurance furnished by the Company, shall release the Company from full responsibility for liability, damages and accidents as set forth herein.

The Company shall take out and maintain during the Term of this Contract the following types of insurance in an amount, for each policy, not less than the amounts stated:

(a) Commercial General Liability Insurance (i) The Company shall maintain during the Term of this Contract such commercial general liability insurance as shall protect it against claims for damages resulting from bodily injury, including wrongful death and property damages, which may arise from the performance of the Services hereunder regardless of by whom performed. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

Bodily Injury Limits and Property Damage - \$1,000,000 each occurrence/\$2,000,000 aggregate.

Products liability and completed operations - \$2,000,000 aggregate.

Personal injury liability - \$2,000,000 aggregate.

(ii) The commercial general liability insurance required by the preceding subparagraph shall include the following extensions of coverage:

(A) The coverage shall be provided under a commercial general liability form of policy or similar thereto.

(B) XCU Coverage - If the Contract requires any work procedures involving blasting, excavating, tunneling or other underground work, the liability coverage shall include standard blasting or explosion coverage, standard collapse coverage and standard underground coverage, commonly referred to as XCU property damage liability coverage with limits of \$1,000,000 CSL.

(C) Contractual liability coverage shall be included.

(D) Protective liability coverage shall be included to protect the Company against claims arising out of operations performed by others, including but not limited to contractors and their subcontractors.

(b) Worker's Compensation and Employer's Liability Insurance in accordance with the requirements of the laws of the State and all other applicable laws and regulations. If any class of employees engaged in hazardous work cannot be protected by workmen's compensation and

liability insurance, the Company shall provide adequate insurance for each class of employees.

The Company shall take out and maintain during the Term of this Agreement the applicable statutory Worker's Compensation Insurance with an insurance company authorized to write such insurance covering all of its employees, and in the case of any work sublet, the Company shall require the subcontractor similarly to provide statutory Worker's Compensation Insurance for the latter's employees. The Company shall take out and maintain during the Term of this Contract, Employer's Liability Insurance with a minimum limit of \$1,000,000 with an insurance company authorized to write such insurance and the Company shall require each of its subcontractors similarly to maintain Employer's Liability Insurance on its employees.

(c) Automobile Liability and Property Damage Insurance

The Company shall take out and maintain during the Term of the Contract such Automobile Liability Insurance as shall protect it against claims for damages resulting from bodily injury, including wrongful death and property damage, which may arise from the operations of any owned, hired or non-owned automobiles used by or for it in any capacity connection with the performance of the Services hereunder. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury Limits and Property Damage - \$5,000,000 each occurrence/annual aggregate by the Company (or \$1,000,000 each occurrence/annual aggregate by each subcontractor).

(d) Excess Liability Insurance - \$5,000,000.

(e) Professional Liability Insurance in the case of any consulting engineering firm hired by the Company or any engineers, architects or other professionals to the extent the coverage is not provided by the comprehensive general liability insurance, in an amount not less than \$2,000,000.

To the extent the Company does not required subcontractors to maintain the same insurance coverage as required of the Company herein, the Company shall be responsible for the actions and liability of the subcontractors regardless of the insurance coverage obtained by the subcontractors.

If the Company receives insurance proceeds to cover any liabilities under this Contract, the Company shall have no claim against the City for such amounts provided that the City did not cause the events that result in the claim against the applicable insurance company.

If at any time the Company fails to maintain any of the foregoing policies, the Company shall, upon notice to that effect from such party, promptly obtain a new policy, submit the same to the City for its approval and submit a certificate of insurance as described above. Failure of the Company to take out and/or maintain any required insurance shall not relieve the Company of any liability under the Contract.

The City shall maintain insurance on the Storage Tank System during the Term of this Contract substantially similar in kind, scope and amount as that maintained by the Company as of the Effective Date. If any damage occurs to the Storage Tank System in connection with or as a result of the Services provided by the Company during the Term of this Agreement that is an

insured risk under the policies described in this Section 6.14, the Company agrees that its policies provide coverage on a primary and non-contributory basis and should be used as the first basis of recovery. The Company, however, may request the City to file a claim under its insurance policy or policies for any amounts not covered under the policies maintained by the Company, and if insurance proceeds are paid to the City for such amounts, the City shall reimburse the Company but solely from such proceeds for the actual, documented cost it incurs to repair the damage to the Storage Tank System in an amount not to exceed such insurance proceeds.

**Section 6.15. Limitation of Liability.**

(A) No Consequential or Indirect Damages. Except as expressly provided below, in no event shall either Party be liable under this Contract for consequential, indirect, incidental, special, exemplary, punitive or enhanced damages arising out of, relating to, or in connection with any breach of this Contract, regardless of (A) whether such damages were foreseeable, (B) whether or not the Party was advised of the possibility of such damages and (C) the legal or equitable theory (contract, tort or otherwise) upon which the claim is based.

(B) Exceptions. The limitations set forth above shall not apply to damages or liabilities arising from any: (I) grossly negligent acts or omissions of a Party; or (II) willful or intentional misconduct of a Party.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed by their duly authorized representatives, as of the day and year first above written.

**WITNESS: CITY OF BRIGANTINE**

**By: \_\_\_\_\_**  
**Lynn Sweeney, Clerk**

**By: \_\_\_\_\_**  
**James C. Bennett, City Manager**

**WITNESS: UTILITY SERVICE CO., Inc. (A SUEZ COMPANY)**

**By: \_\_\_\_\_**

**By: \_\_\_\_\_**  
**Catherine Ricou, President**



## **EXHIBIT A**

### **COST PROPOSAL**

<b><u>CONTRACT YEAR</u></b>	<b><u>ANNUAL FEE</u></b>
2021	\$1,712,626.00
2022	\$1,455,890.00
2023	\$31,691.00
2024	\$1,030,292.00
2025	\$2,072,444.00
2026	\$93,155.00
2027	\$96,453.00
2028	\$99,868.00
2029	\$103,403.00
2030	\$107,063.00

### **SCHEDULED CAPITAL IMPROVEMENTS**

SCHEDULED CAPITAL IMPROVEMENTS TO 14 <sup>TH</sup> STREET TANK	\$2,429,194.00
SCHEDULED CAPITAL IMPROVEMENTS TO BAYSHORE TANK	\$2,010,900.00
SCHEDULED CAPITAL IMPROVEMENTS TO ROOSEVELT TANK	\$1,702,426.00
TOTAL COST OF SCHEDULED CAPITAL IMPROVEMENTS	\$6,142,520.00

**EXHIBIT B**  
**MAINTENANCE ITEMS AND MINOR SYSTEM REPAIRS**

**Roosevelt Tank (Maintenance Program)**

**YEAR 2 (2022):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 3 (2023):**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan

Evaluate the interior before the end of the third year to determine if any warranty work is required. If any warranty work is needed it will be scheduled with the City.

