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BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

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December 17, 2021

**VIA E-MAIL AND FEDERAL EXPRESS**

Hon. Gail Cookson, A.L.J.  
OFFICE OF ADMINISTRATIVE LAW  
33 Washington Street  
Newark, NJ 07102  
[lla.Dhabliwala@oal.nj.gov](mailto:lla.Dhabliwala@oal.nj.gov)

**RE: 68-72 Franklin Place, LLC and the Village Courtyard Condominium Association Petition to the New Jersey Board of Public Utilities for Relief from Certain New Jersey American Water Company Tariff Charges OAL Docket No. PUC 05592-2021 N (BPU Docket No. WO20110723) Motion for Summary Decision**

Dear Judge Cookson:

As you are aware, this firm represents New Jersey-American Water Company, Inc. ("NJAW") in the above-referenced matter. In accordance with the briefing schedule established by Your Honor at the November 16, 2021 status conference, we are filing NJAW's Motion for Summary Decision, which includes the original and two copies of the enclosed Notice of Motion, Brief in Support of Motion, Certification of Joseph N. Davignon, with exhibits, and Certification of Service. Please return one copy marked "filed" for our records in the enclosed self-addressed and stamped envelope. Thank you.

Respectfully submitted,  
ARCHER & GREINER, P.C.

/s/ Josiah Contarino  
JOSIAH CONTARINO

Enclosures

cc: Thomas J. Herten, Esq. (via email)  
✓ Karriemah Graham, Chief (via Federal Express)  
Robert L. Podvey, Esq. (via email and Federal Express)  
Christine Juarez, Esq. (via Federal Express)

222855751v1

Thomas J. Herten, Esq. (004491974)  
Josiah Contarino, Esq. (003962013)  
**ARCHER & GREINER**  
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(201) 342-6000  
Attorneys for Respondent  
New Jersey-American Water Company

**IN THE MATTER OF THE PETITION  
OF 68-72 FRANKLIN PLACE, LLC AND  
THE VILLAGE COURTYARD  
CONDOMINIUM ASSOCIATION**

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

**OAL Docket No. PUC 05592-2021 N**

BPU Docket No. WO20110723

**NEW JERSEY AMERICAN WATER  
COMPANY'S NOTICE OF MOTION  
FOR SUMMARY DECISION**

Robert L. Podvey, Esquire ([rpodvey@connellfoley.com](mailto:rpodvey@connellfoley.com))  
Michael Affrunti, Esquire ([maffrunti@connellfoley.com](mailto:maffrunti@connellfoley.com))  
CONNELL FOLEY LLP  
56 Livingston Avenue  
Roseland, NJ 07068  
973-535-0500

PLEASE TAKE NOTICE that, pursuant to N.J.A.C. 1:1-12.5, Respondent New Jersey-American Water Company ("NJAW"), through its undersigned attorneys, shall move before the Office of Administrative Law, 33 Washington Street, Newark, New Jersey 07102 for an Order granting Respondent NJAW's Motion for Summary Decision because there are no material facts in dispute; and

PLEASE TAKE FURTHER NOTICE that Respondent NJAW shall rely upon the enclosed Brief and Certification of Joseph N. Davignon; and

PLEASE TAKE FURTHER NOTICE that a response, if any, shall be due within the timeframe specified in the Uniform Administrative Procedure Rules.

**ARCHER & GREINER, P.C.**  
Attorneys for Respondent  
New Jersey-American Water Company

By: /s/ Josiah Contarino  
Thomas J. Herten  
Josiah Contarino

Dated: December 17, 2021

222811148v1

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Josiah Contarino, Esq. (003962013)  
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Attorneys for Respondent  
New Jersey-American Water Company

**IN THE MATTER OF THE PETITION  
OF 68-72 FRANKLIN PLACE, LLC AND  
THE VILLAGE COURTYARD  
CONDOMINIUM ASSOCIATION**

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

**OAL Docket No. PUC 05592-2021 N**

BPU Docket No. WO20110723

**NEW JERSEY AMERICAN WATER  
COMPANY'S BRIEF IN SUPPORT OF  
MOTION FOR SUMMARY DECISION**

### **INTRODUCTION**

Petitioners 68-72 Franklin Place, LLC ("Franklin Place") and The Village Courtyard Condominium Association ("Association") (collectively, "Petitioners") claim in their Petition that the New Jersey American Water Company, Inc.'s ("NJAW") meter servicing the Association is too large and results in excessive service fees.

The fatal flaw in Petitioners' argument, however, is that developer Franklin Place not only agreed to the installed meter, but requested it, and knew of the water service fee associated with it before proceeding with its water service application. Accordingly, the Court should reject Petitioners' request for relief under N.J.S.A. 48:2-21, N.J.A.C. 14:3-1.3(d), or otherwise, as against NJAW, because NJAW simply installed the meter specifically requested by Franklin Place. The Court should therefore grant NJAW's motion for summary decision dismissing Petitioners' Petition with prejudice.

## STATEMENT OF UNCONTESTED FACTS<sup>1</sup>

1. In connection with 68-72 Franklin Place, LLC's ("Franklin Place") development of an old car dealership into high-end condominiums in Summit, New Jersey, NJAW's Joseph Davignon communicated with Franklin Place regarding the development's water service needs. (Certification of Joseph N. Davignon (Dec. 15, 2021) ("Davignon Cert."), ¶ 2).

2. Before November 16, 2017, Franklin Place was to be serviced by an 8-inch main, into a 6-inch tap/connection line, into a 6-inch meter, into two 6-inch service lines. (Davignon Cert., Exhibit 1, Grading and Utility Plan from Casey & Keller Inc., with a last revision date of September 20, 2017).

3. On November 16, 2017, however, an engineer assisting Franklin Place emailed NJAW to advise that the City of Summit directed Franklin Place "to provide an 8-inch tap [connection line] off of the proposed new 8-inch street main upgrade into the backflow preventer, from which two 6-inch services would branch off to supply to project." (Davignon Cert., Exhibit 2, Email Chain between Gary W. Szelc, P.E. & P.P and Joseph N. Davignon (Nov. 16, 2017)).

4. When NJAW asked why the 8-inch tap/connection line would be installed instead of the planned 6-inch tap/connection line, the engineer assisting Franklin Place explained that "running that short section of 8-inch [tap/connection line] across the street and then branching into the 6-inch service would alleviate any concerns" of the municipality. (Davignon Cert., Ex. 2 at 2).

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<sup>1</sup> On December 10, 2021, counsel for NJAW sent counsel for Franklin Place the proposed statement of material facts included in the Davignon Certification, with the request that Franklin Place advise which paragraphs of the proposed statement Franklin Place agreed with, disagreed with, or thought required revision. The requested date for response was close of business on December 14, 2021. As of this filing on December 17, 2021, Franklin Place has not responded.

5. Franklin Place discussed amongst itself the increase from a 6-inch to an 8-inch tap/connection line and the resulting increase in fees per month. (Davignon Cert., Exhibit 3, Email Chain between Franklin Place representatives and agents (Nov. 15 – 16, 2017)).

6. The engineer assisting Franklin Place wrote that, “since we all seem to be on the same page with regard to changing the 6-inch tap to an 8-inch tap we do not need to have the meeting. . . . The only question is for NJAW to say yes to the 8-inch tap (I cannot think of any good reason why they might say no.)” (Davignon Cert., Ex. 3 at 1, Nov. 16, 2017, 4:10 PM).

7. The engineer assisting Franklin Place further wrote to the Franklin Place team to relay his discussion with NJAW about Franklin Place’s request to increase to the 8-inch tap/connection line, during which NJAW alerted Franklin Place that the water service fee would be more for the 8-inch. (Davignon Cert., Ex. 3 at 1, Nov. 16, 2017, 4:33 PM; *accord* Petition ¶ 62 (“NJAW’s representatives were consulted regarding the Fire Code Official’s proposal and had no objection other than to note that the use of an 8-inch service line would require an 8-inch industrial meter.”).<sup>2</sup>

8. In response to that email, counsel for Franklin Place specifically advised of the increase water service charge: “The increased charge is \$408 per month. \$1088 per month for the 8” line & 680 per month for the 6” line.”<sup>3</sup> (Davignon Cert., Ex. 3 at 1, Nov. 16, 2017, 4:40 PM).

9. After Franklin Place’s discussions in November 2017 and its request to NJAW to increase to an 8-inch tap/connection line from a 6-inch tap/connection line, Franklin Place

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<sup>2</sup> (Davignon Cert., Exhibit 4, Petitioners’ Petition).

<sup>3</sup>  $\$408 + \$680 = \$1088$ , not  $\$1008$ .

submitted a New Service Application on November 29, 2017. (Davignon Cert., Exhibit 5, Franklin Place's New Service Application (Nov. 29, 2017)).

10. When asked on the New Service Application what size meter Franklin Place was requesting, Franklin Place responded: "8-inch." (Davignon Cert., Ex. 5 at 2).

11. Franklin Place confirmed at the end of the New Service Application that it "underst[ood] that these services are subject to the rates and conditions of the Water Company Tariff which is available for me on the water company's website." (Davignon Cert., Ex. 5 at 2).

12. The NJAW tariff issued April 3, 2017 was the applicable tariff at the time Franklin Place advised NJAW on November 15, 2017 that the municipality required an 8-inch tap instead of a 6-inch tap.<sup>4</sup> (Davignon Cert., Exhibit 6, relevant portions the NJAW Tariff issued at the time of Franklin Place's 2017 New Service Application).<sup>5</sup>

13. At the time of Franklin Place's New Service Application and the resulting water service Extension Deposit Agreement,<sup>6</sup> the monthly service charge for an 8-inch meter – required for an 8-inch tap/connection line – was \$1,088 per month (Ex. 7), as discussed amongst Franklin Place on November 16, 2017 (Ex. 3 at 1, Nov. 16, 2017, 4:40 PM), and prior to Franklin Place's November 29, 2017 New Service Application (Ex. 5) and Extension Deposit Agreement (Ex. 8). In submitting the Extension Deposit Agreement, Franklin Place confirmed

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<sup>4</sup> The bottom left hand corner of this portion of the tariff indicates it was issued on April 3, 2017 after an "Order of the Board of Public Utilities entered in Docket No. WM16101036 dated March 24, 2017." (Davignon Cert., Ex. 6 at 2). The rates applicable to this 2017 tariff, however, were effective September 21, 2015, after an "Order of the Board of Public Utilities entered in Docket No. WR15010035 dated September 11, 2015." (Davignon Cert., Exhibit 7, portion of the applicable NJAW 2017 Tariff listing service rates).

<sup>5</sup> This charge applied to water service for "Service Area 1," which the City of Summit falls within. (Davignon Cert., Ex. 6 at 6).

<sup>6</sup> (Davignon Cert., Exhibit 8, Extension Deposit Agreement (Dec. 19, 2017)).

the modification to paragraph one of the Extension Deposition Agreement: “As discussed, in paragraph one, **the 6 inch service stub has been changed to an 8 inch stub.**” (Davignon Cert., Exhibit 9, Letter from Robert L. Podvey, Esq. to Joseph Davignon (Dec. 15, 2017) (emphasis added)).

14. At the time of the filing of Petitioners’ Petition the water service fee for an 8-inch meter was \$1,348,<sup>7</sup> which was subsequently increased to \$1,480<sup>8</sup> in accordance with the applicable regulations for such increases.

15. The work requested by Franklin Place in the New Service Application and the Extension Deposit Agreement was bid out to NJAW’s approved contractors, and the lowest bid was relayed to Franklin Place. (Davignon Cert., Exhibit 12, Letter from Joseph Davignon to Robert Podvey (Feb. 6, 2018)). Franklin Place accepted the proposal and the work was thereafter completed. (Davignon Cert., Exhibit 13, As-Built Drawing by Casey & Keller Inc. (June 19, 2020)).

### LEGAL ARGUMENT

A motion for summary decision should be granted when “the papers and discovery which have been filed together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.”

*N.J.A.C.* 1:1-12.5(b). In order to successfully rebut a motion for summary decision, an adverse

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<sup>7</sup> (Davignon Cert., Exhibit 10, applicable portion of the relevant NJAW tariff). The bottom left hand corner of this rates portion of the tariff indicates it became effective on October 29, 2018 after an “Order of the Board of Public Utilities entered in Docket No. WR17090985 dated October 29, 2018.” (Davignon Cert., Ex. 10).

<sup>8</sup> (Davignon Cert., Exhibit 11, the applicable portion of the relevant NJAW tariff). The bottom left hand corner of this rates portion of the tariff indicates it became effective on November 1, 2020 after an “Order of the Board of Public Utilities entered in Docket No. WR19121516 dated October 28, 2020.” (Davignon Cert., Ex. 11).



party “must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. If the adverse party does not so respond, a summary decision, if appropriate, shall be entered.” *Id.*

The standards governing summary decision in the OAL are essentially the same as those governing summary judgment in New Jersey Superior Court under New Jersey Court Rule 4:46-2. *See, e.g., In re St. Mary’s Hospital*, 97 N.J.A.R. 2d (DMA) 65 (1997). Accordingly, the legal principles which have developed relating to summary judgment are sufficiently analogous to apply to administrative proceedings. *Id.*; *cf. Contini v. Bd. of Educ. of Newark*, 286 N.J. Super. 106, 122 (App. Div. 1995), *cert. denied*, 145 N.J. 372 (1996) (applying summary judgment legal analysis to matters heard in administrative tribunals).

In *Brill v. The Guardian Life Insurance Co. of America*, 142 N.J. 520 (1995), the New Jersey Supreme Court set forth the summary judgment standard:

Under this new standard, a determination whether there exists a ‘genuine issue’ of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. The ‘judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial . . .’

*Brill*, 142 N.J. at 540 (citations omitted).

