

**ORDINANCE NO. 18-2008**

**ORDINANCE OF THE BOROUGH OF RIVERDALE, IN  
THE COUNTY OF MORRIS, NEW JERSEY,  
AUTHORIZING THE EXECUTION AND DELIVERY OF  
THE 2008 AMENDMENT TO THE 1987 SERVICE  
CONTRACT BETWEEN THE AUTHORITY AND THE  
BOROUGH OF RIVERDALE**

**WHEREAS**, pursuant to the Sewerage Authorities Law of the State of New Jersey, constituting Chapter 138 of the Pamphlet Laws of 1946 of the State, as amended and supplemented (the "Act"), and ordinances adopted in the single calendar year 1974 by the respective governing bodies of The Borough of Butler ("Butler"), a municipal corporation of the State, situate in the County of Morris, the Borough of Bloomingdale ("Bloomingdale"), a municipal corporation of the State, situate in the County of Passaic and the Borough of Kinnelon, in the County of Morris ("Kinnelon") the Pequannock River Basin Regional Sewerage Authority (the "Authority") was established as a public body politic and corporate of the State, and is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare with all necessary or proper powers to acquire, construct, maintain, operate and use facilities for the treatment and disposal of sewage and other wastes; and

**WHEREAS**, as authorized by the Act, the Authority owns, operates and maintains various facilities for the disposal of sewage and other wastes (such facilities are hereinafter referred to as the "System"); and

**WHEREAS**, as authorized by the Act, the Authority entered into a service contract with the PRBRSA Members Municipalities, dated as of December 31, 1990, and entitled: "1990 Amendment to the 1985 Service Contract Between The Pequannock River Basin

Regional Sewerage Authority and Borough of Bloomingdale and Borough of Butler and the Borough of Kinnelon” (the “1990 Amendment”) relating to the use of the System; and

**WHEREAS**, sewage originating in the service area of the Authority is treated and disposed of by The Pequannock, Lincoln Park and Fairfield Sewerage Authority (the “Two Bridges Authority”); and

**WHEREAS**, as authorized by the Act, the Authority and the Two Bridges Authority entered into an agreement, dated December 20, 1985, and entitled: “1985 Service Contract Between The Pequannock, Lincoln Park and Fairfield Sewerage Authority and The Pequannock River Basin Regional Sewerage Authority”, as amended by an agreement dated October 11, 1995 (collectively, the “Pequannock River Agreement”), relating to the treatment and disposal of sewage; and

**WHEREAS**, pursuant to Section 501(C)(3) of the Pequannock River Agreement, the Two Bridges Authority agreed to reserve 2.5 million gallons per day (“MGD”) of capacity in its treatment plant (the “Existing Reserve Capacity”) for the Authority; and

**WHEREAS**, the Borough of Riverdale is a customer of the Authority pursuant to the 1987 Riverdale Service Contract between the Authority and Riverdale (the “1987 Riverdale Service Contract”); and

**WHEREAS**, under the terms of the 1987 Riverdale Service Contract, Riverdale was immediately entitled to an initial reserve capacity of 0.10 MGD and the Authority allocated 0.10 MGD discretionary gallonage to Riverdale; and

**WHEREAS**, under Section 307 of the 1987 Riverdale Service Contract, Riverdale had the right to exercise certain options between 1988 and 1993 for incremental increases to additional reserve capacity; and

**WHEREAS**, Riverdale did not exercise the option for any incremental additional reserve capacity under Section 307 of the 1987 Riverdale Service Contract, with the last option expiring in 1993; and

**WHEREAS**, by agreement dated December 16, 1997 among the Authority, Bloomingdale, Kinnelon and Riverdale (“1997 PRBRSA Agreement”), Bloomingdale transferred 0.10 MGD and Kinnelon transferred 0.05 MGD of their allocation of the Existing Reserve Capacity to the Authority for reallocation to Riverdale; and

**WHEREAS**, after execution of the 1997 PRBRSA Agreement, the Authority’s Existing Reserve Capacity for Riverdale was 0.25 MGD, consisting of the initial allocation of 0.10 MGD from the 1987 Riverdale Service Contract and 0.15 MGD from the 1997 PRBRSA Agreement; and

**WHEREAS**, by agreement dated October 15, 2003 among the Authority, Butler and Riverdale (the “2003 PRBRSA Agreement”), Butler transferred 0.055 MGD of its allocation of the Existing Reserve Capacity to the Authority for reallocation to Riverdale; and

**WHEREAS**, after execution of the 2003 PRBRSA Agreement, the Authority’s Existing Reserve Capacity for Riverdale was 0.305 MGD, consisting of the initial allocation of 0.10 MGD from the 1987 Riverdale Service Contract; 0.15 MGD from the 1997 PRBRSA Agreement; and 0.055 MGD from the 2003 PRBRSA Agreement; and

**WHEREAS**, by agreement dated December 22, 2006 among the Authority, Butler and Riverdale (the “2006 PRBRSA Agreement”), Butler transferred 0.004 MGD of its allocation of the Existing Reserve Capacity to the Authority for reallocation to Riverdale; and

**WHEREAS**, after execution of the 2006 PRBRSA Agreement, the Authority’s Existing Reserve Capacity for Riverdale was 0.309 MGD, consisting of the initial allocation of

