

RESOLUTIONS
DATE: SEPTEMBER 28, 2022

MOTION: DEPADUA
SECOND: KOLODZIEJ

Resolution No. 22-088

Resolution Authorizing A Shared Services Agreement With the Borough of Lodi for Fire Hydrant Testing and Inspection Services of the Water Distribution System
Borough to provide fire hydrant testing and inspection services of the water distribution system for testing 517 hydrants twice a year at \$50 per hydrant with each inspection at a total annual cost of \$51,700 per year over 5 years.

Resolution No. 22-089

Resolution to Extend Contract No. 21-B-06, "Valve Operation and Hydrant Flushing Program"
Provide the Contractor with a non-compensatory time extension to the existing contract from June 30, 2022 to March 31, 2023 to complete remaining valve operation and testing in the Boroughs of North Arlington and Lodi that has been assigned under this contract.

Resolution No. 22-090

1-Year Extension of Contract No. 19-B-34 "Liquid Residuals Hauling Services"
The Contractor has, and continues to provide reliable goods and services on an as-needed basis with said contract. This 3-year contract, which is otherwise scheduled to end on November 17, 2022, includes a provision whereby PVWC may elect to extend the contract time up to an additional two years, for a total contract duration of not more than five (5) years, including extensions. The Contractor has agreed to a one (1) year extension with a zero percent escalation in unit prices. It is recommended that said contract be extended for a 1-year period of time beginning November 18, 2022 and ending on November 17, 2023.

Resolution No. 22-091

Resolution for the Procurement of Five Cargo Vans to be Used by the Distribution Department under New Jersey State Contract No. 17-FLEET-00241
Procurement of five (5) cargo vans for the Distribution Department to replace existing vehicles at the end of its useful life.

Resolution No. 22-092

Resolution for the Procurement of Two Excavators with Accessories to be Used by the Distribution Department under the Bergen County Cooperative Pricing #CK-04, Grounds Division
Procurement of two (2) E35 Bobcat Compact Excavators and accessories for the Distribution Department to replace the existing 2005 Kabota B21 that is at the end of its useful life.

Resolution No. 22-093

Resolution to Award Professional Services Contracts for Contract No. 22-Q-04 and 22-Q-14
Award Professional Services Contracts as summarized in the attached Table.

Resolution No. 22-094

Resolution to Procure the Annual Software Maintenance of Naviline Software

It is recommended that PVWC continues to purchase annual maintenance for CentralSquare software for continued support of PVWC's Naviline Purchasing, Inventory, Financial Systems.

**PASSAIC VALLEY WATER COMMISSION
INTEROFFICE MEMORANDUM**

Date: September 23, 2022
 To: Hon. Commissioners
 From: P. Porcaro
 cc: J. Mueller, Y. Brisman, L. Bresemann, Y. Weiss
 Re: **Resolutions 22-088 to 22-094**

Resolution No.	Resolution	Description	Resolution Type	Awardee / Participant	Contract Amount	Contract Duration / Frequency
22-088	Resolution Authorizing A Shared Services Agreement With the Borough of Lodi for Fire Hydrant Testing and Inspection Services of the Water Distribution System	Borough to provide fire hydrant testing and inspection services of the water distribution system for testing 517 hydrants twice a year at \$50 per hydrant with each inspection at a total annual cost of \$51,700 per year over 5 years. <<SEE EXHIBIT A>>	Shared Services Agreement	Borough of Lodi	\$ 258,500.00	5 Years
22-089	Resolution to Extend Contract No. 21-B-06, "Valve Operation and Hydrant Flushing Program"	Provide the Contractor with an non-compensatory time extension to the existing contract from June 30, 2022 to March 31, 2023 to complete remaining valve operation and testing in the Boroughs of North Arlington and Lodi that has been assigned under this contract.	Contract Extension	Wachs Water Services Columbia, MD	No Increase - Not to Exceed \$558,942.50	March 31, 2023
22-090	1-Year Extension of Contract No. 19-B-34 "Liquid Residuals Hauling Services"	The Contractor has, and continues to provide reliable goods and services on an as-needed basis with said contract. This 3-year contract, which is otherwise scheduled to end on November 17, 2022, includes a provision whereby PVWC may elect to extend the contract time up to an additional two years, for a total contract duration of not more than five (5) years, including extensions. The Contractor has agreed to a one (1) year extension with a zero percent escalation in unit prices. It is recommended that said contract be extended for a 1-year period of time beginning November 18, 2022 and ending on November 17, 2023.	Contract Extension	Russell Reid	\$ 1,861,200.00	November 17, 2023