**YEAR 4 (2024):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 5 (2025):**

**Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 6 (2026):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 7 (2027):**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan

**YEAR 9 (2029):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 10 (2030):**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

## **Bayshore Tank**

### **YEAR 1 (2021):**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Power tool clean paint failed or burn through areas from welding to an SSPC-SP11
4. Power tool to bare metal cleanliness. Min 1.5 mil anchor profile required.
5. TNEMEC FC22 100% solids modified polyamine epoxy or equivalent touchup kits applied to achieve 15-25 DFT mils.
6. Provide overall tank emergency repair service.
7. Ensure Tank complies with all federal and state regulations.

#### **Tank Repairs:**

1. Install (22) new 1 1/4" epoxied in anchor bolts w/ welded chairs.
2. Blast new & old chairs/anchor bolts, coat insides with zinc primer. Then weld 44 cover plates w/ grease fittings over front of chairs, fill/seal weld around tops of old anchor bolts, fill chairs with grease. Blast exteriors of chairs/bolts, touchup to match existing color/coatings.
3. SPOT WELD PATCH PLATE OVER HOLES IN ACCESS TUBE FROM THE DRY SIDE @ THE TOP: Cut out bad areas along bottom of man access door and weld in new steel, spot blast this & touch up to match existing coatings (2 strips needed, 16" x 2" & 13" x 1 1/2")
4. Wrap screen around access tube air gap @ roof

### **YEAR 2 (2022):**

#### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

### **YEAR 3 (2023):**

#### **Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan

**YEAR 4 (2024):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 6 (2026):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 7 (2027):**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

Evaluate the interior before the end of the third year to determine if any warranty work is required. If any warranty work is needed it will be scheduled with the City.

**YEAR 8 (2028):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 9 (2029):**

**Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 10 (2030):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Management Plan.

**14<sup>Th</sup> Street Tank**

**YEAR 1 (2021)**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Provide emergency repair service.
3. Ensure tank complies with all federal and state regulations.
4. Maintain as per the Asset Management Plan.

**YEAR 3 (2023):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 5 (2025):**

**Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 6 (2026):**

##### **Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 7 (2027):**

##### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 8 (2028):**

##### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

#### **YEAR 9 (2029):**

##### **Visual Inspection Service:**

1. Engineering inspection and preventive maintenance.
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure tank complies with all federal and state regulations.
5. Maintain as per the Asset Management Plan.

**YEAR 10 (2030) – 1,000,000 Gallon Elevated Tank:**

**Inspection Service including Remote Operated Vehicle Interior Inspection:**

1. Engineering inspection including ROV and preventive maintenance
2. Any needed repairs/touchup.
3. Provide emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per Asset Management Plan.



## EXHIBIT C SCHEDULED CAPITAL IMPROVEMENTS

*All products and materials contained herein are recommendations and may be substituted with products and materials of equivalent quality as reviewed by the Authorized Representatives.*

### **Roosevelt Tank**

#### **YEAR 1 (2021)**

##### **Exterior Surface Preparation and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blasting surface preparation to an SSPC-SP6 commercial cleanliness standard. Min 2 mil angular anchor profile required.
2. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
3. Containment to adhere to SSPC Guide 6 Class 2a containment standard
4. **Primer:** TNEMEC 91H2O or 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils (If intermediate coat is sprayed, a full stripe coat of 27 series or 135 series epoxy must be applied by brush and roller prior to intermediate coat application)
5. **Intermediate:** TNEMEC 27 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 27 is for colder weather application) or approved equivalent
6. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or equivalent applied to achieve 2-3 DFT mils.

##### **Interior Water Chamber Surface Prep and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blast complete interior water chamber to SSPC-SP10 near white metal cleanliness. Min 2 mil angular anchor profile required.
2. **Primer:** 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils
3. **Stripe coat along all interior water chamber welds, edges, connections, bolts & apparatus:** TNEMEC N140 epoxy, applied by brush and roller only to achieve 4-6 DFT mils.
4. **Full interior finish coat:** TNEMEC 22 or FC22 (FC22 is cold weather version) 100% solids modified polyamine epoxy or equivalent applied to achieve 25-35 DFT mils utilizing plural component application only
5. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
6. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
7. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.

8. The Tank shall be sealed and made ready for service.

**Interior dry prep & paint specs:**

1. SP6 blast access tube, landing floors, spot blast rest of dry interior.
2. Spot abrasive blast any paint failed/corroded areas to an SSPC-SP6 commercial blast cleanliness standard. Min 2 mil angular anchor profile required.
3. Once touchups have been completed & cured, pressure wash the entire dry interior with min 2000 psi.
4. **Spot primer:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils.
5. **Spot finish:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils to closely match the existing coating color
6. **Inside wood room in base of tank, SP6 blast valves, piping & flanges, then apply 2 coat epoxy. Replace no more than 48 nuts & bolts on pipe flanges that are badly deteriorated. Protect walls of this room during blasting by hanging rubber sheeting along the walls. (this work inside this room is a one- time repair and not to be added to the long-term program)**

**Tank Repairs:**

1. Replace 2 curved (est. 5"x3" angle) rafters running parallel across the roof
2. Cut estimated 10" wide length of the roof plate out & full penetration weld new plate in directly above rafters
3. Replace top 3' of access tube including top & 24" hatch
4. Cut roof collar off around access tube and weld in a doubler plate welded to the roof surface and the access tube to do away with air gap altogether.
5. Pit & plate welding contingency needed due to corrosion present on interior bowl
6. Replace painters' rings (2) & stand mounts at top of stem
7. Add (22) 1 1/4" epoxy in place 24" long anchor bolts with anchor saddles to match existing.
8. Install 24" pallet vent
9. Install 7" OD screened/flapper combo
10. Replace all interior dry ladders w/ 16" wide (especially don't go wider in access tube), do not install cages back to ladders
11. Install flex cable safety climbs on interior dry ladders (3 total)
12. Replace interior wet ladder (est. 45')
13. Cut old 24" roof hatch to wet area out, weld plate in existing opening, move location over away from inlet bell, install new 24" roof hatch (install new wet area ladder in this location as well)
14. Replace FAA beacon & conduit stand on top of access tube w/ new double FAA beacon
15. Add flat-bar mid rail to top landing handrail on either side to comply w/ OSHA
16. Install mixing system, run rigid conduit through dry interior for the mixer wires
17. Remove existing containment outrigger lugs, grind smooth. New outrigger lugs will need to be installed.
18. Remove existing rigging holes & plate weld over (5 in center & 10 outer ones by

outrigger lugs)

19. Weld in 12 new 2 1/2" roof rigging couplers above the high-water line

20. Seal weld 44 cover plates over anchor bolt chairs and install a grease plug to fill the saddles with grease.

## **YEAR 8 (2028:**

### **Exterior Surface Preparation and Coatings Specifications – Overcoat:**

1. Pressure wash all exterior surfaces with 4000 psi min to remove dirt, chalk, lightly adhered rust and coatings.
2. Spot prepare any paint failed/corroded areas to an SSPC-SP11 Power tool to bare metal. Surface profile should be min 1.5 mils.
3. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
4. Containment to adhere to SSPC Guide 6 Class 2a containment standard
5. **Spot primer:** TNEMEC series 1 Omnithane modified aromatic polyurethane primer or approved equivalent applied to achieve 2.5-3.5 DFT mils.
6. **Spot intermediate coat:** TNEMEC 72 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 72 is for colder weather application) or equivalent
7. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or approved equivalent applied to achieve 2-3 DFT mils
8. **NOTE:** Cost for containment system if required for overcoat, shall be separate and negotiated in advance with Township.

