

RESOLUTION NO. 2021- 135

RESOLUTION AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT BY AND BETWEEN THE LANDIS SEWERAGE AUTHORITY, VINELAND, NEW JERSEY AND THE CITY OF VINELAND FOR THE INSTALLATION OF SEWER LATERALS ON LANDIS AVENUE.

WHEREAS, the City of Vineland (City) is undertaking a resurfacing project known as Landis Avenue Phase Zero (Project) requiring a portion of Landis Avenue to become under repair and closed to through traffic north of Main Road in accordance with said project; and

WHEREAS, Charles Marandino, LLC, Milmay, New Jersey was the lowest responsible bidder for the Project and began the construction in accordance with the bid documents associated with the Project; and

WHEREAS, the Landis Sewerage Authority (LSA) provides public sewer to property owners along Landis Avenue, among other locations within the City, more specifically, the properties adjacent to Landis Avenue Phase Zero; and

WHEREAS, during construction of the Project, LSA investigated the sanitary sewer laterals servicing the properties and found them to be in need of replacement; and

WHEREAS, in consultation with the City Engineering Department and considering the public improvement of Landis Avenue and its closure to the public during construction, LSA determined that time was of the essence in replacing 23 laterals deemed to be in need of replacement and the need to replace the underground laterals was not known nor could the information have been known; and

WHEREAS, public bidding of the replacement of the laterals would have meant lengthy closure of Landis Avenue and would have stalled the completion of the Project and not in the best interest of the health and safety of the residents and merchants along Landis Avenue; and

WHEREAS, N.J.S.A. 40A:11-6 permits a contract to be awarded without public bidding when an emergency affecting the public health, safety or welfare requires the immediate delivery of goods and performance of services and the City Engineer and Executive Director/Chief Engineer of the Landis Sewerage Authority determined the existence of an emergency the need to invoke this section of the Public Contracts Laws; and

WHEREAS, the City Engineer notified the Purchasing Agent of the City of the need to invoke this section of the Public Contracts Laws; and

WHEREAS, Charles Marandino, LLC provided a pricing to replace the laterals as part of their contract to complete the Project as outlined on the proposal dated October 30, 2020 in the amount of \$251,965.00 as attached hereto and made a part hereof; and

WHEREAS, LSA agreed to reimburse the City for the cost incurred by the City in replacing the laterals through the contract with Charles Marandino, LLC, including any change orders approved by LSA as an emergent, unanticipated cost incurred; and

WHEREAS, LSA and the municipal engineer have both certified the existence of an emergent situation that could not have been anticipated requiring the authorization of a change order to the contract between the City of Vineland and Charles Marandino, LLC for the installation of 23 sewer laterals in the amount of \$251,965.00 in accordance with the proposal attached hereto and made a part hereof plus any additional change orders authorized by LSA for the sanitary sewer service along Landis Avenue Phase Zero and in accordance with a Shared Services Agreement as attached hereto; and

WHEREAS, the Uniform Shared Services and Consolidation Act N.J.S.A 40A:65-1 et seq (the Act) encourages local units of the State to enter into agreements with other local units for the joint provision within there several jurisdictions of any service which any party to the agreement is empowered to render within its own jurisdiction and on its own as a means to reduce local expenses funded by property taxes payers and or tuition; and

WHEREAS, the City and LSA are both considered and defined as local units and therefore empowered to enter into a Shared Services Agreement.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Vineland that the Mayor and Clerk are hereby authorized to execute a Shared Services Agreement by and between the City of Vineland and the Landis Sewerage Authority, Vineland, New Jersey for the installation of 23 sewer laterals on an emergent basis by Charles Marandino LLC and reimbursement to the City for the actual costs incurred therefor in the form and substance substantially similar to the Agreement attached hereto, subject to modifications as approved by the City Solicitor.

Adopted:

President of Council

ATTEST:

City Clerk

SHARED SERVICES AGREEMENT

by and between the

THE LSA SEWERAGE AUTHORITY

AND

THE CITY OF VINELAND

Dated: _____, 2021

Prepared by: **Richard P. Tonetta, Esq.**

SHARED SERVICES AGREEMENT

THIS SHARED SERVICES AGREEMENT ("Agreement"), dated this ____ day of _____, 2021, by and between the City of Vineland, a municipal corporation of the State of New Jersey with its principal offices located at 640 East Wood Street, Vineland New Jersey (City) and the Landis Sewerage Authority, a Sewerage Authority under and subject to Sewerage Authorities Law, N.J.S.A. 40:14A-1 et. seq. with offices at 1776 S. Mill Road, Vineland, New Jersey 08360 ("LSA").