**PASSAIC VALLEY WATER COMMISSION
INTEROFFICE MEMORANDUM**

Resolution No.	Resolution	Description	Resolution Type	Awardee / Participant	Contract Amount	Contract Duration / Frequency
22-091	Resolution for the Procurement of Five Cargo Vans to be Used by the Distribution Department under New Jersey State Contract No. 17-FLEET-00241	Procurement of five (5) cargo vans for the Distribution Department to replace existing vehicles at the end of its useful life.	Award Procurement Contract	Route 23 Automall LLC Butler, NJ	\$ 249,925.00	One-time
22-092	Resolution for the Procurement of Two Excavators with Accessories to be Used by the Distribution Department under the Bergen County Cooperative Pricing #CK-04, Grounds Division 22-09	Procurement of two (2) E35 Bobcat Compact Excavators and accessories for the Distribution Department to replace the existing 2005 Kabota B21 that is at the end of its useful life.	Award Procurement Contract	Bobcat of North Jersey Totowa, NJ	\$ 121,800.00	One-time
22-093	Resolution to Award Professional Services Contracts for Contract No. 22-Q-04 and 22-Q-14	Award Professional Services Contracts as summarized in the attached Table. <<SEE EXHIBIT B>>	Award Professional Services Contract	Refer to Table		Annual
22-094	Resolution to Procure the Annual Software Maintenance of Naviline Software	It is recommended that PVWC continues to purchase annual maintenance for CentralSquare software for continued support of PVWC's Naviline Purchasing, Inventory, Financial Systems.	Award Procurement Contract	CentralSquare	\$ 90,713.46	Annual

EXHIBIT A

**SHARED SERVICES AGREEMENT BETWEEN PASSAIC VALLEY WATER
COMMISSION AND THE BOROUGH OF LODI
FOR FIRE HYDRANT TESTING AND INSPECTION SERVICE
OF THE WATER DISTRIBUTION SYSTEM**

**SHARED SERVICES AGREEMENT BETWEEN PASSAIC VALLEY WATER
COMMISSION AND THE BOROUGH OF LODI
FOR FIRE HYDRANT TESTING AND INSPECTION SERVICE
OF THE WATER DISTRIBUTION SYSTEM**

THIS SHARED SERVICES AGREEMENT (herein called the "Agreement") is made as of this _____ day of _____, 20__ by and between Passaic Valley Water Commission, a public body of the State of New Jersey, corporate and politic created pursuant to N.J.S.A. 40:62-108 to 40:62-150.2 and having its principal office located at 1525 Main Avenue, Clifton, New Jersey 07011, hereinafter referred to as "Commission", and the Borough of Lodi with its principal offices located at their Municipal Building, One Memorial Drive, Lodi, New Jersey 07644 which Borough is a Municipal Corporation of the State of New Jersey, hereinafter referred to as "Borough" (Commission and Borough are also individually referred to herein as "Party" and collectively as "Parties").

