

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

IN THE MATTER OF THE PETITION OF NEW JERSEY-AMERICAN WATER COMPANY, INC. FOR APPROVAL OF A MUNICIPAL CONSENT GRANTED BY THE TOWNSHIP OF GALLOWAY, ATLANTIC COUNTY, NEW JERSEY : **BPU DOCKET NO.:**
:
:
: **PETITION**
:

**TO THE HONORABLE COMMISSIONERS OF THE
NEW JERSEY BOARD OF PUBLIC UTILITIES:**

I. PRELIMINARY STATEMENT

New Jersey-American Water Company, Inc. (“NJAWC”, the “Company” or “Petitioner”), a public utility corporation of the State of New Jersey, with its principal office at 1 Water Street, Camden, New Jersey 08102, hereby petitions the State of New Jersey Board of Public Utilities (the “Board” or “BPU”), pursuant to N.J.S.A. 48:2-14, N.J.S.A. 48:3-11 to 15, N.J.S.A. 48:19-17, N.J.S.A. 48:19-20 and N.J.A.C. 14:1-5.5, and such other regulations and statutes as may be deemed applicable and appropriate by the Board, for approval of a municipal consent ordinance granted to NJAWC by the Township of Galloway, Atlantic County (“Galloway”) to serve the portion of Galloway currently served by Egg Harbor City, Atlantic County, New Jersey (the “City”).

The Municipal Consent is granted in anticipation of the sale of the City’s potable water system and a wastewater collection and conveyance system (collectively, the “Systems”) to NJAWC pursuant to the provisions of the Water Infrastructure Protection Act, N.J.S.A. 58:30-1 et seq, et seq. (“WIPA”)¹. In support thereof, Petitioner states as follows:

II. INTRODUCTION

1. NJAWC is a regulated, public utility corporation engaged in the production, treatment and distribution of water and collection and treatment of sewage within its defined service

¹ NJAWC is seeking approval of the purchase of the Systems pursuant to WIPA in a separate docket.

territory within the State of New Jersey. Said service territory includes portions of the following counties: Atlantic, Bergen, Burlington, Camden, Cape May, Essex, Gloucester, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union and Warren. NJAWC maintains its principal office at 1 Water Street Camden, New Jersey 08102. Within its service territory, NJAWC serves approximately 657,000 water and fire service customers and approximately 55,000 wastewater service customers.

2. The City owns and operates the Systems, which also serve approximately seventy-five (75) water customers in Galloway in the area referred to as "South Egg Harbor" and one (1) wastewater service customer, the Renault Winery located on Block 286, Lots 5 and 6 on Bremen Avenue in Galloway.

3. Galloway is a Township in Atlantic County, New Jersey. NJAWC already provides water service within a large portion of the geographical area of Galloway Township by virtue of previous ordinances adopted by the Township and municipal consent petitions approved by the Board.

4. By this Petition, NJAWC is seeking approval of the Municipal Consent – officially Municipal Consent Ordinance No. 2052-2021, introduced by Galloway on June 15, 2021, and adopted on July 13, 2021. The Municipal Consent was introduced and adopted pursuant to N.J.S.A. 48:3-11 to 15, and N.J.S.A. 48:13-11 to permit Petitioner to construct, lay, maintain, and operate the necessary wastewater treatment facilities, water and wastewater mains, pipes and appurtenances (collectively, the "Facilities") throughout the geographical area of Galloway as noted in the Municipal Consent (the "Proposed Franchise Area") and to provide water and wastewater services to the Proposed Franchise Area. A copy of the Municipal Consent is attached hereto as **Exhibit A** and incorporated into this Petition by reference.

