

INTEROFFICE MEMORANDUM

F: 2009-95; MC: 2009:517

TO: Gwendolyn A. Faison, Mayor
FROM: Lewis Wilson, City Attorney
RE: CONTRACTS FOR SIGNATURE

Date: 10/22/09

Attached please find the above listed contracts and bids. Please sign same and forward to the Office of Municipal Clerk for his signature and seal.

Type of Document: EMERGENCY OPERATION SERVICES AGREEMENT
45 DAYS AGREEMENT

Vendor Name: **United Water Camden LLC**

L. Wilson
Lewis Wilson, City Attorney *LP*

TO: Luis Pastoriza, Municipal Clerk
FROM: Gwendolyn A. Faison, Mayor
RE: CONTRACTS FOR SIGNATURE

Date: _____

Attached please find the above listed contract and bids for your signature and seal. Upon execution of the documents, please retain the original contracts and bids for your files and forward the remaining copies to the Office of the City Attorney, using this memorandum as transmittal.

Gwendolyn A. Faison, Mayor

TO: Lewis Wilson, City Attorney
FROM: Luis Pastoriza, Municipal Clerk
RE: COMPLETED CONTRACTS FOR YOUR FILES

Date: _____

Attached please find remaining copies of the above listed contracts, fully executed. I have retained the original contracts and bids for my files.

LP
Luis Pastoriza, Municipal Clerk

RECEIVED
OCT 23 2009
CITY ATTORNEY

TO: Deborah Beasley, Purchasing Agent
FROM: Lewis Wilson, City Attorney
RE: FULLY EXECUTED CONTRACTS

Date: _____

Enclosed please find fully executed copy of the above listed contracts for your files. The original contracts and bids have been filed with this office. Please mark your files accordingly.

Lewis Wilson, City Attorney

R-5

LW:dh
09-22-09

RESOLUTION RATIFYING THE EMERGENCY OPERATION AND MAINTENANCE AGREEMENT FOR CSO'S WITH UNITED WATER, CAMDEN LLC

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) has issued violations to the City of Camden for allowing the discharge of debris and sewage into the Delaware, Cooper River and Newton Creek due to non operation of Combined Storm water Overflow Chambers (CSO's); and

WHEREAS, the City declared a health emergency on August 14, 2009 due to the contamination of the waterways; and

WHEREAS, several CSO's were turned over to the City to operate which would divert solids and floatables from the waterways; and

WHEREAS, a dispute arose between the City's licensed operator, United Water, Camden LLC and the City regarding payment for additional services; and

WHEREAS, an amendment to the Management Services Agreement has been submitted to City Council which if approved resolved the payment issue, however, due to the emergency immediate action was required to mitigate the health issues and the damages imposed upon the City; now, therefore

BE IT RESOLVED, that Camden City Council hereby ratifies the Emergency Operation and Maintenance Agreement a copy of which is attached hereto and made a part of this Resolution.

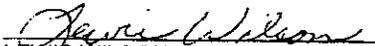
1. The agreement with United Water Camden LLC has a term of 45 days from the date of signing.
2. The agreement calls for a payment of \$85,000 with adjustments of variable cost and credits at the termination of the agreement.
3. Should the amendment to the Management Services Agreement between United Water, Camden LLC and the City be approved during the 45 day period the Emergency Agreement shall terminate and work shall continue under the amendment.

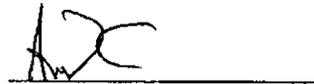
BE IT FURTHER RESOLVED that pursuant to N.J.S.A. 52:27BBB-23, a true copy of this resolution shall be forwarded to the Chief Operating Officer, who shall have ten days from the receipt thereof to approve or veto this resolution. Notice of approval or veto shall be filed in the Office of the Municipal Clerk.

On Motion Of: FRANCISCO "FRANK" MORAN

Dated: September 22, 2009

The above has been reviewed and approved as to form.