WITNESSETH

WHEREAS, the Commission operates a system of water distribution within the geographic limits of the Borough including a fire hydrant system (hereinafter the "System"), and provides water to the Customers within the Borough; and

WHEREAS, the Commission has determined that contracting with the Borough to provide fire hydrant testing and inspection services within the Borough's geographic boundaries is the most economical and advantageous means of implementing these services; and

WHEREAS, the Commission has decided to contract for the testing and inspection of the System and the Borough is willing and able to provide such services to the Commission; and

WHEREAS, it is the mutual desire of the Parties to enter into an agreement to provide for said services (as specified herein); and

WHEREAS, the Borough and the Commission have determined that public health, safety, and welfare of the Customers of the Commission and the residents of the Borough can best be protected by entering into an Agreement authorized under the Uniform Shared Services and Consolidation Act, of the Laws of 2007, Chapter 63, effective April 3, 2007 (the "Act") N.J.S.A. 40A:65-1 through 40A:65-35, as amended, to provide said Services(as such terms are hereinafter defined) to provide fire hydrant testing and inspection services; and

WHEREAS, N.J.S.A. 40A:11-5(2) provides an exception under the Local Public Contracts Law for contracts entered into with the United States of America, the State of New Jersey, County, or municipality, or any board, body, office, agency, or authority thereof, and PVWC and the Borough are such entities;

NOW THEREFORE, in consideration of the promises, agreements and covenants hereinafter set forth and mutually agreed to, the Borough and the Commission, each for itself, its legal successors and assigns, if any, do mutually covenant, promise and agree as follows:

ARTICLE I
DEFINITIONS

SECTION 101 Definitions

The following definitions shall apply to and are used in this Agreement:

"Agreement" shall mean the agreement by and between the Borough and the Commission, and any and all modifications, alterations, amendments and supplements hereto which may be made by mutual agreement of the Parties.

"Business Day" shall mean any day that is not a Saturday, a Sunday or other day on which the administrative offices of the Borough or the Commission are authorized or obligated by law to be closed.

"Customers" (also referred to herein as "Commission Customers") shall mean owners of property, as identified on the tax rolls of the Borough, which are connected to the System and have the right to connect to the System.

"Effective Date of the Agreement" shall mean the day and year first written above, or the date on which this Agreement has been signed and fully executed by both Parties, pursuant to their respective governing bodies due resolution, whichever is later.

"Event of Force Majeure" shall include, but not be limited to, the following acts, events or conditions or any combination thereof, provided however, that such act, event or condition shall be one that has or is reasonably expected to have a material adverse effect on the ability of any Party to wholly or partially perform its obligations under this Agreement, and shall be beyond the reasonable control of the Party relying thereon as justification for not performing an obligation or complying with any condition required of such Party under the terms of this Agreement. These shall include, but not be limited to:

- a) an act of God, lightning, earthquake, hurricane, war, blockade, insurrection, riot or civil disturbance, acts of any public enemy, act of terrorism, extortion, sabotage or similar occurrence or any exercise of the power of eminent domain, arrests, police power, condemnation or other taking by or on behalf of any public, quasi-public or private entity; or
- b) a landslide, fire, accident, strike or labor dispute, curtailment of supply or unavailability of construction materials, replacement equipment or fuel, disruption of transportation activities, failure of, or accidents to, machinery, pipelines, dams or canals, partial or entire failure of water supply, explosion, flood or nuclear radiation not created by an act or omission of either Party; or
- c) a change in law or any curtailment, law, rule, order, regulation or restriction imposed or enacted or interpreted by governmental body after the Effective Date of the Agreement ("Change in Law"); or

- d) an order, judgment, action and/or determination of any federal, state or local court, administrative agency, or governmental body with appropriate jurisdiction, impeding the construction, operation or maintenance of the system, provided, however, that the contesting of any such order, judgment, action and/or determination, in good faith, shall not constitute or be construed as an action or inaction within the control of such Party.
- e) Notwithstanding anything contained in this definition or elsewhere, the Commission's obligation to tender timely payments to the Borough and the Borough's obligation to perform shall be unconditional and absolute, except in those circumstances where this Agreement has been terminated in accordance with Article VIII.
- f) A Party's inability to perform due solely to financial circumstances unrelated to any of the foregoing shall in no case constitute an "Event of Force Majeure".

"Monthly" shall mean 12 times a year on or before the fifth Business Day of each calendar month.

"Monthly Account" shall mean a Customer of the Commission that the Commission bills for water system use on a Monthly basis

"Services" shall mean the Services to be provided by the Borough as set forth in Article II.

