

**BOROUGH OF SOMERVILLE
SOMERSET COUNTY
NOTICE OF INTENT TO CONSIDER MUNICIPAL CONSENT ORDINANCE
REQUESTED BY NEW JERSEY AMERICAN WATER, INC.**

NOTICE IS HEREBY GIVEN that, in accordance with N.J.S.A. 48:3-13 and N.J.S.A. 48:3-14, that the following Ordinance will be introduced by the for first reading at a meeting of the Borough Council of the Borough of Somerville, in the County of Somerset, State of New Jersey, to be held on the 21st day of February, 2023, at 7:00 PM and that, if passed on first reading, said Ordinance will be taken up for further consideration for final passage at a meeting of the Borough Council to be held on March 6, 2023 at 7:00 PM.

The Municipal Consent Ordinance was requested by New Jersey American Water, Inc (“NJAW”) following NJAW and the Borough executing an agreement for the sale of the Borough’s wastewater system. NJAW is requesting the Municipal Consent to provide wastewater collection and conveyance service through the system for the maximum duration permitted by law.

A copy of this notice has also been posted in the Borough Hall, on the Borough’s website, the Somerville Public Library, Police Headquarters/Council Chambers, West Main Street Bulletin Board and Somerset County Administration Building.

BOROUGH OF SOMERVILLE

ORDINANCE #2694-23-0221

AN ORDINANCE GRANTING CONSENT AND PERMISSION TO NEW JERSEY AMERICAN WATER, INC. TO FURNISH WASTEWATER COLLECTION AND CONVEYANCE SERVICE IN THE BOROUGH OF SOMERVILLE, NEW JERSEY

WHEREAS, the Borough of Somerville, County of Somerset and State of New Jersey (the “Borough”), hereby grants consent and permission to New Jersey American Water, Inc. (“NJAW”), a New Jersey Corporation to furnish wastewater collection and conveyance service within the Borough; and

WHEREAS, NJAW is in the process of acquiring the wastewater system (the “System”) currently owned and operated by the Borough, which has been approved by the voters of the Borough on November 8, 2022, pursuant to N.J.S.A. 40:62-5; and

WHEREAS, the Borough is desirous of having NJAW acquire the System; and

WHEREAS, NJAW is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Borough to permit NJAW to provide wastewater collection and conveyance service through the System; and

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

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

WHEREAS, notice of this Ordinance was published in accordance with the requirements of N.J.S.A. 48:3-13 and N.J.S.A. 48:3-14; and

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

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH AS FOLLOWS:

Section 1. That exclusive and perpetual consent and permission to furnish wastewater collection and conveyance to the Borough and all residents, businesses and government buildings therein is hereby given and granted to NJAW, its successors and assigns for the maximum duration permitted by law, subject to the permission by the Board of Public Utilities of the State of New Jersey.

Section 2. That exclusive consent and permission is given to NJAW, its successors and assigns, under the provisions of N.J.S.A. 48:19-17 and N.J.S.A. 48:19-20, as amended, without charge therefore, (except fees for road opening permits which shall be paid) as the same may be required in order to permit NJAW to own and operate the System, add to, extend, replace, operate and maintain said System in the public property described herein in order to provide said wastewater collection and conveyance service. This shall include permission to lay pipes beneath the public roads, streets, public property and public places.

Section 3. That a certified copy of this Ordinance, upon final passage, shall be sent to NJAW, the New Jersey Department of Environmental Protection and the Board of Public Utilities of the State of New Jersey.

Section 4. That the consent granted herein shall be subject to NJAW complying with all applicable laws of the Borough and/or the State of New Jersey including, but not limited to, any and all applicable statutes and administrative agency rules and/or regulations and contingent upon the Borough and NJAW executing the *Agreement of Sale Between the Borough of Somerville and New Jersey American Water, Inc.*, as the same may be amended from time to time.

Section 5. The Mayor and the Administrator of the Borough are authorized to execute the documents and agreements necessary to effectuate this municipal consent.

Section 5. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 6. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

BE IT FURTHER ORDAINED, that if any portion of this Ordinance shall be declared invalid as a matter of law, such declaration shall not affect the remainder of said Ordinance; and

BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication.

Kevin Sluka, Clerk/Administrator