### **Interior dry areas:**

1. Inspect all interior dry areas of the tank.
2. Coatings touchups and renovations as needed.

### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Provide overall tank emergency repair service.
4. Ensure Tank complies with all federal and state regulations.
5. Maintain as per the Full- Service Asset Management Program.

## **Bayshore Tank**

### **YEAR 1 (2021):**

#### **Tank Repairs:**

1. Install (22) new 1 1/4" epoxied in anchor bolts w/ welded chairs.
2. Blast new & old chairs/anchor bolts, coat insides with zinc primer. Then weld 44 cover plates w/ grease fittings over front of chairs, fill/seal weld around tops of old anchor bolts, fill chairs with grease. Blast exteriors of chairs/bolts, touchup to match existing color/coatings.
3. SPOT WELD PATCH PLATE OVER HOLES IN ACCESS TUBE FROM THE DRY SIDE @ THE TOP: Cut out bad areas along bottom of man access door and weld in new steel, spot blast this & touch up to match existing coatings (2 strips needed, 16" x 2" & 13" x 1 1/2")

Wrap screen around access tube air gap @ roof

### **YEAR 5 (2025):**

#### **Exterior Surface Preparation and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blasting surface preparation to an SSPC-SP6 commercial cleanliness standard. Min 2 mil angular anchor profile required.
2. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
3. Containment to adhere to SSPC Guide 6 Class 2a containment standard
4. **Primer:** TNEMEC 91H2O or 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils (If intermediate coat is sprayed, a full stripe coat of 27 series or 135 series epoxy must be applied by brush and roller prior to intermediate coat application)
5. **Intermediate:** TNEMEC 27 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 27 is for colder weather application) or approved equivalent
6. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or equivalent applied to achieve 2-3 DFT mils.
7. Logo reinstallation or new logo if required by City

#### **Interior Water Chamber Surface Prep and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blast complete interior water chamber to SSPC-SP10 near white metal cleanliness. Min 2 mil angular anchor profile required.
2. **Primer:** 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils

3. **Stripe coat along all interior water chamber welds, edges, connections, bolts & apparatus:** TNEMEC N140 epoxy, applied by brush and roller only to achieve 4-6 DFT mils.
4. **Full interior finish coat:** TNEMEC 22 or FC22 (FC22 is cold weather version) 100% solids modified polyamine epoxy or equivalent applied to achieve 25-35 DFT mils utilizing plural component application only
5. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
6. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
7. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.
8. The Tank shall be sealed and made ready for service.

**Interior dry prep & paint specs:**

1. SP6 blast access tube, landing floors, spot blast rest of dry interior.
2. Spot abrasive blast any paint failed/corroded areas to an SSPC-SP6 commercial blast cleanliness standard. Min 2 mil angular anchor profile required.
3. Once touchups have been completed & cured, pressure wash the entire dry interior with min 2000 psi.
4. **Spot primer:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils.
5. **Spot finish:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils to closely match the existing coating color.
6. Piping in insulated room- One time (not included in long term program): Blast to SP6, 2 coat epoxy system, replace any bolts on flanges needed where 50% or more steel loss (price up to 50 bolts). Will have to drape rubber sheeting to protect walls while blast, protect any electrical wiring & small copper tubing as well. Remove & install new bats insulation in roof when painting is completed as blasting will damage the existing.

**Tank Repairs:**

1. Replace top 3' of access tube w/ new top plate & 24" round hatch.
2. Remove roof collar, install doubler donut plate welded to roof and to access tube to remove the air gap altogether
3. Replace both roof rafters that run parallel to each other (est 5"x3" angle 43' long each rafter)
4. Install 24" Frost proof vent
5. Install (16) 2 1/2" seal welded roof rigging couplers (if possible above water line, if below seal weld both sides)
6. Replace dry interior lighting & conduit, remove old
7. Replace FAA beacon & rigid conduit on roof, install new dual LED beacon, pull new wire to beacon through new dry interior lighting conduit from panel up.
8. Replace insulation jackets on both the 10" & the 12" inlet pipes

9. Remove dry interior ladder cages
10. Cut bottom ladder @ bottom landing, reposition so it doesn't block access & re-weld it)
11. Seal weld around 30 bolts that are threaded into roof plate for past rigging
12. Install 7" OD screened/flapper combo on O-flow
13. Cut O-flow @ termination, add elbow to realign the overflow so it dumps over basin

#### **Chemical Clean Interior Washout Inspection:**

8. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
9. Washout, disinfect, and inspect the tank.
10. Power tool clean paint failed or burn through areas from welding to an SSPC-SP11
11. Power tool to bare metal cleanliness. Min 1.5 mil anchor profile required.
12. TNEMEC FC22 100% solids modified polyamine epoxy or equivalent touchup kits applied to achieve 15-25 DFT mils.
13. Provide overall tank emergency repair service.
14. Ensure Tank complies with all federal and state regulations.
- 4.

### **14<sup>Th</sup> Street Tank**

#### **YEAR 2 (2022):**

#### **Interior Water Chamber Surface Prep and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blast complete interior water chamber to SSPC-SP10 near white metal cleanliness. Min 2 mil angular anchor profile required.
2. **Primer:** 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils
3. **Stripe coat along all interior water chamber welds, edges, connections, bolts & apparatus:** TNEMEC N140 epoxy, applied by brush and roller only to achieve 4-6 DFT mils.
4. **Full interior finish coat:** TNEMEC 22 or FC22 (FC22 is cold weather version) 100% solids modified polyamine epoxy or equivalent applied to achieve 25-35 DFT mils utilizing plural component application only
5. After the liner has properly cured, the interior surfaces shall be disinfected per A.W.W.A. Spray Method No. 2 (200 PPM).
6. The spent abrasive media shall be tested per TCLP-(8) Heavy Metals as mandated by the State.
7. Once the tests results confirm the non-hazardous status of the wastes, the spent abrasive shall be disposed of properly.
8. The Tank shall be sealed and made ready for service.

### **Interior dry prep & paint specs:**

1. Spot abrasive blast any paint failed/corroded areas to an SSPC-SP6 commercial blast cleanliness standard. Min 2 mil angular anchor profile required.
2. Once touchups have been completed & cured, pressure wash the entire dry interior with min 2000 psi.
3. **Spot primer:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils.
4. **Spot finish:** TNEMEC 135 series epoxy or approved equivalent applied to achieve 4-6 DFT mils to closely match the existing coating color.