Here, there are no genuine issues of material fact and therefore summary decision should be granted to NJAW. Petitioners received the water service installation that Franklin Place requested and contracted for, and that the municipality required. “If an agreement is reached through an offer and acceptance, and is sufficiently definite so that the performance to be rendered by each party can be ascertained with reasonable certainty, a contract arises.” *Graziano*

*v. Grant*, 326 N.J. Super. 328, 339 (App. Div. 1999) (citing *Weichert Co. Realtors v. Ryan*, 128 N.J. 427, 435, 608 A.2d 280 (1992)). “If the parties agree on essential terms and further manifest an intention to be bound by those terms, they have created an enforceable contract.” *Id.* at 339-40. To be sure, “it is not the function of the court to make a better contract for the parties.” *Id.* at 352 (citing *Schenck v. HJI Associates*, 295 N.J. Super. 445, 450 (App.Div.), *certif. denied*, 149 N.J. 35 (1997)).

On November 16, 2017, Franklin Place contacted NJAW to advise that the City of Summit directed Franklin Place to provide an 8-inch tap/connection line instead of the 6-inch tap/connection line that was planned. In response, NJAW asked why the increase from the 6-inch to the 8-inch tap/connection line, to which Franklin Place responded that the municipality found the proposed 6-inch tap/connection line ran counter to the Residential Site Improvement Standards.

Thereafter, NJAW alerted Franklin Place to the higher service fees associated with the 8-inch tap/connection line and meter. Internal Franklin Place emails reveal that after Franklin Place was alerted to the higher fees – indeed, the exact increase in fees between a 6-inch meter and an 8-inch meter was specifically addressed on November 16, 2017.

It was only after all of this prior communication that Franklin Place submitted a New Service Application on November 29, 2017, in which Franklin Place specified the 8-inch meter and acknowledged that it understood that the applicable water usage rates were in NJAW’s tariff, available on NJAW’s website. It is beyond cavil that the applicable tariff operates as the agreement between NJAW and the customer, as modified from time to time with the approval of the New Jersey Board of Public Utilities. *Canning v. Atlantic City Electric Company*, EC16100995U, 2019 WL 1880017, at \*11 (N.J. Bd. Reg. Com. Apr. 18, 2019) (“N.J.A.C. 14:3-

1.3(a) provides that ‘each public utility shall, prior to offering a utility service to the public, submit a tariff or tariff amendments to the [BPU] for approval[.]’ The tariff shall ‘clearly describe ... all terms and conditions regarding the services[.]’ N.J.A.C. 13:3-1.3(b)2. A utility is expected to operate in accordance with its tariff, N.J.A.C. 13:3-1.3(d), though any inconsistency between a tariff and the governing regulations is resolved in favor of the regulation, unless the tariff ‘provides for more favorable treatment of customers.’ N.J.A.C. 13:3-1.3(i). In other words, a tariff is essentially the law governing the relationship between a public utility and its customers and is binding upon those parties.”).

The Extension Deposit Agreement entered into by the parties was based on the New Service Application, which specifically referenced the applicable NJAW tariff, and Franklin Place confirmed the modification from the 6-inch tap/connection line to the 8-inch tap/connection line when providing the signed Extension Deposit Agreement. Petitioners are therefore not entitled to relief under either N.J.S.A. 48:2-21 or N.J.A.C. 14:3-1.3(d), as requested in their Petition.

N.J.A.C. 14:3-1.3(d) provides as follows: “Each utility shall operate in accordance with its tariff at all times, unless specifically authorized in writing by the Board to do otherwise.” *N.J.A.C. 14:3-1.3(d)*. There is no allegation, let alone a material fact in dispute, that NJAW failed to operate in according to its tariff. Indeed, the rates understood by Franklin Place at the time of its 2017 New Service Application track those rates in the applicable tariff. The rates Franklin Place includes in its Petition track those very same rates as appear in the approved applicable tariff.

N.J.S.A. 48:2-21 governs public utility rates, and provides that a public utility’s increase in rates is subject to the BPU’s scrutiny. Here, any increase in rates resulted from an order of the

BPU itself permitting same, which necessarily connotes that the BPU was “satisfied that the [rate increase was] just and reasonable.” N.J.S.A. 48:2-21(d). Any rate increase in this matter, therefore, has complied with N.J.S.A. 48:2-21 and is binding on Petitioners.

**CONCLUSION**

There are no genuine issues of material fact. The record confirms that developer Franklin Place not only agreed to the installed meter, but requested it, and knew of the water service fee associated with it before proceeding with its water service application. Accordingly, the Court should reject Petitioners’ request for relief under N.J.S.A. 48:2-21, N.J.A.C. 14:3-1.3(d), or otherwise, because NJAW simply installed the meter specifically requested by Franklin Place. Accordingly, it is respectfully submitted that this Court should grant NJAW’s motion for summary decision dismissing Petitioners’ Petition with prejudice.

**ARCHER & GREINER, P.C.**  
Attorneys for Respondent  
New Jersey-American Water Company

By: /s/ Josiah Contarino  
Thomas J. Herten  
Josiah Contarino

Dated: December 17, 2021  
222650902v1

Thomas J. Herten, Esq. (004491974)  
Josiah Contarino, Esq. (003962013)  
**ARCHER & GREINER**  
A Professional Corporation  
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21 Main Street, Suite 353  
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(201) 342-6000  
Attorneys for Respondent  
New Jersey-American Water Company

**IN THE MATTER OF THE PETITION  
OF 68-72 FRANKLIN PLACE, LLC AND  
THE VILLAGE COURTYARD  
CONDOMINIUM ASSOCIATION**

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

**OAL Docket No. PUC 05592-2021 N**

**BPU Docket No. WO20110723**

**CERTIFICATION OF JOSEPH N.  
DAVIGNON IN SUPPORT OF NEW  
JERSEY AMERICAN WATER  
COMPANY'S MOTION FOR  
SUMMARY DECISION**

JOSEPH N. DAVIGNON, of full age, hereby certifies as follows:

1. I have been employed by New Jersey American Water Company ("NJAW") for 15 years, all of which I have worked as an Engineering Project Manager. Before that I worked for Elizabethtown Water (which merged with NJAW 15 years ago) for 24 years, six of which I worked as an Engineering Project Manager. I therefore have 21 years of experience as an Engineering Project Manager for public utility companies.

2. I communicated with the developer 68-72 Franklin Place, LLC ("Franklin Place") throughout its development of the project that is the subject of this dispute.

3. Before November 16, 2017, Franklin Place was to be serviced by an 8-inch main, into a 6-inch tap/connection line, into a 6-inch meter, into two 6-inch service lines. Attached as

**Exhibit 1** is a copy of the Grading and Utility Plan from Casey & Keller Inc. with a last revision date of September 20, 2017.

4. On November 16, 2017, however, an engineer assisting Franklin Place emailed me to advise that the City of Summit directed Franklin Place “to provide an 8-inch tap [connection line] off of the proposed new 8-inch street main upgrade into the backflow preventer, from which two 6-inch services would branch off to supply to project.” Attached as **Exhibit 2** is a copy of the Email Chain between Gary W. Szalc, P.E. & P.P and Joseph N. Davignon (Nov. 16, 2017).

5. I asked why the 8-inch tap/connection line would be installed instead of the planned 6-inch tap/connection line, to which the Franklin Place engineer explained that “running that short section of 8-inch [tap/connection line] across the street and then branching into the 6-inch service would alleviate any concerns” of the municipality. Ex. 2 at 2.

6. Franklin Place discussed amongst itself the increase from a 6-inch to an 8-inch tap/connection line and the resulting 8-inch meter. Attached as **Exhibit 3** is a copy of the Email Chain between Franklin Place representatives and agents (Nov. 15 – 16, 2017).

7. The engineer assisting Franklin Place wrote that “since we all seem to be on the same page with regard to changing the 6-inch tap to an 8-inch tap we do not need to have the meeting. . . . The only question is for NJAW to say yes to the 8-inch tap (I cannot think of any good reason why they might say no.)” Ex. 3 at 1, Nov. 16, 2017, 4:10 PM.

8. The engineer assisting Franklin Place further wrote to the Franklin Place team to relay his discussion with NJAW about Franklin Place’s request to increase to the 8-inch tap/connection line, during which NJAW alerted Franklin Place that the water service fee would be more for the 8-inch. Ex. 3 at 1, Nov. 16, 2017, 4:33 PM; *accord* Petition ¶ 62 (“NJAW’s

representatives were consulted regarding the Fire Code Official's proposal and had no objection other than to note that the use of an 8-inch service line would require an 8-inch industrial meter."').<sup>1</sup>

9. In response to that email, counsel for Franklin Place specifically advised of the increase water service charge: "The increased charge is \$408 per month. \$10[8]8 per month for the 8" line & 680 per month for the 6" line." Ex. 3 at 1, Nov. 16, 2017, 4:40 PM.

10. After Franklin Place's discussions in November 2017 and its request to NJAW to increase to an 8-inch tap from a 6-inch tap, Franklin Place submitted a New Service Application on November 29, 2017. Attached as **Exhibit 5** is a copy of Franklin Place's New Service Application (Nov. 29, 2017).

11. When asked on the New Service Application what size meter Franklin Place was requesting, Franklin Place responded "8-inch." Ex. 5 at 2.

12. Franklin Place confirmed at the end of the New Service Application that it "underst[ood] that these services are subject to the rates and conditions of the Water Company Tariff which is available for me on the water company's website." Ex. 5 at 2.

13. The NJAW tariff issued April 3, 2017 was the applicable tariff at the time Franklin Place advised NJAW on November 15, 2017 that the municipality required an 8-inch tap instead of a 6-inch tap.<sup>2</sup> Attached as **Exhibit 6** is a copy of relevant portions of the NJAW Tariff issued at the time of Franklin Place's 2017 New Service Application.<sup>3</sup>

---

<sup>1</sup> Attached as **Exhibit 4** is a copy of Petitioners' Petition.

<sup>2</sup> The bottom left hand corner of this portion of the tariff indicates it was issued on April 3, 2017 after an "Order of the Board of Public Utilities entered in Docket No. WM16101036 dated March 24, 2017." Ex. 6 at 2. The rates applicable to this 2017 tariff, however, were effective September 21, 2015, after an "Order of the Board of Public Utilities entered in Docket No. WR15010035 dated September 11, 2015." Attached as **Exhibit 7** is a copy of a portion of the applicable NJAW 2017 Tariff listing service rates.

14. At the time of Franklin Place's New Service Application and the resulting water service Extension Deposit Agreement,<sup>4</sup> monthly service charge for an 8-inch meter – required for an 8-inch tap/connection line – was \$1,088 per month (Ex. 7), as discussed amongst Franklin Place on November 16, 2017 (Ex. 3 at 1, Nov. 16, 2017, 4:40 PM), and prior to Franklin Place's November 29, 2017 New Service Application (Ex. 5) and Extension Deposit Agreement (Ex. 8). In submitting the Extension Deposit Agreement, Franklin Place confirmed the modification to paragraph one of the Extension Deposition Agreement: "As discussed, in paragraph one, the 6 inch service stub has been changed to an 8 inch stub." Attached as **Exhibit 09** is a copy of Letter from Robert L. Podvey, Esq. to Joseph Davignon (Dec. 15, 2017).

15. At the time of the filing of Petitioners' Petition the water service fee for an 8-inch meter was \$1,348,<sup>5</sup> which was subsequently increased to \$1,480<sup>6</sup> in accordance with the applicable regulations for such increases.

16. The work requested by Franklin Place in the New Service Application and the Extension Deposit Agreement was bid out to NJAW's approved contractors, and the lowest bid was relayed to Franklin Place. Attached as **Exhibit 12** is a copy of Letter from Joseph Davignon

---

<sup>3</sup> This charge applied to water service for "Service Area 1," which the City of Summit falls within. Ex. 6 at 6.

<sup>4</sup> Attached as **Exhibit 8** is a copy of the Extension Deposit Agreement (Dec. 19, 2017).

<sup>5</sup> Attached as **Exhibit 10** is the applicable portion of the relevant NJAW tariff. The bottom left hand corner of this rates portion of the tariff indicates it became effective on October 29, 2018 after an "Order of the Board of Public Utilities entered in Docket No. WR17090985 dated October 29, 2018." Ex. 10.

<sup>6</sup> Attached as **Exhibit 11** is the applicable portion of the relevant NJAW tariff. The bottom left hand corner of this rates portion of the tariff indicates it became effective on November 1, 2020 after an "Order of the Board of Public Utilities entered in Docket No. WR19121516 dated October 28, 2020." Ex. 11.



to Robert Podvey (Feb. 6, 2018). Franklin Place accepted the proposal and the work was thereafter completed. Attached as **Exhibit 13** is a copy of the As-Built Drawing by Casey & Keller Inc. (June 19, 2020).

I certify that the foregoing statements made by me are true and correct to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: 12/15/2021

DocuSigned by:  
*Joseph Davignon*  
09587F510C254B5  
Joseph N. Davignon

222659931v2

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# EXHIBIT 01



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# EXHIBIT 02

**Gary**

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**From:** Gary  
**Sent:** Thursday, November 16, 2017 10:43 AM  
**To:** Joe.Davignon@amwater.com  
**Cc:** Mike; Robert L. Podvey (rpodvey@connellfoley.com); pbiber@tbpaia.com; mperez@tbpaia.com  
**Subject:** Franklin Place, Summit, Union County

Mr. Davignon,

With regard to the ongoing application to N.J. American Water to upgrade a portion of the existing 4-inch water line in Franklin Place, please note that in discussions with the City of Summit fire officials we were directed to provide an 8-inch tap off of the proposed new 8-inch street main upgrade into the backflow preventer, from which two 6-inch services would branch off to supply the project.

We will be revising our plans accordingly and sending you a copy for your records.

Thanks,

*Gary*

GARY W, SZELC, P.E. & P.P.