RECITALS

- A. The City and the LSA agree that the residents can be better served with a reduced expenditure of tax dollars and rate dollars, while providing a greater level of governmental services through a shared services agreement;
- B. The LSA and City have recognized their value to each other to cooperate with road projects which would include the installation of utilities including sanitary sewer
- C. The City and the LSA further recognize the value of interlocal cooperation as a way of reducing duplication and overlap of services as well as providing for emergent services;
- D. In enacting the "Uniform Shared Services and Consolidation Act", N.J.S.A. 40A:65-1 et seq. (the "Act"), the New Jersey Legislature has encouraged any local unit of the State to enter into an agreement with any other local unit or units for the joint provision within their several jurisdictions of any service which any party to the agreement is empowered to render within its own jurisdiction as a means to reduce local expenses funded by property taxpayers and to alleviate any condition on an emergent basis;
- E. The City and the LSA as "local units" defined by the Act are empowered to enter into shared services agreements;
- F. The City and the LSA have previously acted in cooperation during road projects where road improvements were being conducted and sanitary sewer services would be impacted due to paving projects;
- G. The City and the LSA wish to assist each other to the extent possible and alleviate their mutual needs in areas including maintenance, repair and services that they are each fully able to perform independently but it would more cost effective to share;
- H. Through this Agreement, it is the intention of the parties to cooperate and collaborate with one another in order to share certain services and resources set forth herein to operate in a more cost effective manner thereby providing more expeditious and efficient services to their respective taxpayers and rate payers;
- I. Acting pursuant to the Act, the City and the LSA desire to enter into this Shared Services Agreement (the "Agreement") through which the City and the LSA shall hereinafter share certain services and resources in order to decrease costs by both the City and the LSA;

- J. The City and the LSA shall consider the adoption of a Resolution authorizing the execution of this Agreement; and
- K. This Agreement shall take effect upon the adoption of said resolutions and the execution of this Agreement by all parties.

BACKGROUND

During a repaving project undertaken by the City known as Landis Avenue Phase Zero being performed by Charles Marandino LLC, Milmay, New Jersey it was learned that 23 sanitary sewer laterals were in need of replacement which would have needed to be completed prior to the repaving of Landis Avenue. While the repaving project was being completed, traffic on this portion of Landis Avenue was closed to the public due to the construction. As Landis Avenue is a major thoroughfare through the City, closure of this road is considered detrimental to the public welfare and safety and as such, closure must be kept to the minimum.

In consultation with the City Engineer, the LSA determined that an expeditious and necessary repair to the sanitary sewer service would be required before the road was repaved so as to eliminate duplicative services. The condition of the 23 laterals would not have been known until the road was under construction and to require public bidding of the replacement of the laterals would have been detrimental to the public welfare. In accordance with N.J.S.A. 40A:11-6 an emergency existed and Charles Marandino, LLC provided a proposal to replace the 23 laterals while performing the road construction on Landis Avenue and assure that the road closure would be kept to a minimum.

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, and pursuant to all applicable federal, state, and local laws, statutes, codes or ordinances, the City and the LSA do hereby agree as follows:

1. BASIC TERMS OF AGREEMENT.

- 1.1 Pursuant to the Background above, which is hereby expressly incorporated into this Agreement by reference, the City and the LSA agree to allow a change order be approved to the contract between the City of Vineland and Charles Marandino LLC for the replacement of 23 sewer laterals while the road construction was underway for the Landis Avenue Phase Zero Project awarded to Charles Marandino, LLC thereby providing more expeditious and efficient services to their respective taxpayers and ratepayers and eliminating the detrimental impact on the residents and businesses along Landis Avenue.
- 1.2 The LSA agrees that the proposal of Charles Marandino LLC dated October 30, 2020 is acceptable and shall reimburse the City for the costs as specified therein.
- 1.3 The LSA and City agree that any and all change orders to the proposal of Charles Marandino LLC shall first be approved by LSA. Upon submission of a request for payment for the sewer laterals and as outlined in the contract between the City and Charles Marandino, LLC, the City shall immediately refer the request to the LSA for payment. LSA shall make all payments for the sewer service in accordance with the

proposal and any change orders within the time specified in the contract with the City.

2. TERM

The term of this Agreement shall commence on October 30, 2020 and continue for a term until the completion of the installation of the sewer laterals and payment to Charles Marandino LLC in accordance with the proposal and any approved change orders.

3. ADDITIONAL TERMS

5.1. All inspections, installations, hook-ups and related services to be performed by Charles Marandino, LLC for the sewer laterals shall be the responsibility of the LSA and the LSA shall hold the City harmless for any claims that may be made for the installation of said laterals and shall further indemnify the City for any claims that may be made for the installation thereof.

5.2 The LSA shall own and assume responsibility of the sewer laterals, including any maintenance and repair to the same.

4. INSURANCE

The City and LSA shall each maintain adequate property liability, auto liability and workers' compensation coverage related to its employees and their participation in this Agreement; and shall name the other party as an Additional Insured for all activities that occur and are directly related to the responsibilities under the terms of this Agreement. Each party shall maintain adequate property liability, auto liability and workers' compensation coverage, related to its employee(s) and participation in this Agreement.

5. INDEMNIFICATION

The City and LSA shall not be liable for any intentional acts or omissions related to an employee performing its duties in the discharge of this Agreement. Each party shall indemnify, defend and hold the other harmless from all losses, claims, liabilities, injuries or damage caused by an employee's performance of his or her duties to his or her employer when engaged in activities contemplated by this Agreement; including but not limited to any allegations against the LSA arising out of the Executive Director performing his advisory duties to the City's Water Utility. Such indemnification shall include payment of reasonable attorneys' fees and costs in defense of any claim. Each party, however, is not obligated to indemnify the other if the acts or omissions are exclusively within the purview of its responsibilities to its employer and are not covered by this Agreement. To the extent any damages are covered by applicable insurance, the City and the LSA waive all rights against each other.