### **Exterior Tank Wash if needed**

### **TANK REPAIRS**

1. Replace (24) est. 24' long 4"x3"x3/8" angle rafters.
2. Cut roof collar off around access tube, weld in doubler plate from roof to access tube to do away with air gap. Match steel thickness of roof plate for doubler.
3. Cut out bad sections and coaxial penetrations of top flat plate on access tube on roof, replace.
4. Seal weld patch plates over coupler penetrations at top of stem w/ matched steel thickness.
5. Replace 30" round hinged lid roof hatch to water chamber.
6. Replace 6' of ladder to water chamber balcony.
7. Replace water chamber access ladder (estimate 50').
8. Remove 28 bolts on roof that are threaded into roof plate for previous rigging, plate weld over holes.
9. Install (18) 2 1/2" welded roof rigging couplers (all above high water level if possible, if any below, seal weld inside as well)
10. Remove lower interior dry ladder cage.
11. Remove 3 bolted elbows on 8" O-flow termination, extend pipe to center over dry, re-install 1 of the existing elbows, install a screened/flapper combo w/ counter weight
12. Replace FAA beacon & photo cell switch on roof w/ double LED fixture.
13. Replace both the 10" & 12" inlet pipe insulation & jackets in dry interior.
14. Install PAX mixer (use rigid conduit in dry interior)
15. Possible patch plates needed @ top of access tube where collar currently is @ roof.
16. Install 22 seal welded cover plates w/ grease fittings on anchor bolt chairs, fill with grease.

#### **YEAR 4 (2024):**

##### **Exterior Surface Preparation and Coatings Specifications – Full Blast and Coat:**

1. Abrasive blasting surface preparation to an SSPC-SP6 commercial cleanliness standard. Min 2 mil angular anchor profile required.
2. Surfaces must be tested prior to coating application and surface preparation for presence of surface salts due to the coastal location. If surface salts are present, Chlorid or similar must be used to get the levels to acceptable levels as per the coating manufacturer's recommendations.
3. Containment to adhere to SSPC Guide 6 Class 2a containment standard
4. **Primer:** TNEMEC 91H2O or 94H2O hydrozinc aromatic zinc rich urethane or approved equivalent applied to achieve 2.5-3.5 DFT mils (If intermediate coat is sprayed, a full stripe coat of 27 series or 135 series epoxy must be applied by brush and roller prior to intermediate coat application)
5. **Intermediate:** TNEMEC 27 series applied to achieve 3-6 DFT mils or 135 series epoxy applied to achieve 4-6 DFT mils (depending on temperatures, 27 is for colder weather application) or approved equivalent
6. **Finish coat:** TNEMEC 72 series pigmented acrylic polyurethane or equivalent applied to achieve 2-3 DFT mils.

##### **Chemical Clean Interior Washout Inspection:**

1. Apply NSF approved cleaning agent TC1 to interior walls and floor following manufacturers recommendations.
2. Washout, disinfect, and inspect the tank.
3. Power tool clean paint failed or burn through areas from welding to an SSPC-SP11
4. Power tool to bare metal cleanliness. Min 1.5 mil anchor profile required.
5. TNEMEC FC22 100% solids modified polyamine epoxy or equivalent touchup kits applied to achieve 15-25 DFT mils.
6. Provide overall tank emergency repair service.
7. Ensure Tank complies with all federal and state regulations.
8. Maintain as per the Full- Service Asset Management Program.

Evaluate the interior before the end of the third year to determine if any warranty work is required. If any warranty work is needed it will be scheduled with the City.



RESOLUTION #2021-

SUPPLY AND DELIVERY OF HEAVY-DUTY EQUIPMENT RENTAL

**WHEREAS**, the City of Brigantine has a need from time to time to rent construction equipment for use in grading beach paths and general areas around the City; and

**WHEREAS**, it is determined in the best interest of the City of Brigantine to have said equipment available in order to provide quality services to the public; and

**WHEREAS**, Dennis Krause, QPA, City Purchasing Agent has determined and certified in writing that the value of the rentals will exceed \$17,500.00; and

**WHEREAS**, Mike Zyndorf LLC has provided heavy-duty equipment rentals for the City the past ten years; and

**WHEREAS**, John W. Doring Jr., Superintendent of Public Works and Dennis Krause, QPA, City Purchasing Agent have reviewed the required needs of the City for heavy duty equipment rentals and recommended that Mike Zyndorf LLC, 6481 Harding Highway, Mays Landing, NJ 08330 be given an alternative non-advertised method of award for these services; and

**WHEREAS**, Mike Zyndorf LLC has completed and submitted a Business Registration Certificate (BRC) and a Business Entity Disclosure Certification which certifies that Mike Zyndorf LLC has not made any contributions to a political or candidate committee for an elected office in the City of Brigantine in the previous one-year period that will prohibit Mike Zyndorf LLC from making any contributions through the projected time of completion; and

**WHEREAS**, the vendor has provided information demonstrating its compliance with the provisions of N.J.S.A. 19:44A-20.5, regarding political contributions; and

**NOW, THEREFORE BE IT RESOLVED** by the Municipal Council of the City of Brigantine that an alternative method award with Mike Zyndorf LLC for heavy-duty equipment rentals. A copy of the Business Entity Certification and Determination of Value shall be on file with this resolution in the City Clerk's Office.

**BE IT FURTHER RESOLVED** that Roxanne Tosto, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in the Current and Utility Vehicle Maintenance Fund Accounts #1-01-26-290-299 and #1-09-55-502-299. Estimated expenditures for 2021 should not exceed \$43,000.00.

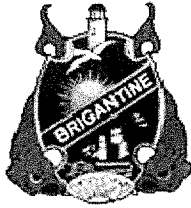
Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, on the 1<sup>st</sup> day of September, 2021.

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn Sweeney, RMC  
City Clerk

\_\_\_\_\_  
Roxanne Tosto  
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Sera					
Riordan					
Kane					
Bew					
Lettieri					
Haney					
DeLucry					



CITY OF BRIGANTINE  
PURCHASING DEPARTMENT  
1417 West Brigantine Avenue • Brigantine, NJ 08203  
Telephone: (609) 266-7600 x217 • Fax: (609) 266-3823  
dkrause@brigantinebeachnj.com  
www.brigantinebeach.org

DENNIS KRAUSE  
PURCHASING AGENT

MEETING DATE: September 1, 2021

### AGENDA ITEM COMMENTARY

TITLE: Resolution authorizing Mike Zyndorf LLC to supply and deliver heavy-duty equipment rental for the City's Public Works department.

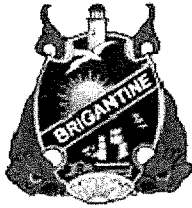
STAFF SOURCE: Dennis Krause, QPA, Purchasing Agent

DISCUSSION: The Public Works department has utilized Mike Zyndorf for the past ten years and is satisfied with the services offered. The City anticipates expenditures for heavy-duty equipment rental to exceed the pay to play threshold of \$17,500.00 in 2021.