III. BACKGROUND

5. In 2015, the State Legislature enacted WIPA, finding that proper maintenance and operation of water and wastewater systems is critical to protect public health and that it is in the

public interest for public water and wastewater systems facing challenges in doing so to be provided a feasible option to transfer, sell or lease their “assets to a capable private or public entity with the financial resources and expertise to improve management, operation, and continued maintenance of the assets.”²

6. The Municipal Consent that is the subject matter of this petition was granted in contemplation of an Agreement of Sale of the City’s Systems to NJAWC, conducted in compliance with, and pursuant to, the procedures set forth in WIPA (the “Agreement”),

7. The Municipal Consent for Galloway was introduced and adopted pursuant to N.J.S.A. 48:3-11 to 15, and N.J.S.A. 48:13-11 to permit NJAWC to construct, lay, maintain and operate the Systems through the Proposed Franchise Area and to provide water and wastewater service within the Proposed Franchise Area. See Schedule A to the Municipal Consent Ordinance No. 2052-2021 attached hereto as Exhibit B.

IV. Approval of Municipal Consent

8. By this Petition, NJAWC is only seeking approval by the Board of the Municipal Consent. In a separate docket, NJAWC will seek approval of the Agreement and ratemaking recognition for the Facilities pursuant to WIPA. Pursuant to WIPA, the approval of the Agreement must be decided within ninety (90) days, and to the extent possible, this petition should also be decided in the same timeframe.

9. The governing body of Galloway recognized that, as a result of the Agreement, the Facilities will be operated by a company that is a subsidiary of the largest provider of regulated water and wastewater services in the United States and concluded that it is in the public interest for the Facilities to be owned and operated by Petitioner.

10. The Facilities will be subject to reasonable and prudent practices of Petitioner; safe and reliable service, including access to customer service representatives 24/7 in emergency

² See N.J.S.A. 58:30-2.

situations; and the financial wherewithal to maintain and improve the Facilities. In essence, the City determined that NJAWC was best positioned to address Emergent Condition No. 5, as determined by DEP, the City's lack of financial, technical or managerial capacity to adequately address necessary investment, repair or maintenance on a sustainable basis or own, and operate the Systems in a way that supports economic activity on a sustainable basis.

11. Approval of the Municipal Consent submitted to the Board with this Petition will serve the public interest by permitting NJAWC to begin providing water and wastewater utility service to those customers in Galloway currently served by the City Systems, and to leverage its experience, expertise and economies of scale to benefit the customers of those systems and of NJAWC.

12. Furthermore, Galloway because it recognized that NJAWC already provided water service to a significant portion of the township, and that Galloway does not have its own water utility, granted NJAWC consent to provide water service to the entire township.

13. NJAWC's significant resources will help provide more safe, efficient service as well as additional system reliability to Galloway.

14. For the reasons stated above, approval of the Municipal Consent will serve the public convenience and properly serve the public interests pursuant to N.J.S.A. 48:2-14. As a result, the Board should approve the Municipal Consent.

15. The Petitioner has not yet commenced water and wastewater service within the service area of Galloway covered by the Municipal Consent.

V. CONCLUSION

WHEREFORE, Petitioner respectfully requests that the Board approve Municipal Consent Ordinance No. 2052-2021 of Galloway and grant such other and further relief as the

Board may deem reasonable and appropriate under the circumstances.

COZEN O'CONNOR
Attorneys for New Jersey-American Water
Company, Inc.

By: 
Ira G. Megdal

DATED: September 30, 2021

Communications in this matter on behalf of Petitioner should be addressed to the
following:

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And

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stephen.bishop@amwater.com

VERIFICATION

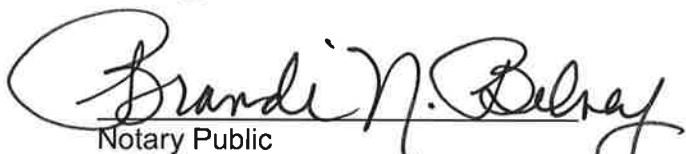
I, John S. Tomac, of full age, being duly sworn, according to law, deposes and says:

1. I am the Director of Rates and Regulation of New Jersey American Water Company, Inc., the Petitioner, and am authorized to make this Verification on behalf of said Petitioner.
2. I have read the contents of the foregoing Petition and hereby verify that the statements therein contained are true and accurate to the best of my knowledge and belief.