"Term of the Agreement" (also referred to herein as "Term") shall mean the Term of the Agreement as set forth in Article III of this Agreement.

"Water System" (Also referred to herein as "System") shall mean the Commission's interest in the Lease Agreement Regarding Municipal Water System Dated March 1997 between the Borough of Lodi as Lessor and Passaic Valley Water Commission as Lessee. Nothing herein shall be interpreted, or implied, so as to modify or limit the rights or obligations of the respective Parties with respect to the said Lease Agreement.

SECTION 102 Miscellaneous

Whenever the context may require, any pronoun that is used in this Agreement shall include the corresponding masculine, feminine and neuter forms, and the singular shall include the plural and vice versa. Unless otherwise noted, the words: "include", "includes" and "including" when used in this Agreement shall be deemed to be followed by the phrase "without limitation". All references to Articles, Sections, and Schedules shall, unless the context specifies otherwise, refer to this Agreement.

ARTICLE II
SCOPE OF SERVICES

SECTION 201 Services

As of the Effective Date of the Agreement, and during the Term of this Agreement, the Borough shall provide the Services as set forth herein.

- a) The Borough shall utilize whatever procedures, personnel, equipment and other resources as are necessary for the testing and inspection of all fire hydrants located in the Borough and any fire hydrants which may be hereafter installed by the Commission during the Term of the Agreement. Each hydrant shall be tested twice per year, once during the inspection cycle of each March and April and once during the inspection cycle of each September and October. The required procedures are set forth in this Article II. Such procedures are hereby approved by the Borough and by the Commission.
- b) The Borough shall designate a qualified individual to handle questions, problems and inquiries relating to the Services contemplated under this Agreement for the Commission to contact as needed.
- c) The Borough shall employ sufficient persons, to provide the Services for the Term of the Agreement, as contemplated herein.

Fire hydrant inspection and testing procedures shall be as follows:

- a) All Borough personnel who will be performing hydrant testing and inspection services shall attend training which will be provided by Commission personnel.
- b) The Borough will be given access to PVWC's web-based Field Book program and shall enter all hydrant testing and inspection reports directly into the electron reporting forms.
- c) The Borough shall designate qualified and competent Borough personnel who shall perform the following tests and inspections of each hydrant twice per year (once during each inspection cycle as defined hereinabove in this Section 201):
 - 1) Fill out date, hydrant number, and location of hydrant on hydrant testing and inspection report within Field Book.
 - 2) Remove any foliage and/or weeds that impede access to the hydrant.
 - 3) Fully open and close the hydrant under pressure and indicate whether or not this test can be completed. Under no circumstances shall the Borough be authorized to flow any hydrant during the testing and inspection program.
 - 4) If the test in Item 3 above can be completed, record the static pressure in the appropriate space provided on the hydrant testing and inspection report.

- 5) While performing the test in Item 3 above, inspect operating nuts for wear and indicate, in Comments Box, if hydrant nuts are stripped or broken.
 - 6) Remove all caps, clean and grease threads-replace caps. Indicate, in Comments Box, whether or not caps are missing or hard to turn.
 - 7) Inspect inner barrel for proper drainage. Indicate whether or not hydrant barrel has standing water that is not draining after 10 minutes.
 - 8) Indicate condition of existing paint in the appropriate space provided on the hydrant testing and inspection report.
 - 9) Indicate whether or not hydrant has a locking cap in the appropriate space provided on the hydrant testing and inspection report.
 - 10) Indicate whether or not hydrant has a quick-disconnect type adapter in the appropriate space provided on the hydrant testing and inspection report.
 - 11) Indicate color of paint in the appropriate space provided on the hydrant testing and inspection report.
 - 12) After verifying accuracy and completeness of the hydrant testing and inspection report, sign the said report. Said report will be automatically uploaded to the PVWC GIS database.
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- e) The Borough, and its employees, servants, agents, or other representatives, do not have authority to permit hydrant use by any private contractor or person. Private contractors or persons requesting to use hydrants shall submit such request in writing to the Commission beforehand. The Commission will then review and, as applicable, will either deny the request, or will issue an authorization letter to the requesting private contractor or person. Approved backflow prevention devices shall be installed by the authorized private contractor or person prior to any hydrant use by same.
 - f) The Borough, and its employees, servants, agents, or other representatives, shall not flow hydrants.
 - g) During normal business hours, questions can be directed to the Commission's Distribution Department, at 973-340-4300 or CustomerService@PVWC.com.
 - h) The Borough shall provide services of Borough's designated supervisory personnel who shall conduct periodic field verifications as required to ensure that the Borough is properly performing and documenting hydrant testing and inspections.