The State requires that the City comply with the pay to play laws of New Jersey. Mike Zyndorf LLC has supplied the City with the required paperwork under the law.

EXHIBITS: Resolution, P2P Paperwork and Determination of Value Letter.

RECOMMENDATION: Pass the Resolution



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DENNIS KRAUSE  
PURCHASING AGENT

To: Jim Bennett  
City Manager

From: Dennis Krause, QPA  
Purchasing Agent

SUBJECT: PAY TO PLAY DETERMINATION OF VALUE FOR MIKE ZYNDORF LLC

The City of Brigantine authorizes Mike Zyndorf LLC to provide heavy-duty equipment rental for the City's Public Works department when needed.

The City of Brigantine's yearly expenditures for these specified services may exceed the Pay-to-Play threshold of \$17,500.00. The supply and delivery of heavy-duty equipment rental when needed will be awarded by the City of Brigantine at the September 1, 2021 Council Meeting.

I, Dennis Krause, QPA, Purchasing Agent of the City of Brigantine, do hereby certify that Mike Zyndorf LLC may exceed the New Jersey Local Unit Pay-to-Play Law threshold of \$17,500.00 during the calendar year of 2021.

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Dennis Krause, QPA, Purchasing Agent

**CITY OF BRIGANTINE  
RESOLUTION 2021-**

**THE COUNCIL OF THE CITY OF BRIGANTINE RESOLVES THAT:**

**WHEREAS**, The City of Brigantine has, pursuant to various ordinances, a set fee schedule for Brigantine permits; and

**WHEREAS**, it appears from the records that Brittany Lemenager paid for a permit to hold an event on the beach for twenty-five dollars; and

**WHEREAS**, due to travel restrictions, Ms. Lemenager was unable to hold her event on the beach in Brigantine. The City of Brigantine agrees to refund \$25.00 that she paid for a special event permit fee.

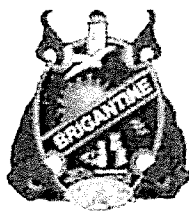
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGANTINE:**

1. The City Financial Officers are hereby authorized to refund the sum of \$25.00 to:  
Brittany Lemenager  
1002 Vardon Circle  
Brigantine, NJ 08203
2. This resolution shall take effect immediately.

This is to certify that the above is a true and lawful copy of a resolution adopted by the City Council of the City of Brigantine, County of Atlantic, State of New Jersey at its meeting of September 1, 2021.

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Lynn Sweeney, RMC  
City Clerk



CITY OF BRIGANTINE

1417 West Brigantine Avenue Brigantine, New Jersey 08203

Phone: 609 266-7600 ext.212 Fax: 609 266-3823

[www.brigantinebeachnj.com](http://www.brigantinebeachnj.com)

**SPECIAL EVENT PERMIT**

21-027

Name of Applicant: Brittany Lemenager, Everlemon Events, Stephen Walborn

Address: 1002 Vardon Circle, Brigantine, NJ 08203

Contact Number: 609-214-2571

Activity: Wedding Ceremony Location: 20th Street Beach

Date & Time: Thursday, September 9, 2021 6:30 pm

No. of People: Less than 20 Organization:

Administration Fee: \$25.00 Paid: Check #0999

Certificate of Insurance or Waiver Received: ☒ Yes ☐ No

Approved by: Ryan L Heust Date: 6/24/2021

CC: Police  
Beach Patrol  
Public Works  
Recreation  
Beach Fee Office

**CITY OF BRIGANTINE  
RESOLUTION 2021-**

**RE-APPOINTMENT OF DAWN GOTTARDI AS  
MUNICIPAL COURT ADMINISTRATOR**

**WHEREAS**, the City of Brigantine has a municipal court administrator position; and

**WHEREAS**, pursuant to N.J.S.A. 2B:12-11(e), the Governing Body may appoint a person who does not hold a municipal court administrator certificate to serve as a municipal court administrator, on an interim basis, for a period not to exceed one year commencing on the date of appointment, and may be re-appointed for four additional one-year terms until said certificate is obtained; and

**WHEREAS**, the City Council of the City of Brigantine is of the opinion that Dawn Gottardi is a competent, fit and suitable person and supports her appointment as Municipal Court Administrator. Ms. Gottardi was originally appointed to this position on September 19, 2017, reappointed on September 18, 2018 and reappointed on September 18, 2019 and re-appointed on October 7, 2020; and

**WHEREAS**, Dawn Gottardi is enrolled in the municipal court administrator certification program and needs additional time to complete that program

**NOW, THEREFORE, BE IT ACKNOWLEDGED BY THE CITY COUNCIL OF  
THE CITY OF BRIGANTINE THAT:**

Dawn Gottardi be reappointed to municipal court administrator on September 1, 2021 for a one year term.

This resolution shall take effect immediately.

This is to certify that this is a true  
and lawful copy of a resolution adopted  
by the City Council of the City of  
Brigantine at their meeting held on  
September 1, 2021.

---

Lynn Sweeney, RMC, City Clerk

**CITY OF BRIGANTINE  
RESOLUTION NO. 2021-**

**RESOLUTION AUTHORIZING PARTICIPATION AND ACCEPTANCE OF STATE FUNDS BY THE  
CITY OF BRIGANTINE FOR THE SFY21 BODY WORN CAMERA GRANT PROGRAM  
ADMINISTERED BY THE STATE OF NEW JERSEY, DEPARTMENT OF LAW & PUBLIC SAFETY**

**WHEREAS**, Pursuant to legislation signed by Governor Phil Murphy in 2020, the State Office of the Attorney General issued Directive 2021-5 and an accompanying Body Worn Camera Policy, requiring that all uniformed patrol officers be equipped with body worn cameras (BWC's); and

**WHEREAS**, in December 2020 Governor Murphy signed a law appropriating \$58 million for grants-in-aid to support the statewide BWC program: and

**WHEREAS**, the City of Brigantine Police Department applied for funding for 20 BWC's and has been awarded \$2,038.00 per camera, which may be used for the purchase of cameras and equipment needed to operate them; and

**WHEREAS**, the Attorney General's Office through the Department of Law & Public Safety has awarded the City of Brigantine a total of \$40,760.00, award number 21-BWC-069 for the period of January 2021-December, 2025

**WHEREAS**, these funds will be used towards the total purchase price of \$65,700.00 for the 20 BWC's and equipment needed to operate them in accordance with the Attorney General's BWC policy; and

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the City of Brigantine, County of Atlantic and State of New Jersey as follows:

1. The governing body wishes to approve the participation and receipt of the funds for the SFY21 BWC Grant for the purposes as described in the application, and
2. Authorizes the City Manager, CFO and other respective designees to accept the award, sign, file any and all forms and documentation necessary on behalf of the city, and
3. The municipal clerk of the City of Brigantine is hereby directed to forward a copy of this resolution to the Director of Division of Local Government Services.

