

B-1, PLANT STUDY A LOAN

Date: September 1, 2009

**MEMORANDUM OF UNDERSTANDING
AMONG THE PINELANDS COMMISSION, BUENA VISTA TOWNSHIP
AND THE ATLANTIC COUNTY UTILITIES AUTHORITY**

PURPOSE

This Memorandum of Understanding ("MOU") serves to establish the framework for coordination, cooperation and communication among Buena Vista Township, a body corporate and politic of the State of New Jersey, hereinafter called "Township", having offices located at 890 Harding Highway, P.O. Box 605, Buena, New Jersey, 08310; the Pinelands Commission, a political subdivision of the State of New Jersey, hereinafter called "Pinelands Commission", having offices located at 15 Springfield Road, P.O. Box 7, New Lisbon, New Jersey 08064; and the Atlantic County Utilities Authority, hereinafter called "Authority", with offices located at 6700 Delilah Road, Egg Harbor Township, New Jersey 08234 for the purpose of assisting the Township to determine the feasibility of constructing a community wastewater system to serve the current and foreseeable future service needs of Richland Village and to provide a model to inform the Commission's decision making relative to the suitability and capability of such systems to effectively meet wastewater demand associated with rural commercial development.

RECITALS

WHEREAS, the importance of providing appropriate opportunities for limited economic growth in rural Pinelands municipalities has long been recognized by the Commission, as evidenced through the Commission's establishment of the Rural Economic Development Pilot Program in 1997 for purposes of identifying appropriate development opportunities and implementation strategies for these municipalities; and

WHEREAS, the Township was one of the participating municipalities in the Rural Economic Development Pilot Program and, since then, has pursued a variety of rural economic development initiatives; and

WHEREAS, by resolution PC4-08-12, adopted January 11, 2008, the Commission agreed to assist in and evaluate the implementation of the Richland Village Redevelopment Plan, including efforts to establish a community wastewater treatment system, hereinafter "wastewater system", so that the lessons learned from this initiative could inform future Commission decision making relative to rural economic development; and

WHEREAS, the Authority operates the regional wastewater system within the County of Atlantic; and

WHEREAS, the Authority and the Pinelands Commission wish to assist the Township to analyze the feasibility of a wastewater system to serve portions of Richland Village located within the Township, hereinafter "project area", identify all permitting requirements that are likely to be associated with the construction of such wastewater system and design, construct and operate such system.

NOW THEREFORE, in consideration for the mutual agreements contained herein, the Township, the Pinelands Commission and the Authority hereby agree to the following:

I. System Feasibility Assessment - To determine system feasibility

A. The Township agrees to:

1. Determine the boundaries of the area to be served by the wastewater system;
2. Assess existing waste water demand within the project area based on current total waste water flows;
3. Identify any plans for known or planned development within the project area and determine the waste water demand that will be associated with both existing and future development;
4. Review all project area land use and zoning information and estimate the range of land uses and the potential intensity of the development that is likely to occur in the project area and estimate probable future waste water demand associated with such development;

5. Assemble all prior and current relevant mapping (e.g. depth to groundwater, topographic and soils maps) and engineering analyses that may have been conducted within the project area to determine a suitable site for a waste water system;
6. Conduct preliminary subsurface soil investigations and soil permeability tests to determine site suitability for the likely location of the waste water system and disposal field;
7. Request that Atlantic County include the project area in the County's Water Quality Management Plan and ensure that the project area is included within the boundaries of a sewer service area;
8. Investigate and identify all New Jersey Department of Environmental Protection project permit requirements as identified in the latest version of the Department's Permit Identification Form (Attachment 1).

B. The Authority agrees to:

1. Review the results of the preliminary soils permeability tests, review existing soils maps, depth to water table data and topographic maps for the project area and preliminarily determine whether the project area soils characteristics would be suitable to accommodate a community waste water system;
2. Review existing and future projections of waste water demand within the project area;
3. Assess various state of the art treatment and disposal techniques and recommend alternatives that would best serve the project area based on the projected demand for waste water treatment and disposal and site soils suitability based upon New Jersey Department of Environmental Protection and Pinelands water quality requirements;
4. Prepare and present a report to the Township and the Pinelands Commission that projects waste water system flow demands, recommends system size, preferred location and system type, and estimates the anticipated cost to construct, operate and maintain the system.

C. The Pinelands Commission agrees to:

1. Assist with project coordination activities including arranging and participating in project-development meetings, progress updates and coordination with New Jersey Department of Environmental Protection;
2. Assist the Township to identify permit requirements related to the installation of the waste water system and likely financial resources to help offset project design costs;
3. Provide technical assistance and advice relative to system feasibility, location and type selection.