The Commission shall provide, in a timely fashion, to the Borough, any information reasonably necessary to enable the Borough to perform the Services contemplated hereby.

SECTION 202 Reports

The Borough shall generate hydrant testing and inspection reports (also referred to herein as "service reports") in full detail using the forms located within Field Book.

SECTION 203 Customer Inquiry Services

The Commission shall continue to be responsible for accessing records and responding to all questions received from Customers or members of the public, regarding fire hydrant service and related matters.

**ARTICLE III
COMMENCEMENT OF SERVICES AND TERM OF AGREEMENT**

SECTION 301 Commencement of Services

The Borough shall provide the Services set forth in this Agreement commencing from the Effective Date of the Agreement.

SECTION 302 Term of Agreement

Unless terminated pursuant to Article VIII, the Term of the Agreement shall be for a period of five (5) years commencing upon the Effective Date of the Agreement.

**ARTICLE IV
RESPONSIBILITIES OF THE BOROUGH AND COMPENSATION**

SECTION 401 Borough Responsibilities

The Borough shall maintain responsibility to satisfy the requirements set forth in Article II and elsewhere herein, or which can be reasonably inferred therefrom.

SECTION 402 Payments to the Borough

The Borough shall invoice the Commission at the end of each inspection cycle (as defined in Section 201) for actual Services provided by the Borough pursuant to this Agreement. In consideration for the said Services, and commencing upon the Effective Date of the Agreement and continuing for the Term of the Agreement, the Commission agrees to pay the following annual fees, with partial payments to be made by the Commission to the Borough, due and payable twice per year and within thirty (30) days following the dates hydrant testing and inspection reports are submitted to the Commission as set forth in Section 202.

The Commission agrees to pay the following annual fees, with partial payments to be made by the Commission to the Borough, due and payable twice per year and within thirty (30) days following the dates hydrant testing and inspection reports are submitted to the Commission as set forth in Section 202; as follows:

Lodi:

\$51,700 per year⁽¹⁾ which equates to \$25,850 per inspection cycle⁽¹⁾

Not to Exceed \$258,500 over 5 year Agreement

Note (1): These amounts are based on an estimate of 517 hydrants in Lodi, including 6 hydrants which are off of the 34" transmission main that runs through Garfield, and \$100 per hydrant per year (\$50 per hydrant per inspection cycle) for labor, administrative costs, overhead, use of vehicles, miscellaneous expendables, and follow-up testing and inspections by Borough's supervisory personnel. The above unit pricing is the same as that currently offered to the Commission's Owner Cities of Paterson, Clifton, and Passaic. The total amounts per year (and per inspection cycle) listed above shall be adjusted based on the actual number of hydrant tests and inspections with the corresponding testing and inspection reports properly completed, signed and submitted by the Borough to the Commission. Note that the Commission will reimburse the Borough for up to two inspections per hydrant per year. Additional inspections performed by the Borough will be at the Borough's expense.

The Parties acknowledge the reasonableness of the assumptions made in Article II and payments of the amounts stipulated in this Article IV, which amounts shall be considered as full compensation for applicable Services rendered by the Borough under this Agreement. Adjustments shall be made by the Commission to compensation levels, within the constraints set forth hereinabove, to the extent that the actual number of hydrants differs from the stipulated quantities of hydrants set forth hereinabove as verified by the Commission on an annual basis, as of January 1 of each year.