This is to certify that the above is true and a correct  
Copy of the resolution passed by the City Council of the City of  
Brigantine, County of Atlantic, State of New Jersey at their  
meeting held on  
September 1, 2021

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Lynn Sweeney, RMC  
City Clerk



## SPECIAL CONDITIONS

1. **Prohibited Use of Funds:** The Grantee certifies that all grant funds will be used exclusively for purposes set forth in the grant application.
2. **Prohibition of Supplanting:** The Grantee agrees that funds made available under this program will be used to supplement but not supplant funds that were, or are, set aside for the same purpose.
3. **Compliance with Program Laws and Regulations:** Grantee will follow all applicable requirements and procedures as required by the Department of Law and Public Safety (L&PS), the Office of the Attorney General (OAG), and as outlined in the notification, award, and other letters sent to the Grantee. Grantee also agrees to follow all applicable requirements and procedures as required by the State of New Jersey.
4. **Attorney General's Directive on Body-Worn Cameras:** Attorney General's Directives on Body-Worn Cameras: The Grantee must comply with Attorney General Law Enforcement Directive No. 2015-12021-5, *Law Enforcement Directive Regarding Police Body-Worn Cameras (BWCs) and Stored BWC Recordings*; Attorney General Law Enforcement Directive 2019-4, *Directive Ensuring the Independent Investigation of Criminal Cases Involving Police Use-of-Force or In-Custody Deaths*; as well as any updates to laws and statutes related to BWCs (i.e., N.J.S.A. 40A:14-118.3-.5), and/or new or supplemental guidance to policy, Directives, or Guidelines, concerning BWCs that may occur at the direction and authority of the Attorney General.
5. **Municipal Budget Cap:** In order to be exempt from the municipal budget cap, any monies provided by the municipality must be in the form of matching funds as specified by N.J.S.A. 40A:4-45.3 l. Therefore, the State award and the required fringe benefit match under the Body-Worn Cameras Program are outside the budget cap. However, any additional dollars spent by the municipality in support of the project, including any overmatch, will fall under the Division of Local Government Services budget cap requirements.
6. **Time and Attendance Records:** Grantee must maintain a timekeeping system which provides, at a minimum, records for all personnel charged to the grant as follows: positions (filled with grant funds); rank/title; employee's name; date hired; annual salary; total daily hours worked, and the signatures of the employee and supervisor.
7. **Financial and Performance Reporting:** The Grantee agrees to file timely Detailed Cost Statements (DCS) and payment vouchers within fifteen (15) days after the end of each quarter. The Grantee also agrees to file a timely Final Grant Narrative Report within fifteen (15) days after the end date of the grant period. The Final Grant Narrative Report should describe accomplishments and activities that took place during the grant period. ***The Grantee understands and agrees that failure to comply with these filing deadlines may result in a reduction or total loss of the Grantee's award. L&PS may, at its discretion, terminate this or any other BWC grant awards for delinquent reporting.***

8. **Availability of Grant Funds:** The Grantee understands that annual funding for the Body-Worn Cameras Program is uncertain and that funding for each year's grant depends on the continued collection of sufficient program revenue. The Grantee accepts this award on the condition that if sufficient funds are not available, the municipality may not receive its entire State award.
9. **Purchase of Equipment, Consumable Supplies, and Services:** The Grantee agrees that all equipment, consumable supplies, and services purchased or leased with grant funds will be acquired by following standard county and local bidding/procurement procedures, including P.L. 2004, c. 19 (N.J.S.A. 19:44A-20.4 and N.J.S.A. 19:44A-20.5) or state bidding/procurement procedures, including P.L. 2005, c. 51 (N.J.S.A. 19:44A-20.13), when applicable. The Grantee agrees that all equipment purchased under the subaward will be tagged and properly inventoried to reflect use of federal or State funds, as applicable. The Grantee agrees to maintain an inventory list on all consumable supplies purchased with grant funds in the official grant file.
10. **Eligible Expenses:** Recipients of Body-Worn Camera Grant Program funding will be allotted a fixed dollar amount for each camera to be purchased. This dollar amount will exceed the cost of a camera. The excess funding is to be used for ancillary equipment such as clips, chargers, batteries, etc., as well as storage costs. Recipients are not to profit from this funding; ALL funding is to be used towards the cost of implementing the Body-Worn Camera Grant Program. It is the responsibility of the recipient to maintain proof of all expenditures; this documentation will be requested in the event of an audit or site visit.

### CERTIFICATION

I certify that the programs proposed in this application meet all the requirements of the Body-Worn Cameras Grant Program; that all the information presented is correct; and that the applicant will comply with the provisions of this grant program and all other applicable Federal and State laws, regulations, and guidelines.

Brigantine

Grant # 21- BWC-069

Awardee

Printed Name

(Mayor, Chief Executive or Village President)

Signature

(Mayor, Chief Executive or Village President)

Date

**CITY OF BRIGANTINE  
RESOLUTION 2021-**

**BE IT RESOLVED**, by the City Council of the City of Brigantine that the City Manager is herewith authorized to execute the AFSCME Council 63 Agreement for the terms set forth herein.

This is to certify that the above is a  
lawful copy of a resolution adopted by the  
City Council of the City of Brigantine,  
County of Atlantic, State of New Jersey  
at its meeting of September 1, 2021.

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Lynn Sweeney, RMC  
City Clerk

**CITY OF BRIGANTINE**

**RESOLUTION NO. 2021-**

**“A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF BRIGANTINE  
DESIGNATING A CONDITIONAL REDEVELOPER FOR  
THE BAYSIDE MARINA REDEVELOPMENT AREA LOCATED AT  
BLOCK 5702, LOTS 7, 7.01, 7.02, 8 AND 9,  
IN THE CITY OF BRIGANTINE”**

**WHEREAS**, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (“Redevelopment Law”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of rehabilitation or redevelopment; and

**WHEREAS**, Brigantine Marina and Paddle Club, LLC c/o M. Sean Scarborough, Owner, owns a parcel of property located at 4401 Atlantic-Brigantine Boulevard, Block 5702, Lots 7, 7.01, 7.02, 8, and 9, (the “Property”); and

**WHEREAS**, pursuant to Resolution 2021-141, the City accepted a recommendation of the Brigantine Planning Board to designate the Property at Block 5702, Lots 7, 7.01, 7.02, 8 and 9 as a non-condemnation area in need of redevelopment; and

**WHEREAS**, thereafter, the City authorized the preparation of a Redevelopment Plan for the area comprised of the Property, and referred to as The Bayside Marina Redevelopment Area, (the “Redevelopment Plan”), and

**WHEREAS**, the Mayor and City Council reviewed the Redevelopment Plan and adopted the Bayside Marina Redevelopment Plan on August 18, 2021 pursuant to Ordinance No. 18-2021;

**WHEREAS**, the City has been in discussions with Owner regarding redevelopment of the Property and the Parties entered into a Memorandum of Understanding with Brigantine Marine and Paddle, LLC, c/o M. Sean Scarborough, Owner, to memorialize their intention to continue negotiations regarding the potential redevelopment of the Property, that may lead to negotiation of a Redevelopment Agreement in good faith, and to memorialize the payment of certain costs of the City by the Owner during such negotiations; and

**WHEREAS**, at this time, the City wishes to designate Brigantine Marine and Paddle, LLC as the Conditional Redeveloper of the Bayside Marina Redevelopment Area located on Block 5702, Lots 7, 7.01, 7.02, 8 and 9, in the City of Brigantine, and to authorize the negotiation of a Redeveloper's Agreement with Brigantine Marine and Paddle, LLC, c/o M. Sean Scarborough.

