

**BUENA BOROUGH MUNICIPAL UTILITIES AUTHORITY
RESOLUTION NO. R-20-2024**

**AUTHORIZING PURCHASE OF FLYGT MODEL NP-3153.095
8" VOLUTE SUBMERSIBLE FEED PUMP
FOR THE MBR PLANT
WITHOUT PUBLIC BIDDING THEREFORE AS
AUTHORIZED BY N.J.S.A. 40A:11-5(gg)**

WHEREAS, the Local Public Contracts Law, at N.J.S.A. 40A:11-15(19) defines "wastewater treatment systems", as:

Equipment, plants, structures, machinery, apparatus, or land, or any combinations thereof, acquired, used, constructed, or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation, or other treatment of wastewater or sewerage sludge, or for the final disposal of residues resulting from the treatment of wastewater, including, but not limited to, pumping and ventilating stations, facilities, plants and work, connections, outfall sewers, interceptors, trunk lines, and other personal property and appurtenances necessary for their operation; and

WHEREAS, the Buena Borough Municipal Utilities Authority ("Authority") operates "wastewater treatment systems", as defined in the Local Public Contracts Law; and

WHEREAS, the Authority has previously investigated the need to replace its aging Flygt Model NP-3153.095 8" Volute Submersible Feed Pump for its MBR system components; and

WHEREAS, the result of that inquiry has revealed that the only North American manufacturer that sells the required equipment that is compatible with our existing equipment is Xylem Water Solutions USA, Inc. located in Malvern, Pennsylvania; and

WHEREAS, Xylem Water Solutions' Flygy Pump replacement includes materials and delivery; and

WHEREAS, the total cost of the proposal is \$26,893.15; and

WHEREAS, under the Local Public Contract's Law, contracts for the purchase of "component parts" of a "wastewater treatment system" need not publicly bid because they fall within the list of public bidding exceptions that is set forth in N.J.S.A. 40A:11-5; and

WHEREAS, with regard to the public bidding exceptions that are set forth in the Local Public Contracts Law, N.J.S.A. 40A:11-5 provides:

Any contract the amount of which exceeds the bid threshold, may be negotiated and awarded by the governing body without public advertising for bids and bidding therefore and shall be awarded by resolution of the governing body if:

(1) The subject matter thereof consists of:

(gg) A contract for the provision of ... wastewater treatment system as defined in [N.J.S.A. 40A:11-15(19)] *or any component part or parts thereof* ... Emphasis added.

WHEREAS, after consultation with the Authority's professionals, including the Authority's Solicitor, this body is of the opinion that the aforementioned specialty and proprietary equipment from Xylem Water Solutions USA, Inc. are "component parts" of a "wastewater treatment system" and may be procured without public bidding therefore, even if the cost thereof exceeds the bid threshold; and

WHEREAS, absent the ability to procure Xylem Water Solutions' replacement Flyght Pump directly from Xylem Water Solutions USA, Inc. without the need to engage in public bidding therefore, replacement of the pump would likely be greatly delayed due to the needless expense of bidding and for a product which only Xylem Water Solutions USA, Inc. provides;

NOW, THEREFORE, BE IT RESOLVED, by the Members of the Buena Borough Utilities Authority in the County of Atlantic and State of New Jersey as follows:

- 1) All of the statements of the preamble are repeated and are incorporated herein by this reference thereto as though the same were set forth at length.
- 2) In the event that all funding needed to proceed with the purchase of the Flygt NP-3153.095 8" volute Submersible pump is secured, then procurement of the required associated equipment components and upgrades directly from Xylem Water Solutions USA, Inc. without public bidding therefore pursuant to N.J.S.A. 40A:11-5(gg) be and hereby is authorized.

BOROUGH OF BUENA MUNICIPAL UTILITIES AUTHORITY

By: _____

ROBERT DELANO, CHAIRMAN

Attest:

Cheryl M. Santore
CHERYL M. SANTORE, SECRETARY

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	FORMISANO	JOHNSTON	ROMEO	SANTAGATA	DELANO
MOTION			X		
SECOND		X			
AYES	X	X	X	X	X
NAY					
ABSENT					
ABSTAIN					

I hereby certify that the foregoing is a true and exact copy of a resolution introduced and adopted by the Borough of Buena Municipal Utilities Authority at a meeting held on April 24, 2024.

Cheryl M. Santore
Cheryl Santore, Secretary