Casey & Keller, Inc. | [gary@caseyandkeller.com](mailto:gary@caseyandkeller.com)

Surveyors | Engineers | Planners

258 Main Street | P.O. Box 191 | Millburn | NJ 07041

Phone: +1-973-379-3280 | Fax: +1-973-379-7993

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## Gary

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**From:** Gary  
**Sent:** Thursday, November 16, 2017 12:33 PM  
**To:** Joseph N Davignon  
**Cc:** Mike; Robert L. Podvey (rpodvey@connellfoley.com); pbiber@tbpaia.com; mperez@tbpaia.com  
**Subject:** RE: Franklin Place, Summit, Union County

Good Afternoon,

Just left you a voice mail regarding this issue. But besides their concerns for fire flow, they feel that running a 6-inch connection and then splitting into two 6-inch lines is contrary to a section of the RSIS requirements that states you "cannot have more than 20 units or more than one hydrant on a 6-inch line." They noted the two hydrants at the end of the driveways give them more options for firefighting and running that short section of 8-inch across the street and then branching into the two 6-inch services would alleviate any concerns.

Thanks,  
Gary  
Casey and Keller, Inc.

---

**From:** Joseph N Davignon [mailto:Joe.Davignon@amwater.com]  
**Sent:** Thursday, November 16, 2017 11:37 AM  
**To:** Gary  
**Cc:** Mike; Robert L. Podvey (rpodvey@connellfoley.com); pbiber@tbpaia.com; mperez@tbpaia.com  
**Subject:** RE: Franklin Place, Summit, Union County

Why 8 vs 6?

**From:** Gary [mailto:Gary@caseyandkeller.com]  
**Sent:** Thursday, November 16, 2017 10:43 AM  
**To:** Joseph N Davignon <Joe.Davignon@amwater.com>  
**Cc:** Mike <Mike@caseyandkeller.com>; Robert L. Podvey (rpodvey@connellfoley.com) <rpodvey@connellfoley.com>; pbiber@tbpaia.com; mperez@tbpaia.com  
**Subject:** Franklin Place, Summit, Union County

EXTERNAL EMAIL - "Think before you click!"

Mr. Davignon,

With regard to the ongoing application to N.J. American Water to upgrade a portion of the existing 4-inch water line in Franklin Place, please note that in discussions with the City of Summit fire officials we were directed to provide an 8-inch tap off of the proposed new 8-inch street main upgrade into the backflow preventer, from which two 6-inch services would branch off to supply the project.

We will be revising our plans accordingly and sending you a copy for your records.

---

# EXHIBIT 03



**Gary**

---

**From:** Robert L. Podvey <rpodvey@connellfoley.com>  
**Sent:** Thursday, November 16, 2017 4:40 PM  
**To:** Gary; TFS; Peter Liebman  
**Cc:** pbiber@tbpaia.com; mperez@tbpaia.com; Mike; Peter  
**Subject:** RE: Franklin Place, Water Issues

The increased charge is \$408 per month. \$\$1008 per month for the 8" line & \$680 per month for the 6" line. Bob

**From:** Gary [mailto:Gary@caseyandkeller.com]  
**Sent:** Thursday, November 16, 2017 4:33 PM  
**To:** Robert L. Podvey; TFS; Peter Liebman  
**Cc:** pbiber@tbpaia.com; mperez@tbpaia.com; Mike; Peter  
**Subject:** RE: Franklin Place, Water Issues

I just spoke with Joe Davignon (interesting, like Mike in my office, he just had knee replacement surgery, which is why he was more difficult than usual to get a hold of). He is okay with us going to the 8-inch tap (he did say that the monthly water fee would be higher by a couple of hundred dollars). He is going to send a confirming email.

We will have the changes made to the plan and I will make arrangements for Mr. Moschello to sign the New Service Application. That form, along with the contract, and a new check will need to be sent to Mr. Davignon. He will be out of his office doing his rehab, but will "start the process" so that he can send the project out to bid as soon as possible.

I will contact the fire officials to let them know we do not need the meeting.

Gary

**From:** Robert L. Podvey [mailto:rpodvey@connellfoley.com]  
**Sent:** Thursday, November 16, 2017 4:17 PM  
**To:** Gary; TFS; Peter Liebman  
**Cc:** pbiber@tbpaia.com; mperez@tbpaia.com; Mike; Peter  
**Subject:** RE: Franklin Place, Water Issues

I agree. Waiting for a call back from Biber. My e-mail to Davignon just was replied to---He is out until Tuesday 11/25. I assume he means 11/21, since 11/25 is a Saturday. Bob

**From:** Gary [mailto:Gary@caseyandkeller.com]  
**Sent:** Thursday, November 16, 2017 4:10 PM  
**To:** TFS; Peter Liebman  
**Cc:** Robert L. Podvey; pbiber@tbpaia.com; mperez@tbpaia.com; Mike; Peter  
**Subject:** RE: Franklin Place, Water Issues

My feeling is that since we all seem to be on the same page with regard to changing the 6-inch tap to an 8-inch tap we do not need to have the meeting. (Chief Evers and Mr. Moschello shared the same sentiment when I talked to them the other day.) The only question is for NJAW to say yes to the 8-inch tap (I cannot think of any good reason why they might say no.) If all are agreed I will contact the fire officials and confirm that we do not need the meeting.

Gary  
Casey and Keller, Inc.

**From:** TFS [<mailto:jerrynaylis@technicalfire.com>]  
**Sent:** Thursday, November 16, 2017 3:24 PM  
**To:** Peter Liebman  
**Cc:** [rpodvey@connellfoley.com](mailto:rpodvey@connellfoley.com); Gary; [pbiber@tbpaia.com](mailto:pbiber@tbpaia.com); [mperez@tbpaia.com](mailto:mperez@tbpaia.com); Mike; Peter  
**Subject:** Re: Franklin Place, Water Issues

Is the meeting on or off for tomorrow morning?

Jerry Naylis

Sent from my iPhone

On Nov 15, 2017, at 3:13 PM, Peter Liebman <[ptliebm@aol.com](mailto:ptliebm@aol.com)> wrote:

Separate hydrants are already there, !!

Peter L

-----Original Message-----

From: TFS <[jerrynaylis@technicalfire.com](mailto:jerrynaylis@technicalfire.com)>  
To: Robert L. Podvey <[rpodvey@connellfoley.com](mailto:rpodvey@connellfoley.com)>  
Cc: Gary <[Gary@caseyandkeller.com](mailto:Gary@caseyandkeller.com)>; pbiber <[pbiber@tbpaia.com](mailto:pbiber@tbpaia.com)>; ptliebm <[ptliebm@aol.com](mailto:ptliebm@aol.com)>;  
mperez <[mperez@tbpaia.com](mailto:mperez@tbpaia.com)>; Mike <[Mike@caseyandkeller.com](mailto:Mike@caseyandkeller.com)>; Peter <[Peter@caseyandkeller.com](mailto:Peter@caseyandkeller.com)>  
Sent: Wed, Nov 15, 2017 2:55 pm  
Subject: Re: Franklin Place, Water Issues

From a fire protection point of view that works. They may want a separate fire hydrant on each six-inch line. That may be a small price compared to additional delay.

Jerry Naylis

Sent from my iPhone

> On Nov 15, 2017, at 12:36 PM, Robert L. Podvey <[rpodvey@connellfoley.com](mailto:rpodvey@connellfoley.com)> wrote:  
>  
> Peter & Jerry—In a seminar. Does this work? Bob  
>  
> Sent from my iPhone  
>  
> On Nov 15, 2017, at 12:27 PM, Gary <[Gary@caseyandkeller.com](mailto:Gary@caseyandkeller.com)<<mailto:Gary@caseyandkeller.com>>>  
wrote:  
>  
> I just spoke to Chief Evers and Mr. Moschello and explained some of the confusion with the initial  
Needed Fire Flow Forms from N.J. American and the revised fire flow/sprinkler calculation. In the end  
they agreed that if we run an 8-inch service line to the backflow preventer and then take the two 6-inch  
service lines off of the 8-inch they will be satisfied with the plans and will sign off on the NJAW New  
Service request form.  
>  
> If this is agreeable we can revise the plans accordingly and I can arrange with Mr. Moschello to have  
him sign the form. If this is the case we would probably not need to have the meeting on Friday.  
>  
> Gary  
> GARY W, SZELC, P.E. & P.P.  
> Casey & Keller, Inc. | [gary@caseyandkeller.com](mailto:gary@caseyandkeller.com)<<mailto:gary@caseyandkeller.com>>  
> Surveyors | Engineers | Planners  
> 258 Main Street | P.O. Box 191 | Millburn | NJ 07041  
> Phone: +1-973-379-3280 | Fax: +1-973-379-7993  
>  
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# EXHIBIT 04

Connell Foley LLP  
56 Livingston Avenue  
Roseland, NJ 07068  
P 973.535.0500 F 973.535.9217

**Robert L. Podvey**  
Partner  
Direct Dial 973.840.2381  
RPodvey@connellfoley.com

November 18, 2020

**VIA EMAIL**

Aida Comacho Welch  
Board Secretary  
New Jersey Board of Public Utilities  
44 S. Clinton Ave., 3<sup>rd</sup> Floor  
P.O. Box 350  
Trenton, NJ 08625

**Re: 68-72 Franklin Place, LLC and the Village Courtyard Condominium  
Association Petition to the New Jersey Board of Public Utilities for Relief  
from Certain New Jersey American Water Company Tariff Charges**

Dear Ms. Comacho Welch:

This firm represents 68-72 Franklin Place, LLC and the Village Courtyard Condominium Association ("Petitioner") in connection with the above-referenced petition to the New Jersey Board of Public Utilities ("BPU") seeking relief from certain industrial meter service charges set forth in New Jersey American Water Company Inc.'s "Tariff for Water and Wastewater Service." Enclosed please find one (1) electronic copy of the subject petition for your review.

We appreciate your attention to this matter.

Very truly yours,

/s/ Robert L. Podvey

Robert L. Podvey

RLP/mja

cc: Gary W. Szalc, P.E. & P.P. (via email)

Robert L. Podvey, Esq.  
Attorney ID No. 217551965  
Connell Foley LLP  
56 Livingston Avenue  
Roseland, New Jersey 07068  
(973) 535-0500  
Attorneys for Petitioners, 68-72 Franklin Place, LLC and the Village Courtyard Condominium Association

<b>IN THE MATTER OF THE PETITION OF 68-72 FRANKLIN PLACE, LLC AND THE VILLAGE COURTYARD CONDOMINIUM ASSOCIATION</b>	<b>STATE OF NEW JERSEY BOARD OF PUBLIC UTILITIES  PETITION</b>
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Petitioners, 68-72 Franklin Place, LLC and the Village Courtyard Condominium Association hereby petition this Honorable Board of Public Utilities (“BPU”) for relief from the industrial meter service charge set forth in New Jersey American Water Company, Inc.’s “Tariff for Water and Wastewater Service” for the reasons described herein.

**RELEVANT PARTIES**

1. 68-72 Franklin Place LLC is the developer (“Developer”) of condominium buildings located in the City of Summit, County of Union, New Jersey consisting of twelve (12) townhouse-style condominium units situated in two (2) multi-story buildings on the south side of Franklin Place, and two (2) duplex homes situated on the north side of Franklin Place (the entire project collectively known as the “Condominium”).
2. The Village Courtyard Condominium Association, Inc. (the “Association”) is a New Jersey non-profit corporation comprised of the individual unit owners of the Condominium (the “Association”) (the “Developer” and the “Association” collectively referred to herein as the “Petitioners”).
3. New Jersey American Water Company, Inc. (“NJAW”) is a regulated public utility having

its principal offices at 1025 Laurel Oak Road, Voorhees, New Jersey 08043 (“NJAW” or “New Jersey American Water”).<sup>1</sup>

#### **FACTUAL BACKGROUND**

4. As noted, the Condominium consists of multiple buildings including, in pertinent part, two (2) multi-story “townhouse-style” buildings with a total of twelve (12) condominium units (six units in each building) (the “Condominium Units”).
5. The Condominium Units are the focus of this Petition.
6. The Condominium Units are situated on that certain parcel designated by the Summit Tax Assessment Map as Block 3401, Lot 4.01, known as 68-72 Franklin Place (the “Property”).<sup>2</sup>
7. The Property is an approximately 0.972-acre lot.
8. The Condominium was developed after over a decades-worth of efforts on the part of the Developer and its professionals, which incurred well over \$13 million in costs to convert a once dilapidated area into new housing and to develop off-tract affordable housing units for the City of Summit Housing Authority.
9. Specifically, the Developer retained professional planners, engineers and architects as early as 2008 to assist with securing the necessary governmental approvals and utility access to develop the Condominium.
10. The preliminary concept plans and designs evolved over time as the Developer obtained

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<sup>1</sup> As used herein, the terms “NJAW” and “New Jersey American Water” refer to the public utility and its agents, representatives, members and employees.

<sup>2</sup> The remaining two dwelling units are situated in separate, detached duplexes located across the street from the Property on parcels designated by the Summit Tax Map as Block 2614, Lots 26.01 and 26.02.

feedback from Summit's planning and zoning officials as well as representatives of New Jersey American Water.

11. Between 2012 and 2017, the Developer secured several development approvals and amended approvals from the City of Summit Planning Board (the "Planning Board") and City of Summit Zoning Board of Adjustment (the "Zoning Board") to construct the Condominium (the "Condominium Project").
12. At or around the time of these proceedings, the Developer was informed by NJAW that the existing water system servicing the Property - a NJAW 4-inch water main on Franklin Place - was inadequate to support the 12 Condominium Units, and that certain upgrades and extensions would be required.
13. NJAW's representations led to a series of discussions concerning the necessary water improvements, such as an upgrade from the existing 4-inch water main to an 8-inch ductile iron water main, and related extensions and interconnections necessary to service the Condominium Units, which were originally estimated by NJAW to cost around \$155,000.
14. Over time, however, the Developer was induced into spending over \$300,000 in costs on:  
(i) certain additional extension work to connect NJAW's water service lines to the Condominium Units, and (ii) other ancillary upgrades to NJAW's water system mains, lines and facilities situated in the general vicinity of Property (as more particularly described in Paragraphs 64-75 of this Petition as the "Extension Project").
15. The focus of this Petition is that portion of the Extension Project requiring a water main upgrade which, in turn, called for the installation of an 8-inch industrial meter (the "Industrial Meter") to monitor water flow to the 12 Condominium Units.



