

**BOROUGH OF BLOOMSBURY  
COUNTY OF HUNTERDON  
STATE OF NEW JERSEY**

**ORDINANCE #103-09**

**AN ORDINANCE GRANTING MUNICIPAL CONSENT TO AQUA NEW JERSEY,  
INC. TO CONSTRUCT, MAINTAIN AND OPERATE A WATER WORKS IN THE  
BOROUGH OF BLOOMSBURY**

AN ORDINANCE OF THE BOROUGH OF BLOOMSBURY, OF THE COUNTY OF HUNTERDON AND THE STATE OF NEW JERSEY, GRANTING PERMISSION AND MUNICIPAL CONSENT TO AQUA NEW JERSEY, INC. TO CONSTRUCT, MAINTAIN AND OPERATE A WATER WORKS IN THE BOROUGH OF BLOOMSBURY, HUNTERDON COUNTY, AND FOR THE PURPOSE OF SUPPLYING WATER IN SAID AREA FOR THE BENEFIT OF RESIDENTIAL, COMMERCIAL AND INDUSTRIAL CUSTOMERS, AND FOR THE CONSENT TO LAYING SUPPLY MAINS, PIPES, LATERALS, SERVICE CONNECTIONS, TREATMENT FACILITIES AND OTHER APPARATUS OR EQUIPMENT IN AND BELOW THE SURFACE OF ANY STREETS, ROADS, HIGHWAYS OR OTHER PUBLIC PLACES NOW EXISTING OR HEREAFTER ACCEPTED BY THE BOROUGH OF BLOOMSBURY AND LOCATED IN THE SAID PORTION OF THE BOROUGH OF BLOOMSBURY AS MAY BE THOUGHT NECESSARY TO FURNISH AND SUPPLY WATER SERVICES.

**BE IT ORDAINED** by the Mayor and Council of the Borough of Bloomsbury in the County of Hunterdon and the State of New Jersey as follows:

**WHEREAS**, Aqua New Jersey, Inc. currently provides water service pursuant to rates and tariffs issued by the New Jersey Board of Public Utilities; and

**WHEREAS**, the Borough of Bloomsbury presently obtains water service from its municipal utilities authority; and

**WHEREAS**, Aqua New Jersey, Inc. has agreed to buy the water system serving the Borough of Bloomsbury; and

**WHEREAS**, the Mayor and Council of the Borough of Bloomsbury have determined that the provision of such water service would best be accomplished by a method which does not involve public funds and minimizes municipal responsibility and liability; and

**WHEREAS**, Aqua New Jersey, Inc. has significant experience as the operator of water utilities which have been approved by the New Jersey Board of Public Utilities, and

**WHEREAS**, the Mayor and Council of the Borough of Bloomsbury have determined that the best way to provide centralized water service to residents is by authorizing Aqua New Jersey, Inc. to serve same; and

**WHEREAS**, the Mayor and Council of the Borough of Bloomsbury (hereinafter "Borough") have determined that it has the authority to consent to the grant of the utility franchise herein requested to privately owned companies as part of the Borough's responsibility to provide for the general health, safety and welfare of the community.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Bloomsbury, as follows:

**ARTICLE ONE: GRANT OF MUNICIPAL CONSENT ORDER**

Pursuant to N.J.S.A. 48:3-11 et seq. the Borough of Bloomsbury, County of Hunterdon and State of New Jersey, herein referred to as Grantor, hereby grants to Aqua New Jersey, Inc., a public utility corporation of the State of New Jersey, herein referred to as Grantee, a Municipal Consent of the scope and description as follows:

Grantee shall have the right and authority, during the term of the Municipal Consent granted by this Ordinance, to operate, construct, maintain and manage a water works, treatment and distribution system within the limits of the Borough of Bloomsbury to service the area more particularly described on the attached map (the "Franchise Area") incorporated herein by reference and on file with the Borough Clerk (subject to Grantee obtaining the necessary permits and approvals

of the New Jersey Department of Environmental of Protection ("NJDEP") and the New Jersey Board of Public Utilities ("BPU"). For such purpose, Grantee has the right to purchase, erect or construct, equip and maintain such facilities as are reasonably necessary for furnishing potable water. The Municipal Consent granted in this Ordinance includes the right to collect charges for services in accordance with State laws and regulations, and in compliance with tariffs as approved by the BPU, from time to time, and to make such excavations and openings in public streets as are reasonably necessary for the above purposes, in accordance with such local ordinances and State statutes and regulations made and provided.

### **ARTICLE TWO: TERM**

The Municipal Consent granted by this Ordinance shall be perpetual subject only to such limitations as are now or may hereafter be provided by law.

### **ARTICLE THREE: SPECIFIC CONDITIONS**

#### **SECTION I: SERVICE**

Grantee shall at all times during the term of this Municipal Consent furnish potable water and related services to all persons and organizations, public and private, without discrimination and at rates approved by the BPU, located within the Franchise Area. Grantee shall make every reasonable effort, under the rules and regulations of the NJDEP and BPU, to furnish an ample, uninterrupted supply of potable water to all customers throughout the Franchise Area and all enlargements and extensions thereof.

#### **SECTION II: CONSTRUCTION AND MAINTENANCE OF FACILITIES**

Subject to the provisions hereof, the Grantee shall have the privilege to construct, operate and manage the water works and distribution system including the laying of connecting pipes and mains beneath such streets, avenues, parks, parkways, highways and other public places now, or hereafter constructed, within the Franchise Area as it may deem necessary for its corporate purposes, free from all charge to be made by any person or body politic whatsoever for

such privilege, provided that the mains (pipes) shall not unnecessarily obstruct or interfere with the public travel, and provided such private and public lands or facilities shall be restored to their preexisting condition or better.

