

RESOLUTION 2012- 066

RESOLUTION APPROVING INDEMNIFICATION AND
HOLD HARMLESS AGREEMENT

BE IT RESOLVED by The Bordentown Sewerage Authority this 20th day of August, 2012, that the following Agreement by and between THE BORDENTOWN SEWERAGE AUTHORITY and BORDENTOWN WATERFRONT COMMUNITY, LLC be and the same is hereby approved in the form on file in the Authority office:


INDEMNIFICATION AND
HOLD HARMLESS AGREEMENT

BE IT FURTHER RESOLVED that the Chairman and Secretary be and the same are hereby authorized and directed to execute and deliver the aforesaid Agreement on behalf of the Authority.

THE BORDENTOWN SEWERAGE AUTHORITY

By: 
Ronald L. Marino, Chairman

Attest:


Nancy A. Liberman, Secretary
Stephen Masca, Asst

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

This Agreement is made as of the 20th day of August, 2012 by and between THE BORDENTOWN SEWERAGE AUTHORITY, 954 Farnsworth Avenue, Bordentown, NJ 08505 (the "Authority") and BORDENTOWN WATERFRONT COMMUNITY, LLC, 19 Longview Drive, Princeton, NJ 08540-5636 (the "Applicant").

WHEREAS, the Applicant has submitted an application to the Authority for sanitary sewer service for a project known as "Bordentown Waterfront Community", Route 130, Bordentown, NJ 08505, also known as Block 140, Lots 5 to 8 on the Tax Map of the Township of Bordentown (the "Project"); and

WHEREAS, as part of the construction of the Project, the Applicant must construct, *inter alia* and at its sole expense, a six (6") inch sanitary sewer force main from the intersection of Burlington-Bordentown Road (C.R. 662) extending northerly along Route 130 to the intersection of Farnsworth Avenue (C.R. 545), a distance of approximately 1.9 miles (the Force Main"); and

WHEREAS, the Force Main will be constructed in the existing shoulder pavement of U.S. Route 130 Southbound, which is under the jurisdiction of the New Jersey Department of Transportation ("NJDOT"); and

WHEREAS, NJDOT requires that an "Application for Utility Opening" be submitted and a road opening permit issued before construction can begin on the Force Main; and

WHEREAS, the NJDOT approval process would be expedited if the Authority were the named applicant for, and permittee under, the road opening permit; and

WHEREAS, the Applicant has requested that the Authority submit the "Application for Utility Opening" to NJDOT in the name of the Authority and act as the permittee under the road opening permit issued by NJDOT for the construction of the Force Main; and

WHEREAS, the Authority will consent to submit the "Application for Utility Opening" and act as the permittee under the road opening permit, under the conditions contained herein; and

WHEREAS, Applicant has expressly consented to defend, indemnify and hold harmless the Authority from any and all claims of NJDOT or any other person related to the construction of the Force Main.

NOW THEREFORE, for the consideration of \$1.00 in hand received and the other mutual promises and covenants contained herein, including, but not limited to the promise of the Applicant to defend, indemnify and hold harmless the Authority from any and all claims of NJDOT or any other person related to the construction of the Force Main, the parties do hereby agree as follows:

1. The Authority agrees to submit the "Application for Utility Opening" to NJDOT in the name of the Authority in the form attached to this Agreement and act as the permittee under the road opening permit to be issued by NJDOT for the construction of the Force Main.
2. The Applicant shall construct the Force Main at its sole cost and expense in strict compliance with the terms of the "Application for Utility Opening" and road opening permit issued by NJDOT, the plans and specifications that were submitted to and approved by NJDOT and the Rules, Regulations and Specifications of the Authority.


3. The Applicant shall assume exclusive responsibility for compliance with the "Application for Utility Opening" and road opening permit issued by NJDOT for the construction of the Force Main, including but not limited to the conditions expressly stated or implied in the "Application for Utility Opening" and road opening permit.
4. The Applicant shall defend, indemnify and hold harmless NJDOT, the State of New Jersey and their agents, servants and employees from and against any and all suits, claims, losses, demands or damage of whatsoever nature arising out of or claimed to arise out of, any negligent act, error or omission of the Authority and its agents, servants and employees, and/or the Applicant and its agents, servants, employees and contractors, concerning the performance of the work to be performed under the "Application for Utility Opening" and road opening permit for the construction of the Force Main.
5. The Applicant shall defend, indemnify and hold harmless the Authority and its agents, servants and employees from and against any and all suits, claims, losses, demands or damage of whatsoever nature arising out of or claimed to arise out of, any negligent act, error or omission of the Applicant and its agents, servants, employees and contractors concerning the performance of the work to be performed under the "Application for Utility Opening" and road opening permit for the construction of the Force Main.

6. The Applicant shall pay on behalf of the Authority any judgments or settlements resulting from any and all suits, claims, losses, demands or damage of whatsoever nature arising out of or claimed to arise out of, any negligent act, error or omission of the Authority and its agents, servants and employees, and/or the Applicant and its agents, servants, employees and contractors concerning the performance of the work to be performed under the "Application for Utility Opening" and road opening permit for the construction of the Force Main and shall pay all costs of defense of the Authority in defending such claims or in prosecuting the enforcement of this Agreement against Applicant, including reasonable counsel fees and costs of suit.
7. The Applicant shall comply with all Rules, Regulations and Specifications of the Authority. Nothing in this Agreement shall be deemed a waiver by the Authority of any of its Rules, Regulations or Specifications.

Signatures follow on succeeding page.

IN WITNESS WHEREOF, the parties have set their hands and seals on the date and year first written above.

BORDENTOWN WATERFRONT COMMUNITY, LLC.

By: 
Jeffrey B. Albert, Member

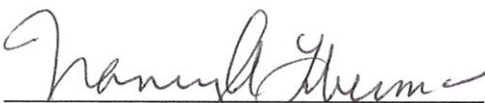
Witness:


Maureen Bass

THE BORDENTOWN SEWERAGE AUTHORITY

By: 
Ronald L. Marino, Chairman

Attest:


Nancy Liberman, Secretary