

Introduction: 07/20/2017
Publication: 07/27/2017
Adoption: 08/17/2017
Publication: 08/24/2017

ORDINANCE #2017-20

**BOROUGH OF HIGH BRIDGE
HUNTERDON COUNTY, NEW JERSEY**

**ORDINANCE APPROVING SALE OF THE BOROUGH'S WATER UTILITY
SYSTEM AND AUTHORIZING A PUBLIC QUESTION TO BE PRINTED ON
THE BALLOT FOR CONSIDERATION BY THE VOTERS WITHIN THE
BOROUGH AT THE GENERAL ELECTION ON NOVEMBER 7, 2017
PROVIDING FOR THE SALE OF THE BOROUGH'S WATER UTILITY
SYSTEM TO NEW JERSEY AMERICAN WATER COMPANY, INC.**

WHEREAS, the Borough of High Bridge is the owner and operator of a water utility system serving the residents and property owners in the Borough of High Bridge; and

WHEREAS, the Borough has determined that it is in the best interest of the residents and property owners within the Borough to sell the water utility system to an entity with experience and expertise in owning and operating water utility systems in order to meet all necessary demands associated with such a system; and

WHEREAS, N.J.S.A. 40:62-3 authorizes a municipality owning a water system to sell such system pursuant to procedures set forth in the statute; and

WHEREAS, pursuant to Resolution 117-2017 adopted on April 27, 2017, the Borough authorized the advertisement for a request for proposals for the sale and operation of the Borough water system; and

WHEREAS, the Borough duly advertised for proposals pursuant to the requirements of N.J.S.A. 40:62-4 seeking bids from qualified firms to purchase and operate the Borough water system, and the Borough prepared and distributed bid documents providing the terms and conditions for the sale of the water system; and

WHEREAS, the Borough received bids on June 14, 2017 from New Jersey American Water Company, Inc. and Aqua New Jersey, Inc ; and

WHEREAS, the bids were reviewed by the Borough Engineer and the Borough Attorney and the Borough has determined that the highest responsive bid for the sale of the water utility system was submitted by New Jersey American Water Company, Inc. ("NJAW") with an address at 1025 Laurel Oak Drive, Voorhees, New Jersey 08043 in the amount of \$4,150,000.00; and

WHEREAS, the Borough Council has determined that the sale of the Borough water system will result in significant benefits to the Borough, and

WHEREAS, the Borough has agreed to the terms of the sale of the water system to NJAW pursuant to the contractual terms as contained in the bid documents and the provisions of the bid submitted by NJAW; and

WHEREAS, the Borough seeks to sell the water system to New Jersey American Water pursuant to the procedures and requirements of N.J.S.A. 40:62-5; and

WHEREAS, N.J.S.A.40:62-3 requires that in addition to the approval of the Borough, the legal voters of the Borough must also approve the sale of the water system; and

WHEREAS, N.J.S.A. 40:62-5 authorizes the Borough to request that the clerk of the County of Hunterdon place the question of the sale of the water system on the ballot used at the next general election in the Borough, which is scheduled for November 7, 2017; and

WHEREAS, the Borough desires to enter in a sale of the water system, subject to the approval of the legal voters of the Borough and all other requirements of law.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of High Bridge:

1. The Mayor and Council of the Borough of High Bridge accept the submission from New Jersey American Water Company, Inc., to purchase and operate the Borough's water system for the sum of \$4,150,000.00 in accordance with its bid and in accordance with the terms and conditions of the bid documents, subject to the satisfaction of the requirements of N.J.S.A. 40:62-3 and 40:62-5.
2. The Borough approves the sale of the water system pursuant to the contractual terms set forth in the bid documents, subject to the authorization by the legal voters of the Borough.
3. The Borough requests the Clerk of Hunterdon County to print on the official ballots to be used at the next ensuing general election on November 7, 2017 the following public question and explanation for determination by the voters:

QUESTION

“Shall the Borough of High Bridge be authorized to sell its water utility system to New Jersey American Water Company, Inc. for the sum of \$4,150,00.00 [Four Million One Hundred Fifty Thousand Dollars]?”

_____ YES

_____ NO

Explanation

If a majority of the legal voters in the Borough vote “yes”, the Borough of High Bridge will sign an agreement of sale with New Jersey American Water Company, Inc. for the water utility system in the amount of \$4,150,000.00. The agreement provides that New Jersey American Water Company, Inc. will provide and maintain all water services to the existing customers of the Borough’s water utility system, in accordance with the terms of the agreement of sale approved by the Borough. The service rates to the customers of the Borough’s water system will be subject to approval by the New Jersey Board of Public Utility from time to time.

4. The Acting Clerk shall notify the Clerk of Hunterdon County of the adoption of this ordinance and the request that the question of the sale of the water system be placed upon the ballot, and provide a certified copy of this ordinance to the Clerk of Hunterdon County.
5. The Borough shall take no action on accepting the bid of New Jersey American Water and awarding a contract unless a majority of the legal voters voting at the general election shall vote “Yes”. Upon such affirmative vote, the Mayor and other necessary Borough officials are hereby authorized to take all reasonable, necessary and lawful steps to effectuate the sale of the water system including execution of the appropriate transfer documents.
6. In the event that any portion of this Ordinance is found to be invalid for any reason by any court of competent jurisdiction, such judgment shall be limited in its effect only to that portion of the Ordinance actually adjudged to be invalid, and the remaining portions of this Ordinance shall be deemed severable therefrom and shall not be affected.
7. All ordinances or parts of ordinances deemed to be inconsistent with his ordinance are hereby repealed.
8. This ordinance shall become effectively immediately upon final adoption and publication in accordance with the laws of the State of New Jersey.

Mark Desire, Mayor

ATTEST:

Adam Young, Acting Borough Clerk

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I HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE, AND COMPLETE COPY OF THE ORDINANCE ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HIGH BRIDGE, AT THEIR REGULARLY SCHEDULED MEETING ON AUGUST 17, 2017.

Adam Young, Acting Borough Clerk