Grantee in the construction, installation, maintenance and operation of the water system shall comply with all applicable federal, state, and local statutes, rules, regulations and ordinances and shall obtain all necessary approvals, permits and licenses from all federal, state and local agencies having jurisdiction over the water system.

**SECTION III: INDEMNITY**

The Grantee shall indemnify and hold harmless the Borough of Bloomsbury from and against any and all claims arising out of or in connection with the operation, maintenance or construction of the water system and distribution system by the Grantee.

**ARTICLE FOUR: GENERAL CONDITIONS**

**SECTION I: REGULATION**

Grantor reserves the right to enforce regulations concerning the construction of new facilities or the maintenance and operation of existing facilities whenever necessary to preserve the public health, safety and welfare of the community and its inhabitants.

**SECTION II: EXPANSION OF GRANTEE'S WATER SUPPLY SYSTEM**

All water services provided by the Grantee shall be limited and restricted to the Franchise Area, and no water service shall be provided by the Grantee to any lands outside of the Franchise Area, unless the Bloomsbury Borough Committee shall have first adopted an amendatory ordinance to this Ordinance authorizing that such service may be provided.

**SECTION III: LIMITATION OF THE ORDINANCE**

No privilege or exemption is granted or conferred by this Ordinance except those specifically described herein.

#### **ARTICLE FIVE: CONSIDERATION**

Consideration for the privileges and provisions granted in this Ordinance shall be the public service provided to the citizens of this community by the Grantee. To the extent now or hereafter permitted by the statutes or laws of the State of New Jersey, this Ordinance shall inure to the benefit of, and be binding upon, any city, town, or other municipal corporation to which the Franchise Area of the Borough of Bloomsbury may hereafter be attached or annexed or into which it may be incorporated.

#### **ARTICLE SIX: FORFEITURE**

The provisions and privileges of this Ordinance may be forfeited, at the option of the Grantor, upon failure or refusal by Grantee to observe the terms and conditions set forth herein. Forfeiture may be exercised by written notice to Grantee of failure to observe the terms and conditions hereof, followed by Grantee's unreasonable refusal to eliminate or correct such failure or violations within ninety (90) days.

#### **ARTICLE SEVEN: EFFECT OF INVALIDITY**

If the provisions of any Section, subsection, paragraph, subdivision or clause of this Ordinance shall be adjudged invalid by a Court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any Section, subsection, paragraph, subdivision or clause of this Ordinance, or any other Ordinance which is referred to herein by reference. To this end the provisions of the Section, subsection, paragraph, subdivision or clause of this Ordinance are hereby declared to be severable. Should a Court of competent jurisdiction

adjudge any clause, sentence or other part of this Ordinance invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance.

**ARTICLE EIGHT: EFFECTIVE DATE**

**SECTION I:**

This Ordinance shall not become operative or effective until it has been agreed to by Aqua New Jersey, Inc. by a written acceptance, executed by the proper officials of said corporation, together with its proper corporate resolution, to accept and conform to all provisions of this Ordinance or in subsequent ordinances adopted by the Mayor and Council of the Borough of Bloomsbury or subsequent regulations which may be required by the Borough of Bloomsbury regarding the management or control of said streets; and upon approval by the New Jersey Board of Public Utilities which said acceptance follows this Ordinance and is made a part hereof.

**SECTION II:**

This Ordinance shall take effect upon its passage and publication according to law.

**SECTION III:**

The Mayor and Clerk of the Borough of Bloomsbury are hereby authorized to execute on behalf of the Borough all documents required to acknowledge said consent.

**SECTION IV: REPEALER**

All Ordinances or parts of Ordinances which are inconsistent with this Ordinance shall be repealed as to their inconsistencies only.

**ACCEPTANCE**

Aqua New Jersey, Inc., its successors and assigns, hereby accepts and agrees to be bound by the conditions contained in the foregoing Ordinance.

**IN WITNESS THEREOF**, the said Aqua New Jersey, Inc. has hereunto caused its corporate seal to be affixed and this agreement signed by its President, attested to by its

Secretary, in pursuance of the resolution of its Board of Directors this \_\_\_\_\_ day of February, 2009.

**AQUA NEW JERSEY, INC.**

**By:** \_\_\_\_\_  
William Davis,  
President & CEO

\_\_\_\_\_  
Mark R. Peck, Mayor

Attest: \_\_\_\_\_  
Corporate Secretary

Attest: \_\_\_\_\_  
Lisa A. Burd, RMC  
Borough Clerk/Administrator

First Reading: February 24, 2009  
Publication: March 12, 2009  
Public Hearing: March 30, 2009  
Adoption: March 30, 2009  
Publication of Adoption: April 2, 2009

**NOTICE IS HEREBY GIVEN** that the foregoing Ordinance was introduced and passed on first reading by the Mayor and Council of the Borough of Bloomsbury at its regular meeting held on Tuesday, February 24, 2009 which Ordinance shall be given further consideration for final passage following a public hearing to be conducted thereon, at its regular monthly meeting to be held on Tuesday, March 24, 2009, which shall commence at 7:00 p.m. at the Borough of Bloomsbury Municipal Building, 91 Brunswick Avenue, Bloomsbury, New Jersey 08804.