LEWIS WILSON
City Attorney


ANGEL FUENTES
President, City Council

APPROVED: SEPTEMBER 22, 2009

ATTEST: 
LUIS PASTORIZA
Municipal Clerk

EMERGENCY OPERATION AND MAINTENANCE FOR CSO'S AGREEMENT

THIS EMERGENCY OPERATION MAINTENANCE AGREEMENT, is made and entered into this __ day of September, 2009 by and between United Water Camden LLC, a Delaware Limited Liability company (the Operator), whose address is 200 Old Hook Road, Harrington Park, N.J. 07640 and the City of Camden, New Jersey, a municipal corporation of the State of New Jersey, City Hall, 520 Market Street, Camden, NJ08102.

WHEREAS, the New Jersey Department of Environmental Protection has issued violations to the City of Camden for allowing the discharge of debris and sewage into the Delaware, Cooper River and Newton Creek through non operational Combined Stormwater Overflow (CSO's) Chambers; and

WHEREAS, the City declared a health emergency on August 14, 2009 due to the contamination of the waterways; and

WHEREAS, there are CSO Chambers ready to operate so as to divert solids and floatables from the Delaware, Cooper River and Newton Creek and thereby relieve the emergency; and

WHEREAS, a New Jersey Licensed Operator is required to operate and maintain the CSO's which includes installation of nets and removal of nets after a rain event, and disposal of the debris in accordance with State and Federal regulations; now, therefore

BE IT RESOLVED, that the parties intend to enter into this Emergency Operation and Maintenance Agreement under the terms and conditions set forth below:

1. Due to the emergency declaration by the City of Camden on August 14, 2009, the City and the Operator hereby agree that the Operator shall perform services as set forth in the United Water Camden LLC proposed dated July 28, 2009 which is attached hereto and made a part of this emergency agreement. (See attachment A)

ATTACHMENT A

EXHIBIT A-1

July 28, 2009

Proposal for Operation and Maintenance of Camden City CSO Netting Facilities

As requested, United Water is pleased to submit this revised proposal for operation and maintenance of the City's new CSO Solids/Floatables Facilities. In preparation of our Proposal, we have reviewed the current status of construction of the subject facilities, attended vendor training regarding the placement and removal of CSO netting units and evaluated the unit cost of replacement nets and disposal of debris collected at each facility. We have structured our Proposal to reflect actual site conditions.

- The scope of work includes the provision of all labor and materials associate with the following
- Removal and replacement of the nets at each facility as required following a CSO event
- Disposal of the used nets, and debris, at a licensed landfill
- Minor and major repairs to the netting facility, net frames and retrieval systems, sluice gates, hatches, grating, fencing and driveways
- Maintenance of the facility sites, including snow plowing and grass cutting

The facilities will be serviced by a crew of three, consisting of two Heavy Equipment Operators and one Laborer. A truck mounted crane capable to remove the used nets at each facility, load them into the dump truck and transport the used nets to an offsite dumpster (the presumed location of the dumpster is Vesper Boulevard). A licensed waste hauler will take the dumpster to a licensed landfill for ultimate disposal of the nets. New nets will be installed following removal of the used ones.

Several factors impact the cost to operate the facilities. These factors include the number of CSO events (storms that cause a CSO discharge) during the year, the number of new solids/floatable facilities in service, and the number of new replacement nets supplied by the City to United Water Camden. In order to address the related variable costs, the work has been divided into two phases concurrent with the construction schedule. Phase 1 of this proposal shall take effect with the commencement of the Agreement. Phase 2 would take effect with the completion of construction and commissioning of all 22 CSO netting facilities.

Phase 1 - Construction and Commissioning of CSO Netting Facilities

The proposed Annual Fee for Phase 1 assumes that 1,610 nets will be removed for disposal and replaced with new nets by United Water during the contract year. Should the number of nets required be greater/fewer than 1,610 in the contract year, a debit/credit for each net in accordance with the rate provided in Exhibit A-1, Table 1 will be applied to the annual fee. Should the number of nets removed for disposal be greater/fewer than 1,610 in the contract year, a debit/credit for hauling, disposal and vehicle cost for each net will be applied to the annual fee in accordance with the rates provided in Exhibit A-1, Table 1.

Debit/credit of \$167.00 per net would be applied to the annual fee. Should the number of nets removed for disposal be greater/fewer than 1,610 in the contract year, a debit/credit of \$63.00 per net would be applied to the annual fee. 2

During construction of the new facilities the City will eliminate six (6) existing CSOs. An annual credit to the City of \$3,000 for each CSO permanently removed from service shall be applied to the Annual Fee for each CSO removed from service.