6. DISPUTE RESOLUTION

In the event a dispute arises concerning the terms and conditions of this Agreement the parties shall attempt to mutually agree upon a third party to arbitrate any such dispute which arises under this Agreement. Any decision by the arbitrator shall be binding on the parties. In the

event the parties are unable to mutually agree on the selection of a single arbitrator, each party shall appoint an attorney licensed to practice in the State of New Jersey to serve as arbitrators. Such appointment shall be made within fifteen (15) days after written notice by any party of the election to proceed with arbitration by a panel of arbitrators. Any decision by a majority vote of the three attorneys shall be binding on the parties. The costs and expenses of the arbitrator(s) and fees charged by such arbitrator(s) shall be shared equally by the parties; however, each party shall be solely responsible for their own attorney fees and expenses related to retention of their own experts and witnesses.

7. CHOICE OF LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

8. ENTIRE AGREEMENT

This Agreement sets forth the entire understanding of the parties hereto with respect to the services contemplated herein. No change or modification of this Agreement shall be valid unless the same shall be in writing and signed by all parties hereto.

9. SEVERABILITY

If any part of this Agreement shall be held to be unenforceable, the remainder of this Agreement shall remain in full force and effect.

10. TERMINATION.

This Agreement may be terminated, upon ninety (90) days written notice to the other party or parties, as appropriate, as follows:

a. If, through any cause, a party shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if a party shall violate any of the covenants, agreements, or stipulations of this Agreement, the aggrieved party shall thereupon have the right to terminate this Agreement upon giving written notice of such termination to the violating party.

b. A party may terminate this Agreement for public convenience at any time by a notice in writing to the other party or parties, as appropriate.

c. Termination shall not operate to affect the validity of the indemnification provisions of this Agreement, or to prevent either party from pursuing any other relief to which it may be entitled pursuant to the terms of this Agreement.

11. LIMITATION OF DELEGATION.

This Agreement shall not be construed as delegating any authority other than the authority to provide the services and resources described in this Agreement, consistent with the terms and provisions of this Agreement.

Neither the City nor the LSA intend by this Agreement to create any agency relationship or merger it being understood that both entities shall remain separate, independent local units.

12. WARRANTIES & REPRESENTATIONS.

The City and the LSA both warrant that its representatives who have signed this Agreement on behalf of the City and the LSA are authorized to do so.

13. COMPLIANCE WITH LAWS AND REGULATIONS.

The City and the LSA agree that they will at their own cost and expense promptly comply with, or cause to be complied with, all laws, rules, regulations and other governmental requirements which may be applicable to its supplying of the resources and/or the performance of the services described in this Agreement.

14. NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.

In the event that any agreement which is contained in this Agreement should be breached by any party and thereafter such breach shall be waived by the other party, as appropriate, such waiver shall be limited to the particular breach so waived and shall not be a waiver of any other breach hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

ATTEST:

LANDIS SEWERAGE AUTHORITY

**JOSEPH J. REUBEN
CHAIRMAN**

ATTEST:

THE CITY OF VINELAND

**ANTHONY FANUCCI
MAYOR, CITY OF VINELAND.**

CHARLES MARANDINO, LLC

CONCRETE CONTRACTOR

PO Box 20
Milmay, NJ 08340
Phone: 856.691.9963
Fax: 856.691.5195
Cell: 856.982.6433

PROPOSAL

DATE: October 30, 2020

TO: City of Vineland
Dept. of Engineering

RE: Resurfacing of Landis Avenue, Phase 0
Replacement of Sanitary Sewer Laterals

ATTN: David Maillet
Rick Caudill

REVISED

ITEM	DESCRIPTION	UNIT PRICE	QTY	TOTAL COST
TBD	Remove and Replace Existing Sanitary Sewer Service Laterals 4" PVC SDR-35 as per Detail Provided Length & Depth Varies, Including all restorations of curb, gutter, sidewalk, topsoil, landscape, sprinkler repair, w/DGA backfill & 4" stab	\$10,955.00	23 Unit	\$ 251,965.00
				\$ -
TOTAL				\$ 251,965.00

11/2/20 Approved CHARLES MARANDINO
CM

Notes and Exclusions:

- 1 Excludes all Engineering and As Built Requirements
- 2 No Cost included for any Testing Services
- 3 Price base on Single Mobilization to complete all services
- 4 No Cost included for any required Temporary Fencing
- 5 Proposal assumes FULL ROAD CLOSURE at work area(S).
Work requires Full Width of Roadway
- 6 No Specifications have been provided other than standard Detail.
May be Additional Costs for requirements as yet unknown
- 7 No Soil Boring Information has been provided. Proposal assumes NO Ground Water to be Encountered. If Required, Dewatering at Additional Cost
- 8 Traffic Control Cost will be governed by appropriate Line Items, as needed and necessary, per Contract Items #101-108