16. As detailed herein, NJAW and its representatives advised the Developer that the Industrial Meter was necessary to accommodate other upgrades that were being made in furtherance of the Extension Project.
17. NJAW and its officials also represented that the difference in cost between a residential meter and the Industrial Meter was nominal, thereby leading the Developer to believe the Industrial Meter was the better bargain.
18. The construction of the overall Condominium was completed on or around June 15, 2019, and the Extension Project was completed on or around October 25, 2018.
19. Throughout 2019 to 2020, the Condominium Units were sold to individuals who are a part of the Association (the "Unit Owners").
20. Shortly thereafter, Petitioners learned that the Industrial Meter was substantially more expensive than represented by NJAW.
21. Pursuant to NJAW's "Tariff for Water and Wastewater Service" (the "Tariff"), the current fixed service charge for an 8-inch industrial meter alone is \$1,348 per month (the "Service Charge").
22. As applied to the Unit Owners, the Service Charge is unconscionable. The Industrial Meter itself results in a monthly water bill in excess of \$112 for each of the Unit Owners, which does not include the applicable water use charges and fees.
23. Moreover, and as alleged herein, the use of the Industrial Meter for a residential development of this size is wholly unnecessary.
24. As a result of NJAW's actions, omissions and miscommunications, the Unit Owners have suffered, and will continue to suffer, a severe hardship by way of excessive monthly water

charges beyond accepted standards throughout the State of New Jersey.

25. Petitioners therefore respectfully urge the BPU to grant relief from the Service Charge pursuant to N.J.S.A. 48:2-21 and N.J.A.C. 14:3-1.3(d), or to otherwise enter an appropriate order requiring New Jersey American Water to replace the Industrial Meter with a less costly meter or alternative option suitable to the residential development.

#### **BACKGROUND OF THE EXPANSION PROJECT**

26. As part of the Developer's efforts to advance the Condominium Project, the Developer inquired with New Jersey American Water regarding the existing water utility systems situated in, on and around the Property.
27. In or around 2014, NJAW informed the Developer of an existing 4-inch water main situated under Franklin Place between Summit Avenue and Irving Place.
28. Based on its review of the plans for the Condominium Project, NJAW advised that the existing water main was not adequate to service the Condominium Units and that certain upgrades and/or extensions would be required to advance the Condominium Project.
29. NJAW initially informed the Developer that it would need to upgrade approximately 500 linear feet (LF) of the existing water main from a 4-inch line to an 8-inch line to service the Condominium Units. NJAW directed the Developer to file an application for water service in accordance with these and other related modifications to the existing water utility systems.

#### **The Original Application**

30. On April 23 2014, the Developer filed a "New Service Application" with NJAW in accordance with the above-recommended modifications (the "Original Application"), and paid an application fee of \$2,500.

31. On February 18, 2015, NJAW informed the Developer that the proposed upgrade to the existing water main, together with certain ancillary improvements such as the installation of wet tap valves, dry valves and new fire hydrants (the "Original Proposal") would cost around \$155,000.
32. The estimated costs of the Original Proposal were approximately twenty-thousand dollars (\$20,000) above what the Developer's professionals had calculated.
33. New Jersey American Water would not consider cost estimates prepared by any contractors other than its preferred sources.
34. In any event, and as explained below, these costs were tailored to an Original Proposal which was quickly abandoned due to NJAW's miscalculations and misunderstanding of its utility systems servicing the overall neighborhood in the vicinity of the Property.
35. After submitting the Original Application, it became apparent that NJAW's recommendations were not based upon all relevant factors concerning the specifications and layout of the existing water utility systems, and the water demand that would result from the development of the Condominium Units.
36. For example, NJAW's belief that an upgraded water main was required was based, in part, upon certain fire flow and fire hose allowance standards NJAW used to calculate the necessary water demand ("Needed Fire Flow Calculation") for the Condominium Units.
37. According to NJAW, the Needed Fire Flow Calculation for the Condominium Units was 1,500 gallons per minute (GPM).
38. However, even the proposed upgrade to an 8-inch water main could not meet that demand, as it would enable only 1,300 GPM of water flow to the Condominium Units.

39. On or around September 21, 2015, the Developer's professionals met with a representative from NJAW to discuss the Original Proposal.
40. During that meeting, NJAW's representative asked whether the Condominium Units would have a sprinkler system.
41. The Developer confirmed that the plans for the Condominium Units, which had been previously sent to NJAW, contained a sprinkler system.
42. After nearly a year's worth of discussions, NJAW's representative then advised the Developer - for the first time - that the use of a sprinkler system alleviated the need to consider certain fire flow standards (see ¶ 36) as part of the Needed Fire Flow Calculation.
43. The Developer's professionals subsequently recalculated the water demand for the Condominium Units and concluded a maximum water demand of 655 GPM would suffice.
44. Discussions concerning the Original Proposal continued between 2015 and 2016 with little progress.
45. Ultimately, the Developer decided to reassess the necessary system upgrades in conjunction with its engineers and consultants.

**The Revised Application**

46. Between 2016 to 2017, the Developer realized that certain aspects of the Condominium Project required revisions, and sought and obtained an amended approval from the Summit Planning Board.
47. Around the same time, the Developer's professionals re-approached NJAW concerning the need to revisit the Original Proposal with respect to the Needed Fire Flow Calculation and the size and location of the fire services and hydrant locations.
48. In or around April 2017, the Developer sent a revised application for water service to

NJAW to reflect these changes (the “Revised Application”), and a new application fee of \$2,500.

49. The Revised Application was immediately met with resistance on the part of NJAW, which demanded further extensions of the 8-inch water main and additional valves and taps that were not previously requested or identified as necessary by NJAW.
50. Specifically, NJAW issued a May 22, 2017 deficiency letter stating that the proposed 8-inch water main needed to be extended an additional 215 LF beyond the 500 LF contemplated by the Original Proposal, and interconnected to different NJAW water mains than originally planned (the “Revised Proposal”).
51. In effect, the Revised Proposal called upon the Developer to pay for an additional 215 LF of upgrades beyond the general vicinity of its Property for the benefit of NJAW’s overall service area and other nearby property owners.
52. NJAW originally estimated that the Revised Proposal would cost \$208,156.77, an amount which, again, far exceeded the Developer’s calculation of about \$169,895 in costs.
53. In connection with the Revised Proposal, the Developer was advised to consult with City of Summit Fire Code Official’s regarding the Needed Fire Flow Calculation.
54. Between September and December 2017, the Developer and its engineers and consultants engaged in communications with the City of Summit’s Fire Official concerning the same.
55. The Summit Fire Code Official had numerous questions and comments regarding the size of the fire lines, number and location of hydrants, and fire-fighting flow availability, which were based on outdated plans and a prior erroneous calculation of the Needed Fire Flow. See ¶¶ 37-43.

56. Several meetings, phone calls and communications were required to explain to the Fire Code Official that NJAW's original Needed Fire Flow Calculation was erroneous and that the correct calculation was 655 GPM. See ¶ 43.
57. During that process, the Summit Fire Code Official also noted several other issues with the Revised Proposal.
58. For instance, the original plans that were submitted to the Planning Board in support of the Condominium Project (approved in 2013) depicted the upgrade of the existing 4-inch water main to an 8-inch water main as being interconnected with two 6-inch service lines (one for each driveway) and tapped off of the upgraded, 8-inch water main.
59. Those plans were later revised and approved by the Planning Board in 2016, albeit with a single 6-inch service line tapped off of the 8-inch water main.
60. The Fire Code Official indicated that, pursuant to the New Jersey Residential Site Improvement Standards, there could not be more than one hydrant on the 6-inch service line, whereas the plans depicted two hydrants.
61. The Fire Code Official therefore recommended that the 6-inch service line be increased to an 8-inch service line, which would cross Franklin Place from the new 8-inch water main, enter a meter vault in front of the Property and continue to the Condominium Project site, where it would be split into two, 6-inch service lines.
62. NJAW's representatives were consulted regarding the Fire Code Official's proposal and had no objection other than to note that the use of an 8-inch service line would require an 8-inch industrial meter.
63. NJAW's representatives advised the Developer that the larger sized meter would increase

monthly water fees by only a minimal amount, i.e., “a few hundred dollars.”

### **THE EXTENSION PROJECT**

64. On November 15, 2017, after accounting for the changes to the Revised Proposal that were recommended by the Fire Code Official, NJAW sent the Developer a proposed “Extension Deposit Agreement” and seeking a deposit of \$203,586.55.
65. In light of its need to advance the Condominium Project without further delays or unnecessary expenses, the Developer again agreed to the terms of the proposed Extension Deposit Agreement and executed the same on December 19, 2017 (the “Final Extension Deposit Agreement”).
66. The Final Extension Deposit Agreement with NJAW incorporated the terms of the Revised Proposal, as amended by the Summit Fire Code Official’s recommendations.
67. Collectively, the agreed-upon “Extension Project” contemplated the following upgrades and improvements: (i) upgrade the existing 4-inch water main in Franklin Place to an 8-inch water main; (ii) extend the upgraded water main 500 LF to existing water mains at Summit Avenue and Irving Place; (iii) further extend the upgraded water main an additional 215 LF beyond the area adjacent to the Property; (iv) install nine appurtenances (wet tap valves, dry valves and hydrants) in the manner presented in the Revised Proposal; and (v) install the 8-inch “Industrial Meter” as noted at the outset of this Petition.
68. As required by the Final Extension Deposit Agreement, the Developer deposited a check with New Jersey American Water in the amount of \$203,586.55.
69. Shortly thereafter, on January 29, 2018, NJAW issued correspondence to the Developer stating that bids had been received and that the winning bid would cost \$318,838.56 to perform the work associated with the Extension Project.

70. The winning bid price greatly exceeded NJAW's estimated cost of the Extension Project of \$203,586.55 and was based upon material costs that clearly had no relation to actual market prices.
71. For example, the Developer's consultants estimated that installation cost for the 8-inch ductile iron water main could range from \$45 to \$75 per linear foot at most, yet NJAW's winning bidder estimated such work would cost \$245 per linear foot.
72. The Developer's attorney and consultants attempted to negotiate the costs of the Extension Project with NJAW with little success.
73. NJAW initially demanded that the Developer deposit an additional \$115,752.01 to match the winning bid cost (added to the Developer's original deposit of \$203,586.55), before the Extension Project could commence.
74. Following the negotiations, the additional deposit amount was minimally reduced to \$111,752.64.
75. Again, in light of the significant delays that the Extension Project caused dating back to the Original Proposal, and the Developer's need to advance the Condominium Project, the Developer agreed to provide the additional deposit money.

#### **THE INDUSTRIAL METER**

76. As part of the Extension Project, NJAW advised that the Industrial Meter was required to correspond with the 8-inch service line and valves.
77. The Developer expressed concern with the necessity of a large industrial meter to monitor the water flow to the 12 Condominium Units.
78. However, NJAW and its officials assured the Developer that the difference in cost between residential meters and the Industrial Meter was nominal.



79. As it turns out, NJAW's Tariff provides no distinction in the service charges between industrial meters and residential meters in the service area of the Property.
80. Rather, the service charges vary with size, not type, of meter.
81. With respect to eight (8) inch industrial meters, the Tariff imposes a fixed "Service Charge" of \$1,348 per month.
82. As applied here, the Service Charge for the Industrial Meter results in a monthly water bill in excess of \$112 for each of the 12 Unit Owners, not including the additional fees and costs associated with each unit's monthly water usage.
83. Such egregious costs were not properly disclosed to the Developer and have imposed a severe hardship on the 12 Unit Owners.

**RELIEF REQUESTED**

84. NJAW's acts, omissions and miscommunications concerning the necessity and costs of the Extension Project, including the Industrial Meter, induced the Developer into investing significant sums to its detriment as well as the detriment of the Association, while benefiting NJAW's physical assets.
85. During the years of approval processes, NJAW failed to apprise the Developer of all relevant, material information necessary to make an informed decision as to whether the Industrial Meter was appropriate for the 12 Condominium Units.
86. Petitioners respectfully request that under the circumstances described herein, relief is warranted.
87. Pursuant to N.J.A.C. 14:3-1.3(d), the BPU should order NJAW to not enforce the Industrial Meter Service Charge set forth in its Tariff as against the Unit Owners.
88. Relief is also warranted in accordance with N.J.S.A. 48-2-21, which authorizes the BPU

to order the application of special rates in cases where an existing rate is deemed unjust and unreasonable.

Connell Foley LLP  
Attorneys for Petitioner

By: \_\_\_\_\_  
Robert L. Podvey, Esq.