II. Preliminary Design – If, based on the site suitability analysis and the Authority's report described in Part I above, the Authority and the Township conclude that installation and operation of a waste water system is feasible and the Township and the Authority agree to proceed to system design, the Township, Pinelands Commission and Authority further agree to the following:

A. The Township agrees to:

1. Apply for and comply with all required permits from State and County agencies including a New Jersey Pollutant Discharge Eliminations System permit and a treatment works approval permit from the New Jersey Department of Environmental Protection Division of Water Quality;
2. Apply to the Pinelands Commission, pursuant to NJAC 7:50-4.52 for all relevant public development approvals associated with the project including but not limited to the development of the waste water system;
3. Seek funding for system construction and design and, if successful in obtaining such funding, reimburse the Authority and the Commission for costs it incurs pursuant to this agreement.

B. The Authority agrees to:

1. Prepare detailed soils analysis, mounding analysis and/or nitrate dilution model, in conjunction with permitting requirements, that may be needed to demonstrate site suitability in the preferred location of the proposed waste water system;
2. Prepare preliminary system designs including the system that will be needed to pump and/or convey sewage to the community disposal system location;
3. Prepare preliminary system construction cost estimates;
4. Assist in identifying and evaluating funding sources that may be available to construct, operate and maintain the waste water system;
5. Prepare and present a report to the Township and the Pinelands Commission that describes the results of the analyses described in Paragraph II.B.1., and includes the preliminary system design and construction cost estimates and identifies likely sources of construction funding.

C. The Pinelands Commission agrees to:

1. Assist the Township to identify and evaluate funding sources that may be available to design, construct, operate and maintain the system.
2. Pay to the Authority an amount not to exceed \$100,000 (one hundred thousand dollars) to help defray direct disbursements (out of pocket expenses), other than in-kind services, that the Authority may incur in performing tasks described in II.B., including the mounding analysis and/or preparation of a nitrate dilution model, if such analysis or model is deemed necessary in conjunction with permit requirements described in Paragraphs II.A.1 and II.A.2. Such payment will be provided in order to evaluate the feasibility and suitability of community wastewater systems to address wastewater needed associated with rural economic development in conjunction with the Rural Economic Development Pilot Program.

III. Final Design and Construction – If, upon completion of the waste water system preliminary design and submission of the report described in II.B.5. above, and following the determination of the source and availability of funding for construction, the Township and the Authority agree to proceed to system construction, the Township and Authority further agree to the following:

A. The Township agrees to:

1. Designate the Authority to act on the Township's behalf to prepare detailed final design plans, specifications and bid documents and to perform construction inspection and project management services.
2. Reimburse the Authority for direct disbursements (out of pocket expenses), other than in-kind services, incurred by the Authority in performing Tasks described in III.B. Direct expenses would include printing and advertising costs and permit fees associated with the project permitting and bid solicitation process.

B. The Authority agrees to:

1. Prepare detailed final designs of all components of the community sewage disposal system;
2. Prepare bid drawings and specifications in accordance with the New Jersey Local Public Contracts Law;
3. Assist the Township to prepare all required permits;
4. Assist Township to undertake bidding solicitation, participate the review of construction proposals and recommend award;
5. Provide construction inspection and project management services on behalf of the Township;

IV. System Operation and Maintenance – The Township and the Authority agree that operation and maintenance of the system will be subject to a separate agreement that will be established at the conclusion of Phase III.

V. Effective Date and Duration

- A. In accordance with NJSA 12:18A-5(h), this Memorandum of Understanding shall take effect following the conclusion of the Governor’s review period and approval of the Pinelands Commission minutes authorizing entry of this Memorandum of Agreement and then upon the approval and signature by the authorized representatives of all parties.
- B. This Memorandum of Understanding contains the entire understanding of the parties, and there are no representations, warranties, covenants or understandings other than those expressly set forth herein.
- C. This Memorandum of Understanding may be terminated at any time by any of the parties to this Memorandum of Understanding in writing sixty (60) days prior to the effective date of the termination and may be modified at any time upon written consent of all parties hereto.
- D. If this Memorandum of Understanding is terminated, the Township shall, to the extent that funding for the design and/or construction of the wastewater system has been secured, reimburse the Authority for all costs incurred up to the date of termination in accordance with paragraph A.3.
- E. This Memorandum of Understanding may be executed by each of the parties hereto in any number of counterparts, each of which, when so executed and delivered, shall be deemed to be an original and all such counterparts shall together constitute one and the same agreement.
- F. Unless otherwise modified by the parties, this Memorandum of Understanding shall terminate ten years from the day and year it takes effect.

IN WITNESS WHEREOF, each of the parties has caused this Memorandum of Understanding to be executed by a duly authorized officer or official as of the day and year first written above.

ATTEST:

[Signature]
M. Conzales

BUENA VISTA TOWNSHIP

By: *[Signature]*
Chuck Chiarello, Mayor

ATTEST:

[Signature]

ATLANTIC COUNTY UTILITIES AUTHORITY

By: *[Signature]*
Richard S. Dovey, President

ATTEST:

[Signature]
B. C. Leane

PINELANDS COMMISSION

By: *[Signature]*
John C. Stokes, Executive Director