0.10 MGD from the 1987 Riverdale Service Contract; 0.15 MGD from the 1997 PRBRSA Agreement; 0.055 MGD from the 2003 PRBRSA Agreement; and 0.004 MGD from the 2006 PRBRSA Agreement; and

**WHEREAS**, pursuant to an agreement entered into or to be entered into by and between the Two Bridges Authority, the Authority and the participant members of the Two Bridges Authority (the “2008 TBSA Service Agreement Amendment”), the Two Bridges Authority has agreed or will agree to reserve up to an additional 0.250 MGD of capacity in its treatment plan (the “2008 Additional Reserve Capacity”) for the Authority; and

**WHEREAS**, Riverdale has requested the Authority to allocate the 2008 Additional Reserve Capacity to Riverdale; and

**WHEREAS**, the Authority, Riverdale and the Borough of Lincoln Park (“Lincoln Park”), a municipal corporation of the State, situate in the County of Morris, have entered into or will enter into an agreement (the “2008 Lincoln Park-PRBRSA-Riverdale Agreement”) in order to address various matters relating to the reservation, transfer and allocation of the 2008 Additional Reserve Capacity; and

**WHEREAS**, in accordance with the terms of the 2008 Lincoln Park-PRBRSA-Riverdale Agreement, 0.100 MGD of the 2008 Additional Reserve Capacity will be allocated by the Authority to Riverdale upon the date that this 2008 Amendment to the 1990 Amendment, the 2008 TBSA Service Agreement Amendment, the 2008 Lincoln Park-PRBRSA-Riverdale Agreement and the 2008 Amendment to the 1987 PRBRSA-Riverdale Service Contract are all effective; and

**WHEREAS**, in accordance with the terms of the 2008 Lincoln Park-PRBRSA-Riverdale Agreement, 0.150 MGD of the 2008 Additional Reserve Capacity will be allocated by the

Authority to Riverdale upon the exercise by Riverdale of either the First Option (which First Option must be exercised by December 30, 2009) or the Second Option (which Second Option must be exercised by December 31, 2010), all as defined and more fully described in the 2008 Lincoln Park-PRBRSA-Riverdale Agreement; and

**WHEREAS**, in accordance with the terms of the 2008 TBSA Service Agreement Amendment, upon the allocation by the Two Bridges Authority of the 2008 Additional Reserve Capacity to the Authority, the Two Bridges Authority will simultaneously allocate to the Authority 0.175 MGD and 0.263 MGD, respectively, of its main sewer capacity (i.e., total additional main sewer capacity allocation of 0.438 MGD); and

**WHEREAS**, notwithstanding the conveyance of main sewer capacity as aforesaid, the Borough of Riverdale declares and confirms that the actual additional sewage flow available to PRBRSA and Riverdale will be a maximum additional of .250 mgd sewage flow upon full implementation of the Three Party Agreement.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF RIVERDALE, IN THE COUNTY OF MORRIS, NEW JERSEY, AS FOLLOWS:**

**Section 1.** 2008 Amendment to the 1987 Service Contract between the Authority and the Borough of Riverdale. The substance and form of the 2008 Amendment to the 1987 Service Contract between the Authority and the Borough of Riverdale in the form reviewed by the Borough of Riverdale, a copy of which is on file in the Office of the Borough Clerk, 91 Newark-Pompton Turnpike, Riverdale, New Jersey 07457 and available for inspection during regular business hours, is hereby approved, adopted and agreed to by the Borough with such minor corrections or modifications, additions or deletions which do not alter the substantive

provisions thereof and which may hereafter be approved by the Mayor of the Borough after consultation with counsel to the Borough. The Mayor of the Borough is hereby authorized and directed to execute and deliver the 2008 Amendment to the 1987 Service Contract between the Authority and the Borough of Riverdale and the Borough Clerk is hereby authorized and directed to affix the seal of the Borough on the 2008 Amendment to the 1987 Service Contract between the Authority and the Borough of Riverdale and to attest same. The execution of the 2008 Amendment to the 1987 Service Contract between the Authority and the Borough of Riverdale by the Mayor of the Borough shall be conclusive evidence of any approval required by this Section.

**Section 2.** Contingent Approval. This authorization is subject to the enactments and approval of all service agreement amendments between and among the PRBRSA Participants, TBSA Participants, and PRBRSA and Riverdale as shall be needed to perfect the transaction contemplated in the 2008 Lincoln Park-PRBRSA-Riverdale Agreement.

**Section 3.** Capitalized Terms. Unless a different meaning is clear from the context, all capitalized words and terms used but not defined in this Ordinance shall have the meanings ascribed to such words and terms, respectively, in the preambles to this Ordinance.

**Section 4.** Effective Date. This Ordinance shall take effect upon passage and publication as provided by law.

**NOTICE** is hereby given that the above Ordinance was introduced and passed first reading at a regular meeting of the Mayor and Council of the Borough of Riverdale, held on November 3, 2008 and it will be considered for final passage at a regular meeting of said Mayor and Council to be held on December 1, 2008 at 7:30 p.m. or as soon thereafter as same can be considered, in the Municipal Building, 91 Newark Pompton Turnpike, Riverdale, New Jersey, at which time and place all persons interested therein or affected thereby will be given an opportunity to be heard concerning same. During the week prior and up to the time of public hearing, copies of said Ordinance will be available to the members of the general public who request same.

Carol J. Talerico, R.M.C.  
Municipal Clerk