DATED:

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# EXHIBIT 05



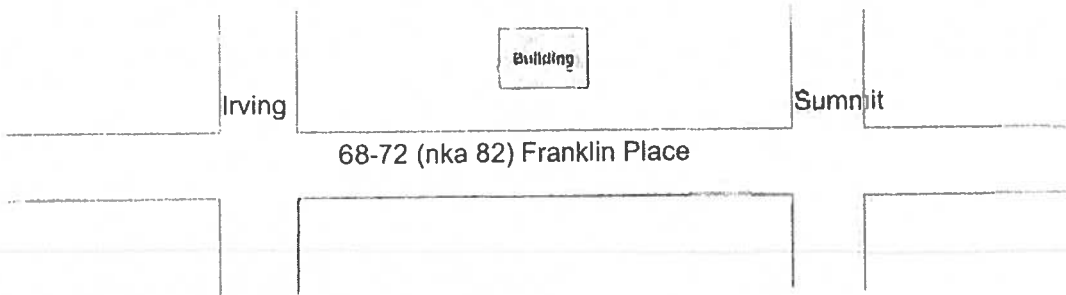
# NEW SERVICE APPLICATION

★ I AM APPLYING FOR:

- Domestic Service     Fire Service     Irrigation Service     Sewer Service (Ocean City, Lakewood, Howell only)

★ SERVICE LOCATION:

Street Address 68-72 (nka 82) Franklin Place Town City of Summit  
 County Union Block 3401 Lot 4.01  
 Property is situated between streets Summit Avenue & Irving Place  
 Please sketch your preferred service location on diagram below:



★ APPLICANT INFORMATION:

Name 68-72 Franklin Place, LLC  
 Address 430 Morris Avenue Town Summit  
 Phone 908-273-6060 Cell \_\_\_\_\_ Fax 908-598-8608

★ BILLING INFORMATION (party responsible for bill):

Name 68-72 Franklin Place, LLC  
 Address 430 Morris Avenue Town Summit  
 Phone 908-273-6060 Cell \_\_\_\_\_ Fax 908-598-8608  
 Email \_\_\_\_\_

★ BUILDING OWNER INFORMATION (if different from billing information):

Name Same  
 Address \_\_\_\_\_ Town \_\_\_\_\_  
 Phone \_\_\_\_\_ Cell \_\_\_\_\_ Fax \_\_\_\_\_  
 Email \_\_\_\_\_

★ THIS PROPERTY IS:

- New construction     Subdivision     Vacant Land  
 Existing building     Demolition     Currently using well water

★ USE OF SERVICE:

- Single Family     Total # Bedrooms \_\_\_\_\_     Commercial  
 Multi-Family (2 - 4 units)     Total # Bathrooms \_\_\_\_\_     Irrigation only  
 Apartments (5 unit and up)     Other (describe) Townhouses



# NEW SERVICE APPLICATION

**\* COMPLETE FOR DOMESTIC WATER SERVICE**

(Provide NJAW Demand Worksheet and NJAW Fixture Count Data Sheet for service greater than 1 inch)

Is there an existing domestic service at the property?  Yes  No

If yes, do you want to:  Replace/Upgrade the existing service  Add a new service (keep the existing service)

What size meter are you requesting? 8-inch (Standard single-family is 5/8" meter, approximately 20 GPM)

What is your GPM requirement if greater than 20 GPM? 60 GPM (Domestic) [+ 155 Sprinkler + 25 Irrigation]

**\* COMPLETE FOR FIRE SERVICE N/A—8-in. service connection only—items below for information only**

Is there an existing fire service at the property?  Yes  No

If yes, do you want to:  Replace/Upgrade the existing service  Add a new service (keep the existing service)

What size fire service are you requesting? \_\_\_\_\_

Number of buildings 2 Building use Residential Type of construction Frame

Number of sprinkler heads 410 Number of hydrants \_\_\_\_\_ Number of Fire Dept. connections \_\_\_\_\_

Wet or Dry system Wet Type of backflow device (name/model) Watts RPZ-957 - 8

Fire Sprinkler plans must be submitted/reviewed by the local fire official, who should sign here that they have seen plans:

Print name Joseph Marchello Title Fire Protection Subcode Official

Signature [Signature] Date 12/4/17

**\* COMPLETE FOR IRRIGATION SERVICE N/A**

What size meter are you requesting? \_\_\_\_\_ What is your GPM requirement? \_\_\_\_\_

**\* COMPLETE FOR SEWER SERVICE N/A**

Is there an existing sewer service at the property?  Yes  No

If yes, do you want to:  Replace/Upgrade the existing service  Add a new service (keep the existing service)

**\* APPLICANT, PLEASE COMPLETE AND SIGN BELOW:**

I understand that these services are subject to the rates and conditions of the Water Company Tariff which is available for me on the water company's website.

I understand that I will be billed for water usage on fire services for purposes other than fire extinguishment or testing and that it is encouraged that customers notify the water company after the fire service is used for such purposes.

I understand that all meters/setting over 2" must be set in a vault at or as near as possible to the curbline. I also understand that the vault is provided and installed by the customer. I have reviewed NJAW's metering drawings and understand that NJAW's meter will not be set, nor will the service be activated if the required metering setup is incorrect.

I understand that water distribution system pressure varies throughout the state and that it is the applicant's and/or their agent's responsibility to inquire as to the maximum system pressure they will be connecting to and to ensure their plumbing system is in compliance with all applicable code requirements.

I understand that a Backflow Device is required for domestic services on commercial accounts and for all fire services.

Existing well, if any, will be physically removed.

Print name PETER T. LIEBMAN Title MANAGER

Signature [Signature] Date 11/29/2017

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# EXHIBIT 06

NEW JERSEY-AMERICAN WATER COMPANY, INC.  
B.P.U. No. 8 - Water and Wastewater

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NEW JERSEY-AMERICAN WATER COMPANY, INC.

TARIFF FOR WATER AND WASTEWATER SERVICE

By: William M. Varley, President  
1025 Laurel Oak Road, Voorhees, New Jersey 08043

NJAW\_0146

AREA SERVED – WATER SERVICE

This tariff shall apply to the service area of the Company, which includes all or part of the following municipalities and all other places as may be permitted by law. This tariff shall also apply to other systems under contract wherever served. Hereafter, and unless otherwise specified herein,

- **Service Area 1** refers to the water service area of New Jersey-American Water Company as it existed prior to January 1, 2007;
- **Service Area 2** refers to the water service area of the former Elizabethtown Water Company;
- **Service Area 3** refers to the water service area of the former Mount Holly Water Company;
- **Service Area 1A** refers to the water service area of the former South Jersey Water Supply Company;
- **Service Area 1B** refers to the water service area of the former Pennsgrove Water Supply Company;
- **Service Area 1C** refers to the service area of the former Shorelands Water Company;
- **Service Area 1D** refers to the service area of the former Applied Wastewater Management, Inc. ("Applied"); and
- **Service Area 1E** refers to the service area including all customers formerly served by the Borough of Haddonfield or located within the geographic boundaries of Haddonfield.

Unless otherwise indicated, all municipalities and customers referenced below having no numeric designation next to their names were served by New Jersey-American Water Company as it existed prior to January 1, 2007. All municipalities and customers with a (2) designation next to their names were served by the former Elizabethtown Water Company prior to January 1, 2007; with a (3) designation next to their names were previously served by the former Mount Holly Water Company prior to January 1, 2007; with a (1A) designation next to their names were previously served by the former South Jersey Water Supply Company prior to November 1, 2007; with a (1B) designation next to their names were previously served by the former Pennsgrove Water Supply Company prior to November 1, 2007; with a (1C) next to their names were previously served by the former Shorelands Water Company; and with a (1D) designation next to their names were previously served by Applied Wastewater Management, Inc. prior to September 1, 2010. Where a municipality was served in part by two of the former water companies listed above, service provided by New Jersey-American Water Company as it existed prior to January 1, 2007 shall be identified by a (1) designation.

All municipalities for which the Company provides water service only to a portion of the municipality are reflected by a double asterisk (\*\*) designation.

Atlantic County

Franchise Customers

Cities

Absecon  
 Linwood  
 Northfield  
 Pleasantville  
 Somers Point

Townships

Egg Harbor  
 Galloway \*\*

Burlington County

Franchise Customers

Boroughs

Palmyra  
 Riverton

Cities

Beverly

Townships

Burlington \*\*  
 Cinnaminson  
 Delanco  
 Delran  
 Eastampton (3)  
 Edgewater Park  
 Hainesport (3)  
 Lumberton (3)  
 Mansfield (3)  
 Maple Shade\*\*  
 Mt. Laurel \*\*  
 Mt. Holly (3)  
 Pemberton \*\*  
 Riverside  
 Southampton (3)  
 Springfield (3) \*\*  
 Westampton (3)

(Continued)

Resale Customers

Evesham Township MUA  
 Township of Moorestown  
 Medford Township  
 Mt. Laurel Township MUA  
 Township of Maple Shade

Issued: April 3, 2017

Effective: April 3, 2017

By: Robert G. MacLean, President  
 1025 Laurel Oak Road, Voorhees, New Jersey 08043  
 Filed pursuant to Order of the Board of Public Utilities entered in  
 Docket No. WM16101036 dated March 24, 2017.

NJAW\_0167





AREA SERVED - WATER SERVICE  
(Continued)

Hunterdon County

<u>Franchise Customers</u>	
<u>Boroughs</u>	<u>Townships</u>
Frenchtown	Raritan (2) Readington (2)** Tewksbury (2) (1D)**

Resale Customers  
Flemington Borough (2)

Mercer County

<u>Franchise Customers</u>	
<u>Boroughs</u>	<u>Townships</u>
Princeton (2)	Hopewell (2) ** Lawrence (2)** West Windsor (2)

Resale Customers  
Borough of Hopewell (2)  
Lawrenceville Water Company (2)

Middlesex County

<u>Franchise Customers</u>	
<u>Boroughs</u>	<u>Townships</u>
Dunellen (2) Jamesburg Middlesex (2)** South Plainfield (2) **	Cranbury (2) Edison (2)** Monroe ** Piscataway (2) ** Plainsboro (2) ** South Brunswick (2) **

Resale Customers  
Edison Water Company (2)  
Township of South Brunswick (2)  
Middlesex Water Co. (2)  
Monroe Township Water (2)

Monmouth County

<u>Franchise Customers</u>	
<u>Boroughs</u>	<u>Cities</u>
Allenhurst Bradley Beach Deal Eatontown Fair Haven Highlands Interlaken Little Silver Monmouth Beach Neptune City Oceanport Red Bank ** Rumson Sea Bright Shrewsbury Tinton Falls Union Beach West Long Branch	Asbury Park Long Branch  <u>Townships</u> Aberdeen ** Colts Neck ** Freehold ** Hazlet (1C) Holmdel **(1C) Howell ** Middletown Neptune (incl. Ocean Grove) Ocean Shrewsbury  <u>Villages</u> Loch Arbour

Resale Customers  
Borough of Avon  
Borough of Belmar  
Lake Como Borough  
Borough of Matawan  
Borough of Red Bank  
Borough of Keansburg  
Farmingdale Borough

(Continued)

AREA SERVED - WATER SERVICE

(Continued)

Morris County

<u>Franchise Customers</u>	<u>Townships</u>
<u>Boroughs</u>	Chatham
Mendham	Chester (2) (1D)**
Florham Park **	Harding **
Chester	Long Hill (formerly Passaic)
	Mendham **
	Mt. Olive (1) (1D)**

Resale Customers

Township of East Hanover  
Roxiticus Water Company

Ocean County

<u>Franchise Customers</u>	<u>Townships</u>
<u>Boroughs</u>	Berkeley**
Bay Head	Brick**
Lavallette **	Toms River (formerly Dover)**
Mantoloking	Lakewood
	Plumsted (3)

Resale Customers

Lakewood Township MUA  
Borough of Point Pleasant

Passaic County

<u>Franchise Customers</u>	<u>Townships</u>
<u>Boroughs</u>	Little Falls
West Paterson **	

Salem County

<u>Franchise Customers</u>	<u>Townships</u>
<u>Boroughs</u>	Carneys Point (1B)
Pennsgrove (1B)	Oldmans (1B)

Somerset County

<u>Franchise Customers</u>	<u>Townships</u>
<u>Boroughs</u>	Bedminster (1) & (2)
Bernardsville	Bernards
Bound Brook (2)	Branchburg (2)
Far Hills	Bridgewater (2)
Manville (2)	Franklin (2) **
Millstone (2)	Green Brook (2)
North Plainfield (2)	Hillsborough (2)
Peapack and Gladstone (2)	Montgomery (2)
Raritan (2)	Warren (1) & (2)
Rocky Hill	
Somerville (2)	
South Bound Brook (2)	
Watchung (1) & (2)	

Resale Customers

Franklin Township (2)

(Continued)

Issued: May 1, 2012

Effective: May 1, 2012

By: David K. Baker, President  
1025 Laurel Oak Road, Voorhees, New Jersey 08043  
Filed pursuant to Order of the Board of Public Utilities entered in  
Docket No. WR11070460 dated May 1, 2012.

NJAW\_0170

AREA SERVED - WATER SERVICE  
(Continued)

Union County

Franchise Customers

Boroughs

Fanwood (2)  
Garwood (2)  
Kenilworth (2)  
Mountainside (2)  
New Providence  
Roselle (2)  
Roselle Park (2)

Townships

Berkeley Heights  
Clark (2)  
Cranford (2)  
Hillside (1) & (2)  
Scotch Plains (2)  
Springfield  
Union (1) & (2)

Resale Customers

Liberty Water Company (2)  
Township of Winfield Park (2)  
City of Rahway

Cities

Summit  
Linden (2)  
Plainfield (2)

Towns

Westfield (2)

Warren County

Franchise Customers

Boroughs

Washington

Towns

Belvidere

Townships

Franklin  
Mansfield  
Oxford \*\*  
Washington  
White

# EXHIBIT 07

**RATE SCHEDULE A-1**  
GENERAL METERED SERVICE

APPLICABILITY

Applicable for general metered residential, commercial, industrial, and municipal service throughout Service Area 1 and Service Area 3 Mansfield Township (Homestead) served by the Company, except as specifically provided elsewhere in this tariff. The charge for general metered service shall consist of the total of the Fixed Service Charge, the Water Charge, the Purchased Water Adjustment Clause (PWAC) Charge, as shown on Rate Schedule O-1, and the Distribution System Improvement Charge (DSIC), as shown on Rate Schedule K.

CHARACTER OF SERVICE

Continuous, except as limited by the "Standard Terms and Conditions."

FIXED SERVICE CHARGE

All general metered water service customers shall pay a fixed service charge based on the size of each meter installed by the Company. Customers with multiple meters shall be charged for each meter at the indicated rate. Whenever service is established or is discontinued, all applicable fixed charges shall be prorated to the date of establishment or discontinuance of service.

Size of Meter	Non-Exempt		Exempt	
	Per Month	Per Quarter	Per Month	Per Quarter
5/8"	\$13.60	\$40.80	\$11.73	\$35.19
3/4"	20.40	61.20	17.59	52.77
1"	34.00	102.00	29.32	87.96
1 1/2"	68.00	204.00	58.64	175.92
2"	108.80	326.40	93.82	281.46
3"	204.00	612.00	175.91	527.73
4"	340.00	1,020.00	293.19	879.57
6"	680.00	2,040.00	586.38	1,759.14
8"	1,088.00	3,264.00	938.21	2,814.63
10"	1,360.00	4,080.00	1,172.76	3,518.28
12"	1,700.00	5,100.00	1,465.95	4,397.85
16"	2,720.00	8,160.00	2,345.52	7,036.56

WATER CHARGE

In addition to the Fixed Service Charge set forth above, a charge will be made for all water used as registered by the meter.