Phase 2 - Construction and Commissioning Complete

The proposed Annual Fee for Phase 2 assumes that 2,380 nets will be removed for disposal and replaced with new nets by United Water during the contract year. Should the number of nets required be greater/fewer than 2,380 in the contract year, a debit/credit for each net in accordance with the rate provided in Exhibit A-1 Table 1 will be applied to the annual fee.

Should the number of nets removed for disposal be greater/fewer than 2,380 in the contract year, a debit/credit for hauling, disposal and vehicle cost for each net will be applied to the annual fee in accordance with the rates provided in Exhibit A-1 Table 1.

Deleted: of \$157.00 per net would be applied to the annual fee. Should the number of nets removed for disposal be greater/fewer than 2,380 in the contract year, a debit/credit of \$95.00 per net would be applied to the annual fee.

Annual Reconciliation

An accounting of the nets replaced each month will be provided to the City in United Water Camden's Monthly Operations Report. A reconciliation will be performed by United Water Camden at the end of each Contract Year and addressed as a Pass-Through Credit or Debit under the terms of the Management Services Agreement.

Adjustments to the Annual Fee

The Contract Anniversary Date and Contract Year shall match the Management Services Agreement. The Annual Fee and components thereof, except disposal, shall be adjusted at the beginning of each Contract Year in accordance with the change in the Consumer Price Index for all urban consumers for the Philadelphia region as published by U.S. Department of Labor, Bureau of Labor Statistics for the twelve month period prior to the Contract Anniversary Date.

The annual adjustment to the disposal component of the Annual Fee shall be based on the percent change in the disposal rate from the initial rate of \$140 per ton. This adjustment shall also apply to the associated variable cost for disposal.

Should Camden City choose to procure netting, hauling and/or disposal services on its own, then upon appropriate notification of same to United Water, United Water shall provide the corresponding credit in accordance with the rates provided in Exhibit A-1, Table 1.

The parties also agree that should Camden City decide to purchase its own nets then United Water's remaining inventory of nets, if any, shall be used up through this contract before the City's nets would be used.

Disposal of the nets and debris undertaken by United Water through this contract amendment shall be accomplished in the name of Camden City.

EXHIBIT A-1, TABLE 1

UNITED WATER CAMDEN
 Cost Proposal for Operation Maintenance of City of Camden CSO Netting Chambers
 July 28, 2009

Description	Phase 1 - Construction Phase			Phase 2 - Construction Completed		
	Monthly Cost	Annualized Cost	Variable Costs (1)	Monthly Cost	Annualized Cost	Variable Costs (1)
Labor	\$17,113	\$205,352		\$17,113	\$205,352	
Overhead	\$6,173	\$74,081		\$6,173	\$74,081	
Vehicle Leases	\$4,000	\$48,000		\$4,000	\$48,000	
Nets	\$19,454	\$233,450	\$167	\$28,758	\$345,100	\$167
Hauling	\$854	\$10,245	\$7	\$1,262	\$15,145	\$7
Disposal	\$6,038	\$72,450	\$52	\$8,925	\$107,100	\$52
Vehicle Costs	\$513	\$6,150	\$4	\$513	\$6,150	\$4
Site Maintenance	\$583	\$7,000		\$583	\$7,000	
Insurance	\$833	\$10,000		\$833	\$10,000	
Subtotal	\$55,561	\$666,728		\$68,161	\$817,928	
Markup 2.5%	\$1,389	\$16,668		\$1,704	\$20,448	
Subtotal	\$56,950	\$683,396		\$69,865	\$838,376	
Credit (2)				(\$1,500)	(\$18,000)	
Total	\$56,950	\$683,396	\$230	\$68,365	\$820,376	\$230
Annual Fee		\$683,396			\$820,376	

Notes:

(1) A credit/debit of each applicable variable cost will apply for the nets, service, and disposal below/above 1,610 nets per year for Phase 1 and 2,380 nets per year for Phase 2.

(2) An annual credit to the City of \$5,000 for each CSO permanently removed from service shall be applied to the Annual Fee as each CSO (total of six) is removed from service.