John S. Tomac

Sworn to and subscribed before
me this 30th day of September, 2021



Notary Public

My Commission Expires 03/05/2026



EXHIBIT A

MUNICIPAL CONSENT

ORDINANCE # 2052-2021

**AN ORDINANCE GRANTING CONSENT AND PERMISSION
TO NEW JERSEY-AMERICAN WATER COMPANY, INC.
TO FURNISH POTABLE WATER CONVEYANCE IN THE TOWNSHIP OF
GALLOWAY, NEW JERSEY AND WASTEWATER CONVEYANCE IN A PORTION
OF THE TOWNSHIP OF GALLOWAY, NEW JERSEY**

WHEREAS, the Township of Galloway, County of Atlantic and State of New Jersey (the "Township"), hereby grants consent and permission to New Jersey-American Water Company, Inc. ("New Jersey-American"), a New Jersey corporation, to furnish potable water conveyance throughout the Township and wastewater conveyance within a portion of the Township; and

WHEREAS, New Jersey-American already provides water service within a large portion of the geographical area of the Township by virtue of previous ordinances adopted by the Township and approved by the Board of Public Utilities of the State of New Jersey (the "Board") over the years; and

WHEREAS, New Jersey-American is in the process of acquiring the water and wastewater systems (the "Systems") currently owned and operated by the City of Egg Harbor City, New Jersey, ("Egg Harbor") subject to regulatory approvals; and

WHEREAS, Egg Harbor is desirous of having New Jersey-American acquire the Systems; and

WHEREAS, the Systems provide water service to Township residents in the area referred to as "South Egg Harbor" and wastewater service to the Renault Winery located on Block 286, Lots 5 and 6 on Bremen Avenue in the Township; and

WHEREAS, New Jersey-American is a regulated public utility corporation of the State of New Jersey presently seeking the municipal consent of the Township to permit New Jersey-American to modify its right to provide services in the Township to include the right to provide potable water throughout the Township and wastewater conveyance to Block 268, Lots 5 and 6 on the southeast side of Bremen Avenue all as shown on **Schedule A**; and

WHEREAS, New Jersey-American has requested the consent of the Township 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 Township to provide this consent;

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

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

Section 1. That exclusive and perpetual consent and permission to furnish water conveyance throughout the Township and all residents, businesses and government buildings within the area of the Township and wastewater conveyance to only Block 268, Lots 5 and 6 on the southeast side of Bremen Avenue, all as shown on **Schedule A**, is hereby given and granted to New Jersey-American, its successors and assigns, subject to approval of such consent and permission by the Board.

Section 2. That exclusive consent and permission is given to New Jersey-American, 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 New Jersey American Water to own and operate the Systems add to, extend, replace, operate and maintain said Systems in the public property described herein in order to provide said potable water and wastewater conveyance service within the area herein described. This shall include permission to lay pipes beneath the public roads, streets, public property and public places. The public property shall include roads, streets and public places. The privilege granted herein shall include the construction, installation and maintenance of hydrants on and along the roads of the Township, as well as streets, parks and public places within the area depicted and described herein;

Section 3. That a certified copy of this Ordinance, upon final passage, shall be sent to New Jersey-American who shall send same to the Board.

Section 4. That the consent granted herein shall be subject to New Jersey-American complying with all applicable laws of the Township and/or the State of New Jersey including, but not limited to, any and all applicable statutes and administrative agency rules and/or regulations.