**NOW, THEREFORE BE IT RESOLVED** by the Mayor and City Council of the City of Brigantine that BRIGANTINE MARINE AND PADDLE CLUB, LLC c/o M. Sean Scarborough, is hereby designated as the Conditional Redeveloper for the Bayside Marina Redevelopment Area; and

**BE IT FURTHER RESOLVED** that said designation shall be in effect from the date of this Resolution through September 1, 2022 and that such designation may be extended upon the satisfactory demonstration that substantive progress has occurred concerning the negotiation of a Redevelopment Agreement. Any extension of the designation shall require the approval of the City Council of the City of Brigantine.

**BE IT FURTHER RESOLVED** that the City is hereby authorized to enter into negotiation with BRIGANTINE MARINA AND PADDLE, LLC as Conditional Redeveloper for a Redevelopment Agreement in regard to the Bayside Marina Redevelopment Area; and

**BE IT FURTHER RESOLVED** that upon the completion of negotiations of the Redevelopment Agreement, the Mayor and City Council of the City of Brigantine will be required to review and authorize the execution of any and all related documents in order to effectuate the completion of the negotiation.

DATE: September 1, 2021

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LYNN SWEENEY, RMC  
CITY CLERK

**RESOLUTION NO. 2021 –**

**TO APPOINT THE FLOODPLAIN MANAGEMENT PLANNING COMMITTEE AND  
PROGRAM FOR PUBLIC INFORMATION COMMITTEE (PPI)  
TO ADVISE ON FEMA COMMUNITY RATING SYSTEM ACTIVITIES**

**WHEREAS**, to ease the financial and flooding impacts to the residents, the City of Brigantine has maintained a rigorous floodplain management program and was recognized by the Federal Emergency Management Agency (FEMA) through the Community Rating System (CRS) for its progressive floodplain planning, maintenance and public outreach.

**WHEREAS**, Brigantine holds a Class 5 CRS rating affording city property owners benefit from improved floodplain management and over \$1,000,000 in flood insurance premium savings based on a 25 – percent flood insurance premium discount.

**WHEREAS**, the City wishes to formally appoint and recognize a Floodplain Management Committee and a PPI Committee to assist in the development, implementation, and maintenance of the City's floodplain management planning efforts pursuant to Activity 510 of the *CRS Coordinator's Manual*.

**WHEREAS**, the Floodplain Management Planning Committee and PPI Committee shall include the following members:

- Member of the Public
  - Robert Rubino, Insurance Industry
  - Jeanine Oleksiak, Brigantine Resident
  - Ralph Busco, Brigantine Resident
  - Paul Lauriello, Insurance Industry
  - Paula Dumas, Banking Industry
  - Ron Powell, Brigantine Resident (Honorary)
- City Staff
  - Jim Bennett, City Manager
  - Richard Stevens, Construction Official
  - Lt. William Stroby, OEM
  - Lance Landgraf, Planner
  - Edward Stinson, CRS Coordinator
- Advisor
  - John Doring, Public Works
  - Jim Rutala, CRS Consultant

**WHEREAS**, to maximize Community Rating System credit and comply with hazard mitigation planning guidelines, the committee shall adhere to the following conditions set forth in the *CRS Coordinator's Manual*:

- The committee shall meet a sufficient number of times to maximize potential credit for the floodplain management planning activity (including for Steps 4, 5, 6, 7, and 8).

- The meetings must be open to the public and the meeting schedule must be publicly posted

**WHEREAS**, the committee shall assist in the preparation of annual and five-year updates required per the *CRS Coordinator's Manual*.

**WHEREAS**, the committee shall designate a member to act as chairperson and report activities to the City Council and nominate additional or replacement members to the committee at City Council's consent.

**WHEREAS**, the committee shall be instructed to undertake appropriate outreach with regard to the planning process to solicit feedback and report findings, including the hosting of at least one separate public information meeting to collect input and at least one separate public meeting to obtain input on the recommended plan at least two weeks before submittal of the plan to City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Brigantine, County of Atlantic and State of New Jersey that the committee membership is hereby appointed to assist in the development, implementation, and maintenance of the Floodplain Management Plan.

**Certification:**

I hereby certify that the above resolution is a true copy of the resolution adopted by the Mayor and Council at their Regular Meeting held on September 1, 2021 at 5:00 p.m. in the Brigantine Municipal Building, 1417 West Brigantine Avenue, Brigantine, New Jersey.

\_\_\_\_\_  
**CLERK**





**MARINE MAMMAL STRANDING CENTER**  
**P.O. Box 773, 3625 Brigantine Blvd Brigantine, NJ 08203**  
Phone (609) 266-0538 Fax (609) 266-6300 [www.mmsc.org](http://www.mmsc.org)

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August 25, 2021

Mayor and Council  
City of Brigantine Beach

Re: First Annual Pup Strut to benefit the Marine Mammal Stranding Center

Dear Council Members,

The Marine Mammal Stranding Center is requesting to hold a fundraising activity on the beach on Saturday, October 16, 2021.

While we normally hold only one event in Brigantine each year- the Run for the Animals, we had been asked by several of the runners that bring their dogs to run in our 5K if we could hold an event for just the dogs.

Our plan is to limit the number of dogs to 100 (but more likely we will only have between 50-75).

Each pet owner will be required to sign a waiver so that every possible problem with the dogs is covered by their signature, where they will hold us and the City of Brigantine harmless. (see Participant and pet waiver for walk registration.)

We will also use this event as an educational tool for letting people know about having dogs loose on the beach and the dangers of dogs interacting with the wildlife, specifically seals.

Please review the attached:

- Application for event
- Hold harmless agreement
- Certificate of Liability Insurance
- Participant waiver

Since time is of the essence for publicity of the event, we hope to hear from you soon.

Thank you for all you do for the MMSC.

Sheila Dean  
Co-director

A handwritten signature in cursive script, appearing to read "Sheila Dean", written over a horizontal line.



