

Township of Lawrence
County of Mercer

Ordinance No. 2343-19
(previously introduced as Ordinance No. 2337-19)

AN ORDINANCE OF THE TOWNSHIP OF LAWRENCE, IN THE COUNTY OF MERCER, NEW JERSEY, PROVIDING FOR THE SPECIAL ASSESSMENT OF A PORTION OF THE COST RELATING TO LEAD SERVICE LINE REPLACEMENTS AND APPROVING THE EXECUTION OF A SHARED SERVICES AGREEMENT IN CONNECTION THEREWITH

WHEREAS, the City of Trenton (the “**City**”) and the New Jersey Department of Environmental Protection (the “**DEP**”) entered into that certain Administrative Consent Order, dated July 26, 2018 (the “**ACO**”); and

WHEREAS, among other things, the ACO identifies the need for the City’s water utility, Trenton Water Works (“**TWW**”), to replace lead-lined service lines connecting the TWW main water distribution system lines to the meters on the privately-owned properties within the system (“**LSLs**”), at a rate of 7% of the system every 6 months (the “**LSL Replacement Project**”); and

WHEREAS, this effort includes the City and 3 neighboring municipalities served by TWW, specifically the Township of Lawrence (the “**Township**”), and Ewing and Hamilton Townships (together, the “**Municipalities**”); and

WHEREAS, the County and Municipal Water Supply Act, *N.J.S.A. 40A:31-1 et seq.* (the “**Water Supply Act**”), specifically *N.J.S.A. 40A:31-5*, provides that “[o]ne or more local units . . . are authorized and empowered: a. . . . [t]o acquire, construct, improve, extend, enlarge or reconstruct and finance water supply facilities, and to operate, manage and control all or part of these facilities and all properties relating thereto”; and

WHEREAS, *N.J.S.A. 40A:31-5* further provides that “[o]ne or more local units . . . are authorized and empowered: b. . . . [t]o issue bonds of the local unit or units to pay all or part of the cost of the water supply facilities”; and

WHEREAS, the term “water supply facilities”, as used in the Water Supply Act, includes:

The replacement of service connection to a publicly-owned water system, from the distribution main onto privately-owned real property and into the privately-owned structure, when used in reference to a project undertaken for the purpose of replacing lead-contaminated service connections, regardless of possible private service connection ownership, so long as the project is (1) an environmental infrastructure project . . . and (2) funded either by loans from the New Jersey Infrastructure Bank . . . or by loans issued through the Department of Environmental Protection.

N.J.S.A. 40A:31-3d; and

WHEREAS, the City has prepared and filed with the New Jersey Infrastructure Bank (the “**NJIB**”)

and the DEP a planning information document in connection with the replacement of all or a portion of 2,600 $\frac{3}{4}$ inch LSLs for properties served by TWW with copper lines (the “**LSL Replacement Project – Phase 1**”); and

WHEREAS, the Local and Other Improvements Law, *N.J.S.A. 40:56-1, et seq.* (the “**Local Improvements Law**”), specifically *N.J.S.A. 40:56-1*, provides that “[a] local improvement is one, the cost of which, or a portion thereof, may be assessed upon the lands in the vicinity thereof benefitted thereby”; and

WHEREAS, *N.J.S.A. 40:56-1(j)(1)* provides that:

The installation of a service connection to a system of water . . . owned by a municipality or otherwise including all such work as may be necessary for supplying water . . . to real estate for whose benefit such services are provided. This authorization includes, but shall not be limited to, the installation of service connections to a publicly-owned water system, from the distribution main onto privately-owned real property and into the privately-owned structure, for the purpose of replacing lead-contaminated service connections, regardless of possible private service connection ownership, so long as the project is (a) undertaken as an environmental infrastructure project . . . and (b) funded either by loans from the New Jersey Infrastructure Bank . . . or by loans issued through the Department of Environmental Protection; and

WHEREAS, thus, under the Water Supply Act, the City, the Township and the Municipalities may work together to undertake the LSL Replacement Project and finance such project using proceeds of bonds or notes from the NJIB, and under the Local Improvements Law, the City, the Township and the Municipalities may specially assess a portion of the costs thereof on properties specially benefitted thereby in the respective municipalities, including those in the Township more particularly described in Exhibit A hereto (the “**Township Benefitted Properties**” and each a “**Township Benefitted Property**”); and

WHEREAS, on February 13, 2019, the Local Finance Board (“**LFB**”) approved financing, by the City through the NJIB, in an amount not to exceed \$15,000,000, in connection with the LSL Replacement Project – Phase 1; and

WHEREAS, on February 21, 2019, the governing body of the City adopted Ordinance No. 19-16, entitled “**Bond Ordinance Providing for the Lead Service Line Replacement Program in the Trenton Water Works Service Area, by and in the City of Trenton, in the County of Mercer, State of New Jersey; Appropriating \$15,000,000 Therefor and Authorizing the Issuance of \$15,000,000 Bonds or Notes to Finance the Cost Thereof**” (the “**LSL Bond Ordinance**”), providing for the LSL Replacement Project – Phase 1 in the area served by TWW and authorizing the issuance, by the City, of up to \$15,000,000 in general obligation bonds or notes to finance the cost thereof on behalf of the City, the Township and the Municipalities; and

WHEREAS, the City has awarded two contracts, totaling \$16,488,250, in connection with the LSL Replacement Project – Phase 1; and

WHEREAS, the Uniform Shared Services and Consolidation Act, *N.J.S.A. 40A:65-1, et seq.* (the “**Shared Services Act**”), authorizes local units of this State, including the City, the Township and the Municipalities, to enter into agreements (each a “**Shared Services Agreement**”) with any other local unit or units for the joint provision within their several jurisdictions of any service which any party to the agreement is empowered to render within its own jurisdiction; and