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

Section 6. 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 7. All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

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

ATTEST:

TOWNSHIP OF GALLOWAY

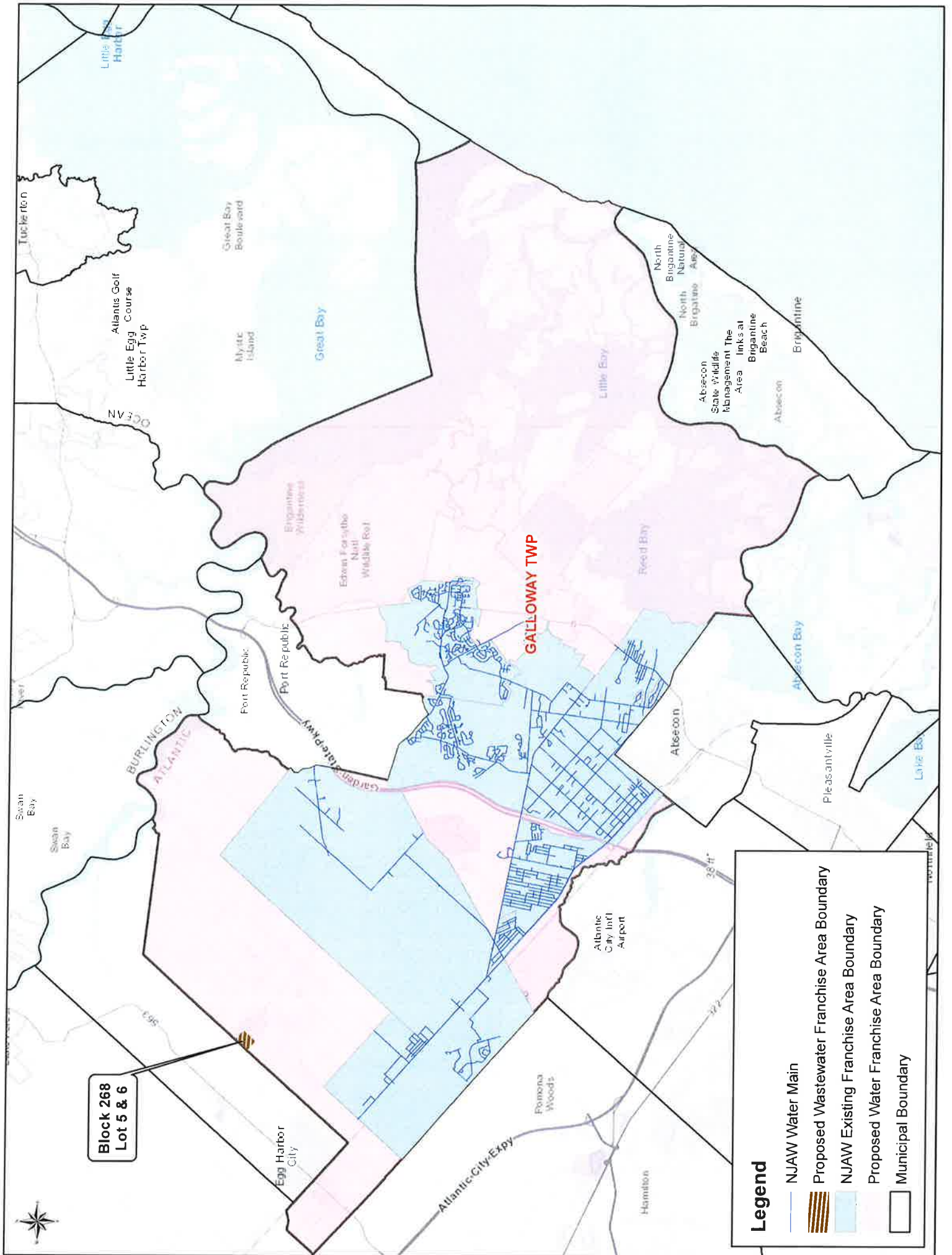


Kelli Danieli
Township Clerk








Jim Gorman, Mayor

Recorded Vote:	Motions	AYE	NAY	ABSTAIN	ABENT
Clute		X			
Coppola		X			
Crawford	2	X			
DIpietro		X			
Maldonado					X
Santo	1	X			
Gorman		X			



Block 268
Lot 5 & 6

Legend

-  NJAW Water Main
-  Proposed Wastewater Franchise Area Boundary
-  NJAW Existing Franchise Area Boundary
-  Proposed Water Franchise Area Boundary
-  Municipal Boundary