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## Marine Mammal Stranding Center Waiver and Assumption of the Risk Pup Strut 2021

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Participant and pet waiver for walk registration

Walker Name: \_\_\_\_\_ Pet Name: \_\_\_\_\_

Proof of current vaccinations must be presented at event registration for every pet attending. Each participant, and parent or guardian of youth participants, must agree to this Waiver for themselves and on behalf of any youth or canine participant whom they are registering. Please read carefully. I hereby acknowledge my voluntary participation in the Pup Strut Walk event (the "Event") in the City of Brigantine may result in personal injury to me, any minor under my care, and/or my dog(s) ("Dog"). By participating in, attending, or observing the Event, I acknowledge and assume all risks and dangers that are incidental to or in any way arise from the Event including, without limitation, all risks and danger inherent in a canine-oriented event (e.g. dog bites, fights or altercations, falls, and contact with participants or spectators at the Event), and walking. I understand that walking in Events can be a potentially hazardous activity, which could cause injury or death. I should not enter and walk in the Event unless I am medically able and properly trained, and by my signature, I certify that I am medically able to perform this event, I am in good health, and I am properly trained. I agree to abide by any decision of an Event official relative to my ability to safely complete the Event. I assume every risk associated with participating in the Event including, but not limited to: falls, contact with Event participants or volunteers or with vehicles or dogs, the effects of the weather, including high heat and/or humidity, traffic and the conditions of the road and course conditions. I attest that, if I am pregnant, disabled in any way, or have recently suffered an illness, injury, or impairment, I have consulted with a physician before participating in the Event. I consent to emergency medical care and transportation in the event of injury and to obtain treatment medical professionals may deem appropriate. This Release extends to any liability arising out of or in any way connected with medical treatment and transportation provided in the event of an emergency. I agree and understand that I am expected to exhibit behavior that is appropriate at all times and to obey all laws. This includes, generally, respect for all people, equipment, and facilities. I may be removed from the Event, without refund, should my behavior endanger the safety or negatively affect a race, person, the venue, myself, or property of any kind. I agree to not consume alcohol prior to or during the Event or ingest any medicines or substance that will inhibit my mental or physical ability to safely and effectively participate in the Event. I agree that the Event is not responsible for any personal item(s) or property that is lost or stolen at the Event. I understand that retractable leads, bicycles, skateboards, roller skates or rollerblades, and personal music players are not allowed in the race. I accept personal responsibility for any and all actions of the Dog and agree that the Dog will be in my care, custody, and control during the Event. I hereby represent and confirm that the Dog is in good health and current on all vaccinations including rabies, DHLPP, Parvo, and Bordatella, and that the Dog is not the subject of a quarantine order, a pending adjudication or administrative hearing, and has never been declared dangerous, potentially dangerous or vicious or potentially vicious dog. I agree to be bound by the terms of the rules and regulations established by the Event. I will abide by all applicable government laws, ordinances, orders, directions, rules and regulations, as well as all rules

and regulations that are adopted for this Event. I acknowledge that the Event reserves the right to exclude or eject any and all unruly, rowdy, or disruptive participant, dog owner or Dog from the Event and that I shall be fully responsible for any damages or expenses, direct or indirect, incurred as a result of myself or my Dog's disruptive behavior and/or ejection. I further agree that any Event official may authorize necessary treatment for me and/or the Dog in the event of injury. I understand that the Event reserves the right to cancel or modify the Event if conditions create an unsafe Event, such as but not limited to accidents, labor disputes, acts of war or terrorism, military or armed conflicts, insurrections, rebellions, riots, explosions, lighting, earthquakes, fires, storms, terror attacks, rain, floods, or wind. In the event of any such cancellation for any reason, there will be no refunds to my registration fee. I agree that all entry fee payments are non-refundable and all sales are final. I attest that I have read the rules of the Event and agree to abide by them. Having read this waiver and knowing these facts and in consideration of your accepting my entry, I, for myself and anyone entitled to act on my behalf, waive and release the Marine Mammal Stranding Center, City of Brigantine, sponsors and organizers, and their representatives, agents, affiliates, employees and successors (the "Administrators") from all claims and/or liabilities of any kind arising out of my participation in the Event even though such liability may arise out of negligence or carelessness on the part of the persons named in this waiver. I also grant permission to all the foregoing to use any photography, motion picture, recordings, or any other record of the Event for any legitimate purpose. I further understand and agree that stroller use is permitted in the Event and I assume all liability related to my use of one.

Walker Signature \_\_\_\_\_ Date: \_\_\_\_\_

Parent/Guardian Signature \_\_\_\_\_ Date: \_\_\_\_\_

I, the parent or guardian of the above-named participant, have read through this waiver and all its terms, and I hereby give my approval to this child's participation in the Pup Strut Walk, and I hereby waive, release, absolve, indemnify and agree to hold harmless the administrators, as defined above, for any injury to my child and from any and all claims, causes of actions, obligations, lawsuits, charges, complaints, controversies, covenants, agreements, promises, damages, costs, expenses, responsibilities, or whatsoever kind, nature or description, whether, direct or indirect, in law or in equity, in contract or in tort, or otherwise, whether known or unknown, from all claims or liabilities of any kind arising out of or connected with my child's participation in the Event. I consent to the foregoing and grant permission for him/her to participate in the Event. I acknowledge I have carefully read, accepted and agreed to the terms on this Assumption and Release and Liability waiver, and know and understand their contents and I sign the name on my own free act and deed. **\*\*DISCLAIMER\*\*** When registering online, my online signature will substitute for and have the same legal effect as an original form signature. I agree and understand that my PARTICIPATION WILL BE DENIED if the signature of an adult participant or parent/guardian and date are not signed at the time of the Event.

**Adams, Ann**

---

**From:** Sweeney, Lynn  
**Sent:** Monday, August 30, 2021 3:24 PM  
**To:** Adams, Ann  
**Subject:** FW: Riptide

To whom it may concern,

I am putting in a request to hold the 14th annual Fall Riptide Striper Derby from September 8th 2021 until December 22rd 2021. The tournament has helped several local charities with the biggest being Hooked on Fishing . We have donated well over \$34,000.00 from the money that we have raised in the past and will continue to donate to the local charities. Like in the previous 15 years of running this tournament, I am asking for permission to drive on the front beaches of Brigantine as long as they have a valid Brigantine City 4 X 4 permit in addition to the Riptide Striper Derby permit. The anglers will have to abide by all city regulations and MUST be in the act of fishing while driving the front beaches. I have run this tournament for the last 15 years and have not had any problems and will continue to run it the same way. I am also asking that when the tournament does end on Dec 22 2021 that we are still allowed to drive the front beach ( as long as they have their Riptide Derby Permit and a valid Brigantine 4x4 Permit.) until Feb 28th 2021 when the Riptide 2022 Spring Derby will begin.

In September we will only drive on the front beach Monday - Friday 24/7 , on the weekends we are asking to drive from 6:00 pm until 9:00 am on Sat and Sunday's during September. From October on we would like to drive 24/7 on the front beach 7 days a week as long as we are in the act of fishing.

If you have any questions you can call my cell # at 609-██████████ and I thank you in advance for your cooperation.

Capt Andy  
Riptide Bait and Tackle