ARTICLE V

AFFIRMATIVE ACTION REQUIREMENTS

SECTION 501 Mandatory Equal Employment Opportunity Language **(N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27)-Goods, Professional** **Services, and General Service Contracts**

During the performance of this contract, the Parties agree as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval;
- Certificate of Employee Information Report; or
- Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at: http://www.state.nj.us/treasury/contract_compliance).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

SECTION 502 Incorporation of Legal Requirements

In the event that any contractual provisions which are required by law have been omitted, or in the event that this Agreement fails to properly incorporate the Affirmative Action Requirements of State law, then this Agreement shall be deemed to incorporate all such clauses by reference and such requirements shall become a part of this Agreement.

ARTICLE VI INSURANCE REQUIREMENTS

SECTION 601 Comprehensive General Liability Insurance

During the Term of this Agreement, each of the Parties shall provide and maintain, at its cost and expense, Comprehensive General Liability Insurance on an occurrence basis, as will protect the Commission and their employees, subcontractors, and agents from claims for damages from bodily injury, including accidental death, as well as for claims for property damage, and contractual liability, which may arise from operations under this Agreement, whether such operations be by the Borough, or any subcontractor or agent or anyone directly or indirectly employed by the Borough, or any and all of the Borough's subcontractors. The policy limits for such insurance shall be not less than \$3,000,000. The policy shall include provisions for thirty (30) day written notice to the Parties of cancellation and/or modification of coverage with respect to such policy. Policy limits may be supplemented by an excess liability policy of an umbrella form. The Parties may provide for the coverage required in this Section through commercially available insurance or through self-insurance or joint insurance pools.*

SECTION 602 Automobile Liability Insurance

During the Term of this Agreement, the Parties shall, at their own cost and expense, procure and maintain Automobile Liability Insurance, if applicable, to cover each automobile, truck, vehicle, or other equipment used in the performance of this Agreement. The limits of liability shall not be less than \$1,000,000 Combined Single Limit (CSL). The policy shall include provisions for thirty (30) days written notice to the Parties of any cancellation and/or modification of coverage with respect to such policy. Each Party shall be included as additional named insured on all of the other Parties' policies. The Parties may provide for the coverage required in this Section through commercially available or through self-insurance or joint insurance pools. *

SECTION 603 Workers Compensation Insurance

During the Term of this Agreement, the Parties shall, at their own cost and expense, procure and maintain Worker's Compensation Insurance, at the Statutory Limits, indemnifying the Parties against any loss or claim arising from liabilities for injury sustained by employees, agents, or personnel of the Parties as required by law. The policy shall include provisions for thirty (30) days written notice to the Parties of any cancellation and/or modification of coverage with respect to such policy. The Parties shall also ensure that any subcontractor similarly provides Worker's Compensation Insurance for all of the latter employees. The Parties may provide for the coverage required in this Section through commercially available or through self-insurance or joint insurance pools. *

SECTION 604 Right to Subrogation

Each insurance policy required as set forth in this Article VI shall provide that neither Party, nor the Parties' insurers, shall have any rights to subrogation against the other. *

* The Parties acknowledge that the Borough is insured through the Municipal Joint Insurance Fund.

**ARTICLE VII
DEFAULT AND REMEDIES**

SECTION 701 Default by Any Party

Any Party shall be in Default under this Agreement, if the defaulting Party fails to perform any material obligation set forth in this Agreement, for more than thirty (30) days following written notice by the non-defaulting Party. An Event of Default includes, but is not implied to be limited to, failure by the Commission to make payments of amounts due and payable to the Borough within thirty (30) days after receipt of the invoice. Material obligations directly relating to the health and safety of the public or employees shall require immediate, diligent, and expeditious action by the responsible Party notwithstanding the foregoing.

SECTION 702 Obligation to Perform

Notwithstanding termination pursuant to Article VIII, each of the Parties shall be obligated to fully perform the services required by this Agreement through the date of termination. The Borough shall also be subject to damages in an amount equal to the costs associated with the Commission re-procuring the Services set forth in this Agreement.