	Gallons		Rate*	
	Per Month	Per Quarter	Per 100 Gallons	Per 1,000 Gallons
Non-Exempt	All	All	\$0.61998	\$6.1998
Exempt	All	All	\$0.53462	\$5.3462

	Cubic Feet		Rate*	
	Per Month	Per Quarter	Per 10 Cubic Feet	Per 100 Cubic Feet
Non-Exempt	All	All	\$0.463745	\$4.63745
Exempt	All	All	\$0.399896	\$3.99896

TERMS OF PAYMENT

Valid bills for general metered water service furnished under this schedule will be rendered monthly in arrears (or quarterly at the option of the Company), and are due fifteen (15) days from the date of the postmark on the envelope in which the bill was transmitted. All bills shall list a due date. Thereafter, the Company may not discontinue water service unless written notice is provided giving the customer at least ten (10) days' notice prior to the proposed discontinuance. The 10 days shall begin on the postmark date of the notice. N.J.A.C. 14:3-3A.3.

SPECIAL PROVISION

\*Non-Exempt consumption charges reflect a water tax of \$.01 per 1,000 gallons (\$.00748 per 100 cubic feet) of water consumed pursuant to N.J.S.A. 58:12A-21(a). Exempt consumption charges reflect a water tax of \$.01 multiplied by 0.862323 per 1,000 gallons. This water tax is not applicable for sales for resale service.

Issued: September 16, 2015

Effective: September 21, 2015

By: William M. Varley, President  
 1025 Laurel Oak Road, Voorhees, New Jersey 08043  
 Filed pursuant to Order of the Board of Public Utilities entered in  
 Docket No. WR15010035 dated September 11, 2015.

NJAW\_0173

# EXHIBIT 08

FORM ED-I - New Jersey  
 Water or Sewer Extension Deposit-Developer  
 (08/2016)

Asset WO # \_\_\_\_\_  
 MI No. \_\_\_\_\_  
 DS Project # \_\_\_\_\_

Advance WO# Main \_\_\_\_\_  
 Advance WO# Srvs \_\_\_\_\_  
 Agreement Type \_\_\_\_\_

**EXTENSION DEPOSIT AGREEMENT**

THIS AGREEMENT ("Agreement"), entered into this 19 day of December, 2017, by and between New Jersey-American Water Company, Inc., a New Jersey public utility corporation having its principal offices located at 1025 Laurel Oak Road, Voorhees, NJ 08043 (the "Company"), and, 68-72 Franklin Place LLC having its principal address located at 430 Morris Ave Summit NJ 07901 ("Depositor").

**BACKGROUND**

- A. The Depositor represents that they have previously made an application for water service and/or sewer service and has requested that the Company extend its facilities as more fully described below, and
- B. The Company has agreed to make the extensions on the terms and conditions set forth in this Agreement and pursuant to the extension rules set out in N.J.A.C. 14:3-8.1 to -8.13 et seq.

**TERMS**

In consideration of the mutual covenants and agreements contained herein and intending to be legally bound, the parties hereto agree as follows:

- 1. **Description of Extension.** On and subject to the terms and conditions contained in this Agreement, the Company will install the extension and appurtenances, as shown on the plans approved by the Company during the application review. A general description and location of the extension is as follows:

***2014031 – Franklin Pl - Summit NJ - Upgrade existing 4-inch main with new 8 inch main, and 1 – six inch service stub. As shown on plans by Casey and Keller.***

As used in this Agreement, for extensions installed for water service, the term "Extension" shall include, without limitation, all water mains, services, appurtenances, meters and any required water system facilities (e.g., sources of supply, production, storage, and treatment) to be owned by the Company necessary to support the extension. In the case of sewer extensions, the term "Extension" shall also mean, without limitation, all sewer mains, laterals, appurtenances and any sewer system facilities to be owned by the Company necessary to support the sewer extension.

The Company reserves the right in its sole judgment to install larger facilities than indicated in either the approved plans or the descriptions of the Extension contained in this Agreement. In such a case, the Company will pay the incremental difference in any increased cost related thereto.



2. Deposits. The parties acknowledge that prior to the date of this Agreement the Depositor may have been required to submit an application fee (the "Application Fee"). The Application Fee is to compensate the Company for its costs in reviewing the application of the Depositor.

The Company has determined that the total estimated cost for the Extension described herein to be \$ 203,586.55 (the "Initial Total Estimated Cost"). The Depositor hereby agrees to deposit with the Company the Initial Total Estimated Cost of the Extension, provided, however, that the Company, at its sole discretion, may waive the requirement for a deposit of the full Initial Total Estimated Cost and may instead elect to receive a partial deposit, in the sole discretion of the Company (such deposit, the "Initial Deposit").

After the Initial Total Estimated Cost or, in the sole discretion of the Company, the Initial Deposit has been made, the project will be sent out for bid. After bid, the Company will provide a revised estimate of the total cost of the Extension (the "Revised Total Estimated Cost"). The Revised Total Estimated cost may be higher or lower than the Initial Total Estimated Cost. Upon receipt of a notice of the Revised Total Estimated Cost, the Depositor needs to deposit the Revised Total Estimated Cost with the Company. Work on the Extension will not progress further until the entire Revised Total Estimated Cost has been deposited with the Company.

The Revised Total Estimated Cost is still an estimate and the cost of the Extension may change at any time during the construction of the Extension. If, at any time, including during the installation and construction phase of the Extension, the Company's estimated cost of the Extension exceeds the deposits received by the Company, the Company will request additional deposits to cover the estimated increased cost. The Company reserves the right to suspend any and all activities on the Extension if a deposit has not been received by the Company on the date required for such deposit to be made. The Depositor agrees to hold the Company harmless from any damages that might result from such suspension of activities.

3. Conditions to Installation of Extension. The Company will commence installation of the Extension only after the Company has determined that the Depositor has:

- a) paid in full all deposits requested by the Company and any applicable adjustments thereto;
- b) furnished plans satisfactory to the Company in its sole discretion and approved by all governmental bodies having jurisdiction, showing the established line and grade of all proposed public rights-of-way in which the Extension is to be installed, as well as any other documents and/or information reasonably requested by the Company;
- c) completed, or caused to be completed, all physical work (except surface restoration) including but not limited to installation of curbs, gutters, storm sewers and sanitary sewers within the proposed public rights-of way or public or private easements to the established line and approximate grade as shown on the plans required by paragraph (b) above;
- d) executed and delivered to the Company a perpetual and recordable easement or easements in a form specified by the Company granting the Company the right to install, operate, maintain and relocate such Extension; and properly staked all applicable easements for construction;
- e) provided to the Company all approved permits and approvals that were the responsibility of the Depositor to obtain; and

- f) provided to the Company a final approved site plan with final Lot and Block Numbers and final street names and address numbers.

In the event that the Depositor has not met conditions (a) through (f) set forth in this Paragraph 3 within one (1) year from the date of this Agreement, the Company shall have the right to terminate this Agreement and return any deposits paid by the Depositor less the expenses incurred by the Company in connection with the Extension as determined by the Company in its reasonable discretion and any amounts retained by the Company pursuant to Section 7. In addition, upon any termination of this Agreement, the Company will revoke and reallocate all of the regulated water capacity committed for the Extension.

- 4. Hold Harmless. After Depositor has satisfied all conditions set forth in this Agreement, the Company will proceed to install the Extension in a timely fashion. However, the Company makes no representation as to the amount of time necessary to complete installation of the Extension. In addition, Depositor agrees to hold the Company and its officers, directors, employees, contractors, agents and Affiliates harmless for any and all damages, losses, and claims, specifically including but not limited to lost profits, (a) incurred by the Depositor or any other person or entity as a result of or in connection with any delays in completing the installation of the Extension, and (b) incurred by the Company as a result of damage to the Extension prior to acceptance of the street by the municipality, other than damage caused solely by the Company or its authorized contractors.
- 5. IRS Expenditure Rule. If the "Expenditure Rule" contained in Internal Revenue Service Code Section 118 is not met, other than due to the sole fault of the Company, Depositor agrees pay to the Company upon demand the full amount of any tax calculated by the Company to be due as a result of the failure to meet such test.
- 6. Statement of Actual Cost and Project Close. Within one hundred twenty (120) days after the final costs of the Extension have been incurred and are available, the Company will furnish to the Depositor a statement setting forth the actual cost of the Extension, such statement will include the total actual cost of labor and material for such installation plus administrative and overhead costs (the "Actual Cost"). If no setoff as described below in Section 7 has occurred and the Actual Cost of the Extension is less the sum of all deposits paid by the Depositor to the Company, then the Company will reimburse the difference to the Depositor, provided that no reimbursement will be made if any Affiliate of the Depositor owes amounts to the Company which are unpaid or past due. In that case, any such amount will be retained by the Company pursuant to the terms and conditions of Section 7.

If the Actual Cost exceeds the total sum of all Deposits made under this Extension less any setoffs taken as set forth in Section 7 below, the Depositor will deposit the difference with the Company within thirty (30) days after the Depositor receives the statement described above. If Depositor fails to pay the difference within such thirty (30) day period, Depositor forfeits all rights to refunds due under this Agreement and the Company will deny and/or suspend all water and/or sewer service to the Extension until the difference is fully paid. After the end of the thirty (30) day period, Depositor shall pay interest on the unpaid difference between the Actual Cost and the sum of all deposits made by the Depositor at the highest rate allowed by law. Any such interest shall be immediately due and payable.

7. Past Due Amounts and Setoff.

Regardless of any deposits made to the Company for any Extension, the Company will not commence work on the Extension if the Depositor or any Affiliate of the Depositor owes amounts to the Company that are unpaid or past due under this or any other agreement.

In addition, the Company has the right to set off against any deposit or reimbursement of a deposit made under this Agreement, any amount owed by the Depositor or any Affiliate of the Depositor to the Company under this or any other agreement. In addition, the Depositor agrees that the Company will have the right to set off against any refund due to Depositor under this Agreement or any other agreement between the Company or any Affiliate of the Company any amounts owed by Depositor or any Affiliate of Depositor to the Company or any Affiliate of the Company.

The term "Affiliate" shall mean with respect to either party, any individual, partnership (whether general, limited or limited liability), firm, corporation, limited liability company or corporation, association, trust, unincorporated organization or other entity, as well as any syndicate or group, that directly, or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such party. The term "Affiliate" under this definition will specifically include entities that share a common General Partner or Managing Member or whose General Partners or Managing Members are Affiliates, regardless of the ownership structure of such entities.

8. Refunds.

Definitions:

The following definitions will be used in this Section 8:

"Bona Fide Customer" is a residential or non-residential customer who: (i) has entered into an agreement for service with the Company, if applicable, (ii) receives water on a permanent basis; and, (iii) whose service lines were installed under this Agreement. Bona Fide Customers are classified as Category I or Category II according to the following guidelines:

Category I: A Bona Fide Customer receiving domestic water and/or sewer service for detached one family residences, duplexes, townhomes, condominiums or apartments, where the service line is either a one (1) inch line for water service or a four (4) inch line for sewer service; and

Category II: A Bona Fide Customer receiving private fire protection or water service and/or sewer service not meeting the standards for Category I.

Whether a customer qualifies as a Bona Fide Customer will be determined by the Company in its sole discretion.

"Revenue" is defined differently for Category I and Category II Bona Fide Customers as follows:

Category I: Average estimated annual revenue per residential customer reflected in the Company's last approved rate order for customers in the same service area; and

Category II: Actual revenues generated by such customer between the 13<sup>th</sup> and the 24<sup>th</sup> month of actual service following service activation.

Determination of Refunds:

Provided the Depositor has fully complied with Section 6 above, the total amount eligible for refunds will be the Actual Cost of the Project. The Company and Depositor fully recognize that the Actual Cost of the Project may not be fully refundable.

The Company will refund to the Depositor a one time payment for each Bona Fide Customer (Category I or Category II) directly served by Infrastructure installed as part of the Project in an amount equal to the multiplier set forth in N.J.A.C. 14:3-8.10, times the Revenue from such Bona Fide Customer.

Payment of Refunds:

Category I: Payments shall be made annually if the Depositor is eligible for refund, on or about the anniversary date of this Agreement.

Category II: Payments shall be made approximately thirty (30) months following service activation, if the Depositor is eligible for refund.

No Refunds Based Upon Other Main Extension:

Notwithstanding any other provisions of this agreement, the Company shall have the absolute right at any time to construct and install other main extensions and appurtenants facilities connection to the main extension. Neither the connection of any other main extension nor any service furnished by or from another main extension shall be subject to or in any manner affect this agreement, and no Developer hereunder shall be entitled to any refund of all or portion of the deposit made hereunder by reason of the connection of such other main extensions or connections for service there form provided.

Conclusion of Refunds:

The payment of refunds will end ten (10) years after the date of execution of this Agreement. At the end of this period, any such excess remaining amounts shall become the property of the Company. In no event shall the sum of refunds made by the Company to the Depositor exceed the Actual Cost of the Project, nor shall any part of the Actual Cost of the Project which has not been refunded ten (10) years after the date of this Agreement be returned to the Depositor under any circumstances.

9. Relocation of Facilities. Any relocation, raising or lowering of any of the Company's facilities due to any variation in the final street lines or grade of such proposed public rights-of-way and/or easements prior to acceptance of the street by the municipality, shall be performed by the Company or its authorized contractors at the sole cost and expense of the Depositor.

Any of the Company's facilities damaged by Depositor, its agents, employees or contractors, shall be repaired or replaced by the Company or its authorized contractors at the Depositor's expense. The Depositor agrees the Company has the right to deduct the cost of such repair, replacement, relocation, raising or lowering from any amounts due Depositor under this Agreement or otherwise.

10. Ownership of Facilities on the Extension. The Company and its successors and assigns shall be the owner and have all rights, title and interest in the Extension installed pursuant to this Agreement whether in private property or public right-of-way.