WHEREAS, although the City intends to finance the costs of the LSL Replacement Project – Phase 1 pursuant to the LSL Bond Ordinance, including the portions of such project to be undertaken in the Township and the Municipalities, the City intends to enter into a Shared Services Agreement with the Township and each Municipality, pursuant to which (a) each such municipality will impose a special assessment on the Benefitted Properties located therein (the “**Special Assessment**”) in an amount equal to the lesser of (i) the benefit conferred on the Municipality Benefitted Properties, (ii) \$1,000 per Benefitted Property and (iii) the costs of the LSL Replacement Project – Phase 1 net of any principal forgiven by the NJIB in connection with the NJIB Loan described herein, representing a portion of the costs associated with the portion of the LSL Replacement Project – Phase 1 applicable to the respective Benefitted Properties, to be collected by the City, and (b) the City will undertake the responsibility to enforce the collection of the Special Assessment payments from the owners of the Township Benefitted Properties and the Municipality Benefitted Properties (the “**Property Owners**”), if necessary; and

WHEREAS, the Township intends to conduct public outreach to determine which Property Owners identified in **Exhibit A** hereto desire to participate in the LSL Replacement Project and, thus, will be subject to the Special Assessment; and

WHEREAS, the Township now desires to impose the Special Assessment against the Township Benefitted Properties to recover a portion of the costs associated with the LSL Replacement Project - Phase 1.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWNSHIP COUNCIL OF THE TOWNSHIP OF LAWRENCE, IN THE COUNTY OF MERCER, NEW JERSEY, AS FOLLOWS:

Section 1. The recitals hereof are incorporated by reference as it is set forth at length herein.

Section 2. The Township hereby makes and levies a special assessment against the Township Benefitted Properties. Such special assessment shall be made by the Township’s tax assessor or, at the Township’s option under the Shared Services Agreement, by the City’s tax assessor, pursuant to N.J.S.A. 40:56-21, and levied in the manner provided by law. Such special assessment shall be as nearly as possible in proportion to and not in excess of the lesser of (i) the peculiar benefit, advantage or increase in value that the respective lots and parcels of real estate shall be deemed to receive by reason of the LSL Replacement Project – Phase 1; (ii) the costs allocable to a particular recipient property, as determined by the TWW and its professionals, including costs of advertising, financing, inspection and engineering, net of any principal forgiven by the NJIB in connection with the portion of the NJIB Loan applicable to the Township Benefitted Properties; or (iii) \$1,000 per Benefitted Property. After taking into account the amount of the principal forgiveness from the NJDEP in connection with the NJIB Loan, if any, the City will contribute the difference between (i) to the cost of such improvements and (ii) the lesser of (A) the peculiar benefit, advantage or increase in value that

the respective lots and parcels of real estate shall be deemed to receive by reason of the LSL Replacement Project – Phase 1 and (B) \$1,000 per Benefitted Property.

Section 3. Notice is hereby given to the owners of the Township Benefitted Properties that, at the time the LSL Replacement Project – Phase 1 has been completed, the Township intends to make and levy a special assessment, in the amount set forth in Section 2 hereof, on the parcels identified in **Exhibit A** hereto whose owners subsequently notify the Township they desire to participate in the LSL Replacement Project. The City will finance the balance of the costs associated with the LSL Replacement Project as described herein.

Section 4. The number of installments within which the Special Assessment is levied on the lots and parcels of real estate benefited by the improvement is twenty (20), it being intended that the assessment shall be payable in installments over five (5) years from the date of the payment of the first installment. The first of such installments shall be due and payable on the first February 1, May 1, August 1, and November 1 occurring after the confirmation of the assessment by the City, and each subsequent installment and interest, if any, shall be payable, on February 1, May 1, August 1, and November 1 of each year thereafter until paid in full. In case any such installment shall remain unpaid for thirty (30) days after the time it shall become due and payable, unless otherwise provided by subsequent resolution of the City Council pursuant to N.J.S.A. 40:56-35, the whole assessment or the balance thereof shall become and be immediately due and payable, shall draw interest at the rate imposed upon the arrearage of taxes in the City and shall be collected in the same manner as provided by law for other past-due assessments. Such assessment shall remain a lien upon the land described herein from the effective date of this ordinance until the assessment, with all installments and accrued interest thereon, shall be paid and satisfied. Notwithstanding anything herein to the contrary, the Township shall have the right to waive default as may be permitted by law. Any Property Owner shall have the right to pay the whole of any assessment or any balance of installments with accrued interest thereon, if any, at one time.

Section 5. Subject to the execution by the City and the Township of the Shared Services Agreement, the City is hereby authorized to undertake any such actions as may be necessary to enforce the collection of the Special Assessment imposed on such Township Benefitted Properties in accordance with the same procedure by which the City may enforce such payments on City Benefitted Properties under applicable law.

Section 6. The Mayor and Township Clerk are hereby authorized to execute and attest, as applicable, the Shared Services Agreement, in substantially the same form as that on file with the Township Clerk, together with such additions, deletions and modifications as deemed necessary by the Mayor upon consultation with the Township's legal counsel.

Section 7. If any part(s) of this ordinance shall be deemed invalid, such part(s) shall be severed and the invalidity thereby shall not affect the remaining parts of this ordinance.

Section 8. This ordinance shall take effect twenty (20) days after the first publication thereof after final adoption.

Adopted: October 1, 2019

RECORD OF VOTE

COUNCIL	AYE	NAY	PRESENT	ABSENT	ABSTAIN	MOVE	SECOND
Mr. Kownacki	X						
Ms. Lewis	X					X	
Dr. Maffei	X						
Mr. Powers	X						X
Mayor Bobbitt	X						