SECTION 703 Non-Waiver

1. The failure of either Party to this Agreement, at any time, to enforce its rights hereunder shall in no manner affect its, or their, rights at a later time to enforce same. No waiver by any Party, or Parties, of any condition, or breach of any provision, term, covenant or representation contained in this Agreement, whether by conduct or otherwise, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of any other provision, term, covenant or representation of this Agreement.
2. Any payment made by the Commission to the Borough under the terms of this Agreement shall not be deemed a waiver of the Commission's rights to seek damages, in the event of a default by the Borough with respect to the Services performed pursuant to this Agreement.

**ARTICLE VIII
TERMINATION**

SECTION 801 Termination

The Parties shall have the right to terminate this Agreement during the Term of the Agreement upon ten (10) days written notice following an Event of Default as set forth in Article VII or an Event of Force Majeure as set forth in Article IX.

ARTICLE IX
EVENT OF FORCE MAJEURE

SECTION 901 Event of Force Majeure

1. If by reason of any Event of Force Majeure, any Party shall be rendered unable wholly, or in part, to satisfy its obligations under this Agreement, and further, if the Party alleging the Event of Force Majeure shall give notice and full particulars of such Event of Force Majeure in writing to the other Party hereto within a reasonable time after occurrence of the event or cause relied upon, then the obligation of the Party giving such notice, to the extent affected by such Event of Force Majeure, shall be suspended or modified during the continuance of the inability to perform, or fully perform, then claimed. Any Party so affected shall use its best efforts to overcome such Event of Force Majeure with all reasonable dispatch.
2. An Event of Force Majeure, during which the initiation of performance of Services under this Agreement is prevented for more than ninety (90) days from the Effective Date of the Agreement, will justify termination of the Agreement. Similarly, an Event of Force Majeure which terminates the Commission's management and control of the System would justify termination of this Agreement.
3. An Event of Force Majeure which causes a material impact to the performance of Services by the Borough or which materially impacts the terms, conditions and obligations affecting performance of either Party will justify an equitable adjustment that increases or decreases the price for performance of Services.

ARTICLE X
INDEMNIFICATION

SECTION 1001 Indemnification

The Borough shall defend, indemnify and save harmless the Commission, and the Commission's officers, agents and employees and each and every one of them against and from any and all liabilities, judgments, threatened, pending or completed actions, suits, demands for damages or costs of every kind and description actually and reasonably incurred (including reasonable attorneys' fees and court costs) including without implied limitations, liabilities for damage to property or liabilities for injury or death of any person (including liabilities for damaged property or liabilities for injury or death of the officers, agents and employees of either the Commission or the Borough) resulting from any negligent act or omission or from the willful misconduct of the Borough or any of its officers, agents or employees. The obligations set forth herein shall survive termination, expiration or rescission of the Agreement.

ARTICLE XI
ASSIGNMENT AND DELEGATION

SECTION 1101 Assignment and Delegation

The Borough shall not assign or delegate its performance obligations or any portion thereof nor any of the proceeds thereof, under this Agreement, to any person, firm, or organization except upon the prior written approval of the Commission, which may be withheld for any reason.

ARTICLE XII
MISCELLANEOUS

SECTION 1201 Governing Law

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Jersey. Subject to the provisions of paragraph 1202, the Parties agree that the sole venue for any action arising out of this Agreement, including any action to compel arbitration or enforce an arbitration award, shall be the appropriate division of the Superior Court of New Jersey, Bergen County which is where the Water System is located.

SECTION 1202 Arbitration

- A. If any claims, controversies or disputes shall arise out of or be related to this Agreement or the breach thereof, the Parties agree to submit the said claim, controversy or dispute to binding arbitration in accordance with the prevailing rules of the American Arbitration Association. Said arbitration shall be held in the County of Bergen, each Party to bear its own costs and the costs of the arbitrators to be borne equally by both Parties. As to any arbitration, each Party shall select one arbitrator, within ten (10) days of the event requiring said arbitration, and the two arbitrators so selected shall promptly select the third. If said arbitrators are unable to select a third arbitrator, one shall be assigned by the American Arbitration Association.
- B. Notwithstanding the foregoing paragraph, the Parties agree that any breach of this Agreement constitutes irreparable injury for which damages are not an adequate remedy, and they consent to the enforcement of this Agreement by preliminary injunctive relief pending a final award in any arbitration proceeding.