This Agreement does not confer upon the Depositor any right to operate the Extension or to obtain water from the Extension. If any of the facilities installed on this Extension need to be operated in connection with Depositor's activities, Depositor shall contact the Company. If Depositor requires a supply of water, Depositor shall apply to the Company for water service

in accordance with the Company's Tariff in effect at such time. Theft of water shall be reported to local law enforcement.

11. Execution by the Company. This Agreement shall be valid and binding upon the Company only at the time it is executed by its duly authorized representative and the form of this Agreement can be altered, changed, replaced or superseded at any time prior thereto, and the fact that Company has provided the Depositor with a draft of this Agreement prior to that time shall have no binding or legal effect on the Company. This Agreement shall be considered invalid if not executed by both parties on or before November 30, 2018.
12. Successors & Assigns. This Agreement shall inure to benefit of, and be binding upon, the parties hereto and their respective heirs, executors, administrators, and permitted successors and assigns. No assignment of this Agreement or any rights or obligations hereunder may be made by Depositor without the prior written consent of the Company.
13. Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed received when delivered personally, on the second business day after mailed by registered mail, return receipt requested, on the next business day after delivery to a recognized overnight courier service or when sent by telecopy at the following addresses (or to such other address as a party may have specified by notice given to the other party pursuant to this provision):

If to the Company, to:

AND :

New Jersey-American Water Company, Inc.  
1025 Laurel Oak Road  
Voorhees, New Jersey 08043  
Attn: Legal Department

New Jersey-American Water Company, Inc  
120 Raider Blvd  
Hillsborough, New Jersey 08844  
Attn: Developer Services

If to the Depositor, to:

68-72 Franklin Place LLC  
430 Morris Ave  
Summit NJ 07901

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.
15. Separability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination of invalidity or unenforceability shall not render the balance of this Agreement invalid or unenforceable.
16. Waiver, Amendment. Either party may waive compliance by another with, amend, supplement or modify any provision of this Agreement. No waiver, amendment, supplement or modification of any provision shall be construed as a waiver, amendment, supplement or modification of any other provision. Any waiver, amendment, supplement or modification of this Agreement must be in writing and shall be deemed effective only with respect to the party that executes and delivers such writing.
17. Changes in Law. In the event that the Company determines that the adoption after the date hereof of any tax or other law, rule or regulation does or shall have the effect altering the terms of this Agreement, the Company shall have the right to change the terms of this agreement to reflect such change in law, rule or regulation. To the extent such change has the effect of increasing the deposit required under this Agreement, then Depositor shall within

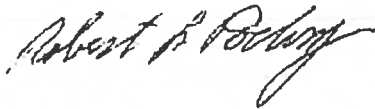
fifteen (15) days after notice and demand from the Company (together with the certificate referred to in the next sentence) pay to the Company such additional amounts. A certificate as to the amount of such cost and showing the basis of the computation of such cost submitted by the Company to Depositor shall accompany such notice.

18. Entire Agreement. This Agreement, together with all of the schedules and exhibits hereto which are incorporated herein by reference, contains all of the promises, agreements, conditions, covenants and undertakings between the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings, inducements or conditions whether express or implied, written or oral.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives the day and year first above written.

WITNESSED:

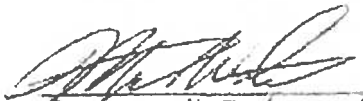
68-72 Franklin Place LLC



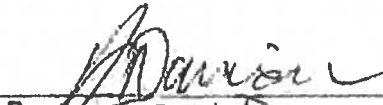
By: PETER T. LIEBMAN  
Title: MANAGER  
Date: 11/29/2017

WITNESSED:

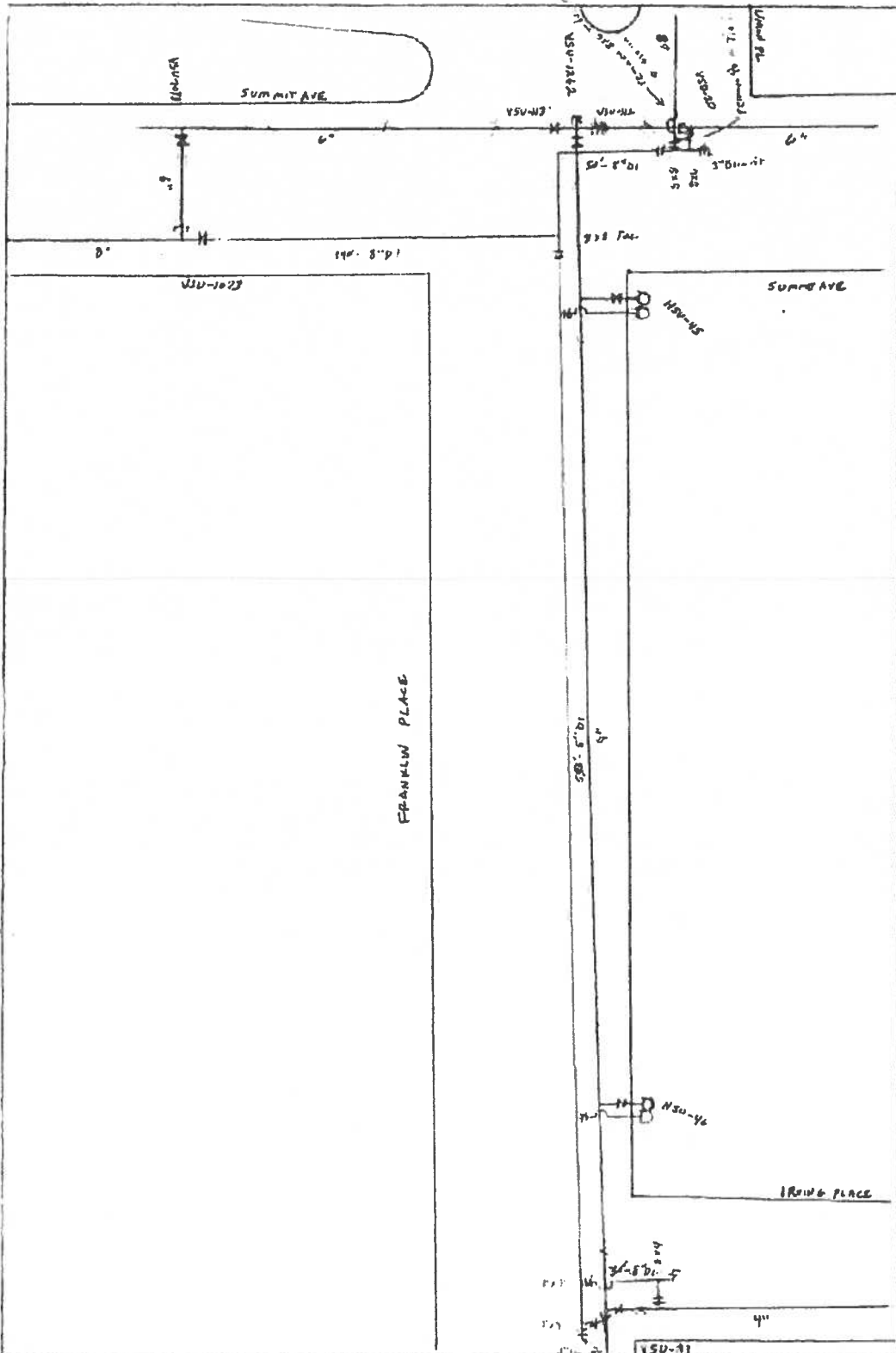
NEW JERSEY-AMERICAN WATER COMPANY, INC.



By: MICHAEL Luccan  
Date: 12-19-17



By: JOSEPH Duignon  
Title: Project Manager  
Date: 12/19/17.



WO# DR-1261-P-0151 PROJECT: Franklin Square  
 MUNICIPALITY/STREETS: Summit - Franklin Place (740'-9")  
 CONTRACTOR: \_\_\_\_\_ INSPECTOR: \_\_\_\_\_  
 DATE: \_\_\_\_\_ DRAWN BY: \_\_\_\_\_ SHEET NUMBER 1 OF \_\_\_\_\_ FORM NO. DR-1

# EXHIBIT 09





Connell Foley LLP  
One Newark Center  
1085 Raymond Blvd., 19th Floor  
Newark, New Jersey 07102  
P 973.436.5800 F 973.436.5801

Robert L. Podvey  
Partner  
Direct Dial 973 436 5781  
rpodvey@connellfoley.com

December 15, 2017

**VIA LAWYERS SERVICE**

Joseph Davignon  
New Jersey American Water  
120 Raider Blvd.  
Hillsborough, NJ 08844

**Re: Franklin Place  
Project #2014031**

Dear Mr. Davignon:

This letter is sent on behalf of Franklin Place.

We enclose the following:

- Two originals of the New Service Application signed by the Fire Protection Subcode Official and the Franklin Place LLC managing member;
- Two originals of the Extension Deposit Agreement, signed by our client;
- A check in the amount of \$203,586.55 payable to New Jersey American Water;
- A check in the amount of \$2,500 payable to New Jersey American Water;
- The Union County road opening Application filled out by our client and to be signed by New Jersey American Water.

According to Fire Chief Evers, the two new hydrants to be installed on Franklin Place are "replacement" hydrants and no municipal hydrant authorization or resolution is required.

As discussed, in paragraph one, the 6 inch service stub has been changed to an 8 inch stub.

I am told by my client that the previous application documents that you returned were accompanied by a \$2,500 check for the application fee, which was not returned. As you can see, we have enclosed another \$2,500 fee, but would hope that you could return the check to me under the circumstances.

Roseland

Jersey City

Newark

New York

Cherry Hill

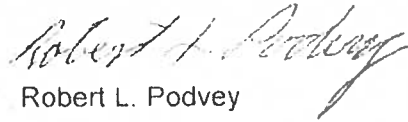
Philadelphia

www.connellfoley.com

Joseph Davignon  
December 15, 2017  
Page 2

I appreciate your courtesy and cooperation in bringing the matter to this point. We look forward to the successful completion of this project and additional service for New Jersey American Water.

Very truly yours,



Robert L. Podvey

RLP/gxd  
Enclosures

CC: Peter Liebman (via email only)  
Peter Biber (via email only)  
Gary Szalc (via email only)

# EXHIBIT 10

**RATE SCHEDULE A-1**  
**GENERAL METERED SERVICE**

APPLICABILITY

Applicable for general metered residential, commercial, industrial, and municipal service throughout Service Area 1, Service Area 1A, Service Area 2, Service Area 3, Service Area 3 Mansfield Township (Homestead) served by the Company, the Columbus section of the Townships of Mansfield and Southampton, Burlington County in Service Area 3, and the Borough of Manville, Somerset County (formerly served by the Borough of Manville Water Utility) located in Service Area 2, and in Service Area 1D, formerly served by Applied Wastewater Management, Inc. ("Applied"), noted on Sheet Nos. 21 – 25, except as specifically provided elsewhere in this tariff. The charge for general metered service shall consist of the total of the Fixed Service Charge, the Water Charge, the Purchased Water Adjustment Clause (PWAC) Charge, as shown on Rate Schedule O-1, and the Distribution System Improvement Charge (DSIC), as shown on Rate Schedule K.

CHARACTER OF SERVICE

Continuous, except as limited by the "Standard Terms and Conditions."

FIXED SERVICE CHARGE

All general metered water service customers shall pay a fixed service charge based on the size of each meter installed by the Company. Customers with multiple meters shall be charged for each meter at the indicated rate. Whenever service is established or is discontinued, all applicable fixed charges shall be prorated to the date of establishment or discontinuance of service.

Size of Meter	Non-Exempt		Exempt	
	Per Month	Per Quarter	Per Month	Per Quarter
5/8"	\$16.85	\$50.55	\$14.53	\$43.59
3/4"	25.30	75.90	21.82	65.46
1"	42.10	126.30	36.30	108.90
1 1/2"	84.30	252.90	72.69	218.07
2"	134.80	404.40	116.24	348.72
3"	252.80	758.40	217.99	653.97
4"	421.30	1,263.90	363.29	1,089.87
6"	842.50	2,527.50	726.50	2,179.50
8"	1,348.00	4,044.00	1,162.40	3,487.20
10"	1,685.00	5,055.00	1,453.00	4,359.00
12"	2,106.00	6,318.00	1,816.04	5,448.12
16"	3,370.00	10,110.00	2,906.01	8,718.03

WATER CHARGE

In addition to the Fixed Service Charge set forth above, a charge will be made for all water used as registered by the meter.

	Gallons		Rate*	Rate*
	Per Month	Per Quarter	Per 100 Gallons	Per 1,000 Gallons
Non-Exempt	All	All	\$0.61005	\$6.1005
Exempt	All	All	\$0.52606	\$5.2606
	Cubic Feet		Rate*	Rate*
	Per Month	Per Quarter	Per 10 Cubic Feet	Per 100 Cubic Feet
Non-Exempt	All	All	\$0.45632	\$4.5632
Exempt	All	All	\$0.39349	\$3.9349

TERMS OF PAYMENT

Valid bills for general metered water service furnished under this schedule will be rendered monthly in arrears (or quarterly at the option of the Company), and are due fifteen (15) days from the date of the postmark on the envelope in which the bill was transmitted. All bills shall list a due date. Thereafter, the Company may not discontinue water service unless written notice is provided giving the customer at least ten (10) days' notice prior to the proposed discontinuance. The 10 days shall begin on the postmark date of the notice. N.J.A.C. 14:3-3A.3.

SPECIAL PROVISION

\*Non-Exempt consumption charges reflect a water tax of \$.01 per 1,000 gallons (\$.00748 per 100 cubic feet) of water consumed pursuant to N.J.S.A. 58:12A-21(a). Exempt consumption charges reflect a water tax of \$.01 multiplied by 0.862317 per 1,000 gallons. This water tax is not applicable for sales for resale service.

Issued: September 15, 2017

Effective: October 29, 2018

By: Deborah Degillio, President  
1025 Laurel Oak Road, Voorhees, New Jersey 08043  
Filed pursuant to Order of the Board of Public Utilities entered in  
Docket No. WR17090985 dated October 29, 2018.

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# EXHIBIT 11

**RATE SCHEDULE A-1**  
**GENERAL METERED SERVICE**

APPLICABILITY

Applicable for general metered residential, commercial, industrial, and municipal service throughout Service Area 1, Service Area 1A, Service Area 2, Service Area 3, Service Area 3 Mansfield Township (Homestead) served by the Company, the Columbus section of the Townships of Mansfield and Southampton, Burlington County in Service Area 3, and the Borough of Manville, Somerset County (formerly served by the Borough of Manville Water Utility) located in Service Area 2, and in Service Area 1D, formerly served by Applied Wastewater Management, Inc. ("Applied"), noted on Sheet Nos. 28 – 32, except as specifically provided elsewhere in this tariff. The charge for general metered service shall consist of the total of the Fixed Service Charge, the Water Charge, the Purchased Water Adjustment Clause (PWAC) Charge, as shown on Rate Schedule O-1, and the Distribution System Improvement Charge (DSIC), as shown on Rate Schedule K.

CHARACTER OF SERVICE

Continuous, except as limited by the "Standard Terms and Conditions."

FIXED SERVICE CHARGE

All general metered water service customers shall pay a fixed service charge based on the size of each meter installed by the Company. Customers with multiple meters shall be charged for each meter at the indicated rate. Whenever service is established or is discontinued, all applicable fixed charges shall be prorated to the date of establishment or discontinuance of service.

<u>Size of Meter</u>	<u>Non-Exempt Per Month</u>	<u>Exempt Per Month</u>
5/8"	\$18.50	\$15.98
3/4"	27.77	23.99
1"	46.26	39.96
1 1/2"	92.55	79.93
2"	147.99	127.82
3"	277.55	239.71
4"	462.55	399.50
6"	925.00	798.92
8"	1,480.05	1,278.31
10"	1,850.00	1,597.83
12"	2,312.27	1,997.10
16"	3,700.00	3,195.67

WATER CHARGE

In addition to the Fixed Service Charge set forth above, a charge will be made for all water used as registered by the meter.

	<u>Gallons Per Month</u>	<u>Rate* Per 100 Gallons</u>	<u>Rate* Per 1,000 Gallons</u>
Non-Exempt	All	\$0.68884	\$6.8884
Exempt	All	\$0.59495	\$5.9495

TERMS OF PAYMENT

Valid bills for general metered water service furnished under this schedule will be rendered monthly in arrears (or quarterly at the option of the Company), and are due fifteen (15) days from the date of the postmark on the envelope in which the bill was transmitted. All bills shall list a due date. Thereafter, the Company may not discontinue water service unless written notice is provided giving the customer at least ten (10) days' notice prior to the proposed discontinuance. The 10 days shall begin on the postmark date of the notice. N.J.A.C. 14:3-3A.3.

SPECIAL PROVISION

\*Non-Exempt consumption charges reflect a water tax of \$.01 per 1,000 gallons of water consumed pursuant to N.J.S.A. 58:12A-21(a). Exempt consumption charges reflect a water tax of \$.01 multiplied by 0.8636945 per 1,000 gallons. This water tax is not applicable for sales for resale service.

Issued: October 30, 2020

Effective: November 1, 2020

By: Cheryl Norton, President  
One Water Street, Camden, NJ 08102

Filed pursuant to Order of the Board of Public Utilities entered in  
Docket No. WR19121516 dated October 28, 2020.

# EXHIBIT 12



Joseph Davignon  
New Jersey American Water  
120 Raider Blvd  
Hillsborough, NJ 08844  
Joe.Davignon@amwater.com

P 908.431.3223  
F 908-431-3260

February 6, 2018

Connell Foley LLP  
One Newark Center  
1085 Raymond Blvd 19<sup>th</sup> Floor  
Newark NJ 07102

**RE: Project # 2014031  
Project Name Franklin PI  
Extension Deposit Agreement - Additional Deposit & Winning Contractor  
Summit, NJ**

Dear Mr. Podvey:

We are in receipt of your letter dated February 2, 2018 and we have reviewed our files in reference to the bid estimate cost for the above referenced project. We did find two minor transposition errors in the cost estimate tabulation and below is the corrected tabulation.

<b>Material</b>	<b>\$29,203.36</b>
<b>Contractor</b>	<b>\$229,830.00</b>
<b>NJAW Labor</b>	<b>\$6,158.00</b>
<b>Permits and other</b>	<b>\$11,490.00</b>
<b>Tax on Services</b>	<b>\$2,539.86</b>
<b>Direct Overhead 3%</b>	<b>\$8,334.92</b>
<b>Contingency 10%</b>	<b>\$27,783.06</b>
<b>Revised Total Estimated Cost</b>	<b>\$315,339.19</b>
<b>Potential Refund</b>	<b>\$21,000.00</b>
<b>Deposit Received</b>	<b>\$203,586.55</b>
<b>Remaining Deposit Required</b>	<b>\$111,752.64</b>

New Jersey American Water cost estimating is regularly adjusted to reflect market conditions, as thus we like your client were equally surprised by the market conditions that caused this project's bid estimate to increase.

New Jersey American Water asked four contractors to bid the project and received three bids back. These bids ranged from \$229,830 to \$344,368. New Jersey American Water does not share its bid tallies.

Below is a breakdown of the bid number for the winning bid.





**NEW JERSEY**  
**AMERICAN WATER**

<b>Hydrant</b>	<b>\$ 3,500.00</b>
<b>Services</b>	<b>\$ 10,400.00</b>
<b>Mains</b>	<b>\$ 175,600.00</b>
<b>Restoration</b>	<b>\$ 40,330.00</b>
<b>Total</b>	<b>\$ 229,830.00</b>

Please don't hesitate to contact me, should you have any questions.

Sincerely,

Joe Davignon, Engineering Project Manager

---

# EXHIBIT 13

- LEGEND**
- CONTOUR
  - RIGHT OF WAY LINE
  - PROPERTY LINE
  - DUNE LINE
  - EDGE OF PAVEMENT
  - STANDARD SIGN
  - STORY SEPAR
  - PAINTED STRIP
  - WATER LINE
  - GAS LINE
  - OVERHEAD LINE
  - RAIL
  - POLE
  - UTILITY POLE
  - LIGHT POLE
  - HYDRANT
  - WATER VALVE
  - SOB
  - CLEAN OUT
  - GAS VALVE
  - TRAFFIC LIGHT
  - TREE
  - CON WIRE
  - ELECTRIC METER
  - PARKING METER

THE VILLAGE COURTYARD  
AT FRANKLIN PLACE

AS-BUILT  
SURVEY

FRANKLIN PLACE  
THE LOTS 4 OF BLOCK 301

CITY OF SUMMIT  
UNION COUNTY, NJ

CASEY &



KELLER  
INCORPORATED

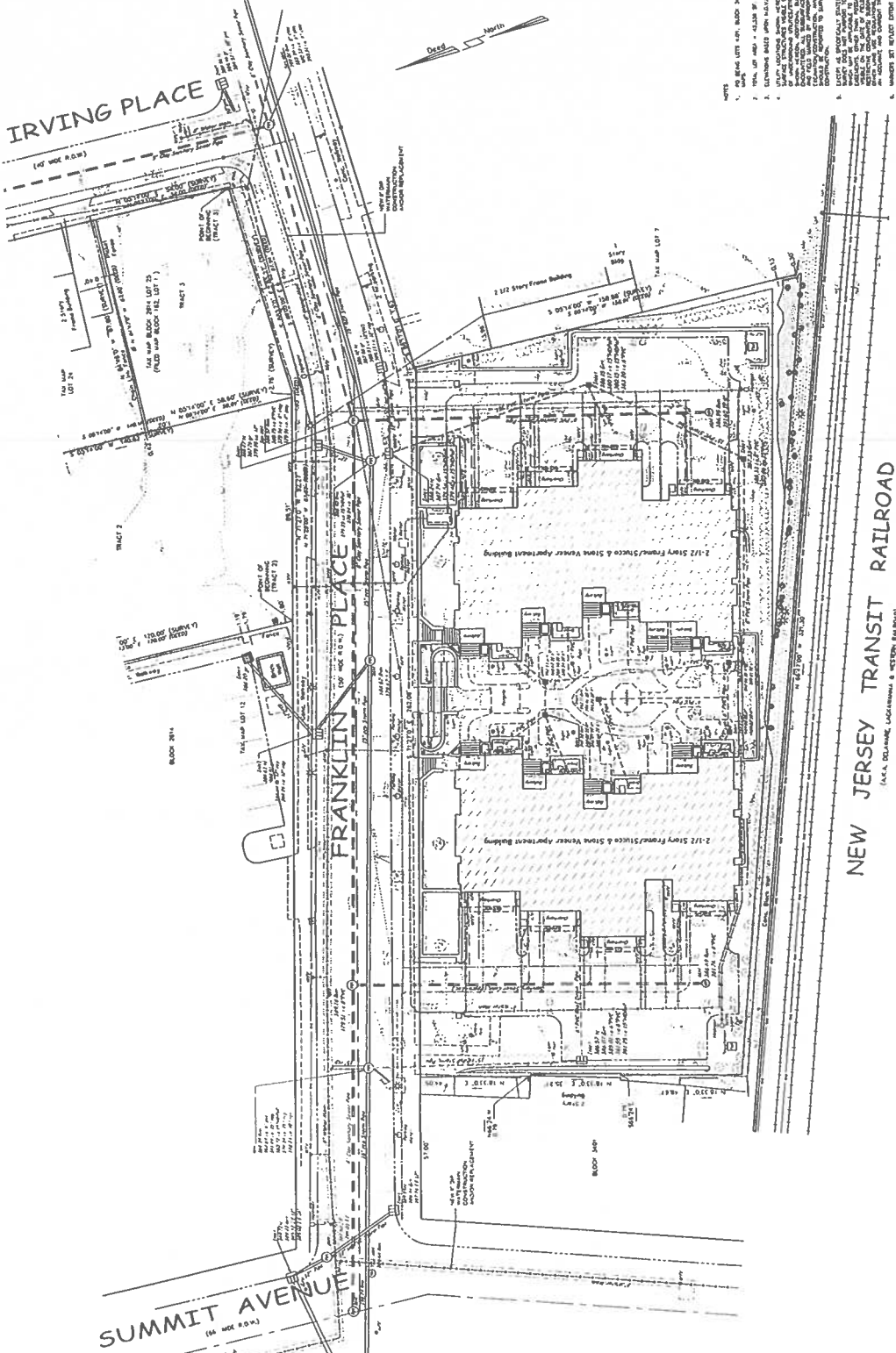
LICENSED PROFESSIONAL  
CIVIL ENGINEERS  
LAND SURVEYORS  
PLANNERS

250 High Street, PO Box 181  
Elizabeth, NJ 07201  
973-271-2300 FAX 973-271-2913

MICHAEL T. LANZAFAMA

Professional Engineer  
No. 120000000  
Professional Land Surveyor  
No. 120000000

DATE	NO. OF SHEETS	TOTAL SHEETS
10/11/08	1	1



- NOTES**
1. THIS AS-BUILT SURVEY IS BASED ON THE CITY OF SUMMIT 1998 SURVEY.
  2. THE TOTAL AREA OF THE LOTS 4 OF BLOCK 301 IS 61,877 S.F.
  3. EXISTING UTILITIES SHOWN WERE LOCATED BY FIELD SURVEY.
  4. THE SURVEY WAS MADE ON THE DATE OF THIS SURVEY REPORT.
  5. THE SURVEY WAS MADE ON THE DATE OF THIS SURVEY REPORT.
  6. THE SURVEY WAS MADE ON THE DATE OF THIS SURVEY REPORT.
  7. THE SURVEY WAS MADE ON THE DATE OF THIS SURVEY REPORT.



DATE	NO. OF SHEETS	TOTAL SHEETS
10/11/08	1	1



Thomas J. Herten, Esq. (004491974)  
Josiah Contarino, Esq. (003962013)  
**ARCHER & GREINER**  
A Professional Corporation  
Court Plaza South, West Wing  
21 Main Street, Suite 353  
Hackensack, New Jersey 07602  
(201) 342-6000  
Attorneys for Respondent  
New Jersey-American Water Company

**IN THE MATTER OF THE PETITION  
OF 68-72 FRANKLIN PLACE, LLC AND  
THE VILLAGE COURTYARD  
CONDOMINIUM ASSOCIATION**

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

**OAL Docket No. PUC 05592-2021 N**

BPU Docket No. WO20110723

**CERTIFICATION OF SERVICE**

JOSIAH CONTARINO, an attorney-at-law of the State of New Jersey, certifies as follows:

On December 17, 2021, I caused a true copy of Respondent New Jersey-American Water Company's Notice of Motion for Summary Decision, Brief in Support of Motion, Certification of Joseph N. Davignon, with exhibits, and this Certification of Service to be filed with the Office of Administrative Law via email at [Ila.Dhabliwala@oal.nj.gov](mailto:Ila.Dhabliwala@oal.nj.gov) and Federal Express at 33 Washington Street, Newark, New Jersey 07102, and a copy of same on the following individuals via email and Federal Express:

Robert L. Podvey, Esquire ([rpodvey@connellfoley.com](mailto:rpodvey@connellfoley.com))  
Michael Affrunti, Esquire ([maffrunti@connellfoley.com](mailto:maffrunti@connellfoley.com))  
CONNELL FOLEY LLP  
56 Livingston Avenue  
Roseland, NJ 07068  
973-535-0500

And courtesy copies of the same to be served on the following individuals via Federal

Express:

Karriemah Graham, Chief  
Bureau of Case Management  
Board of Public Utilities  
P.O. Box 350  
Trenton, NJ 08625-0350

Christine Juarez  
Assistant Deputy Rate Counsel  
Division of Rate Counsel  
140 East Front Street, 4th Floor, P.O. Box 003  
Trenton, NJ 08625

I certify that the following statements made by me are true. I certify that if any of the following statements made by not true that I am subject to punishment.

/s/ Josiah Contarino  
Josiah Contarino

Dated: December 17, 2021

222811900v1