SECTION 1203 Licenses, Permits and Approvals

In the event that any goods to be purchased or services to be provided with respect to this Agreement requires that one, or both, of the Parties possess any licenses, permits or approvals issued by the State of New Jersey or any other governmental body, the said Party, or Parties, as applicable, shall procure and maintain any and all such licenses, permits or approvals during the Term of the Agreement.

SECTION 1204 Authority to Enter Into Agreement

Each party represents that it has the corporate and statutory powers and authorization to enter into this Agreement as its legal and binding obligation, and that there is no pending or threatened litigation by or against it that will, or has the potential to, cause a material adverse impact on that Party's performance obligations under this Agreement.

SECTION 1205 Merger Clause

This Agreement constitutes and expresses the complete Agreement and entire understanding of the Parties hereto with reference to the subject matter hereof, and the Parties shall not be bound by any other prior promises, representations, agreements, understandings and arrangements relative thereto being herein merged. * Any modifications or amendments to this Agreement shall be in writing and signed by both Parties.

* Except that the Lease Agreement Regarding Municipal Water System Dated March 1997 between the Parties hereto shall remain in full force and effect.

SECTION 1206 Binding Agreement

This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and to their respective legal successors and assigns, if any.

SECTION 1207 Modifications

The provisions of the Agreement may be amended, modified and/or supplemented from time to time by a written instrument duly approved and executed by each Party hereto.

SECTION 1208 Severability

The provisions of this Agreement are intended to be severable. If any term or provision hereof is declared or held to be illegal, invalid or unenforceable for any reason whatsoever by a court of competent jurisdiction, such illegality, invalidity or unenforceability shall not affect the validity of the remainder of this Agreement and this Agreement shall be continued in full force and effect as if such illegal, invalid, or unenforceable provision had not been contained herein.

SECTION 1209 Availability of Funds

To the extent required by law, this Agreement is subject to the availability and appropriation annually of sufficient funds by each Party to perform the said Party's duties and responsibilities as set forth in this Agreement, provided the said Party shall not unreasonably withhold such availability and appropriation annually.

SECTION 1210 Notices

All notices and other communications given by either Party to the other Party shall be in writing and shall be deemed to have been given, if delivered by hand, or upon receipt, if mailed by certified mail, return receipt requested, or sent by overnight courier, and properly addressed and directed to the Party to receive same at the applicable address set forth in this Agreement. Either Party may designate a change of address, or a different person or entity to which notices shall be given, by delivery of written notice to that effect to the other Party.

SECTION 1211 Filing of Agreement with the Division of Local Governmental Services

A copy of this Agreement shall be filed with the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey for informational purposes in accordance with N.J.S.A. 40A:65-4(3)b.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly authorized and properly executed as of the day and year first written above.

ATTEST: **BOROUGH OF LODI**
[Seal]

By: _____	By: _____
REBECCA PALADINO	SCOTT A. LUNA
Acting Borough Clerk	Mayor

ATTEST: **PASSAIC VALLEY WATER COMMISSION**
[Seal]

By: _____	By: _____
CHRISTINE VOZZELLA	RIGOBERTO SANCHEZ
Executive Assistant	President

EXHIBIT B

EVALUATION OF QUALIFICATIONS
FOR VARIOUS PROJECTS
FROM SEPTEMBER 20, 2022 BID OPENING

PROJECT NUMBER	PROJECT DESCRIPTION	AWARDEES	OTHER RESPONDERS	2022 - 2023 NTE Amount
22-Q-04	Distribution Specialty Project Management Services	Prana Water Consulting	1) Suburban Consulting Engineers 2) STV 3) CME Associates	\$ 162,000
22-Q-14	Professional Services for Financial Adviser	NW Financial Group, LLC	1) Phoenix Advisors, LLC 2) Acacia Financial Group, Inc.	\$ 40,000