



**BOROUGH OF FLORHAM PARK  
COUNTY OF MORRIS, STATE OF NEW JERSEY  
ORDINANCE #24-10**

**AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF FLORHAM PARK, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT BY AND BETWEEN THE BOROUGH OF FLORHAM PARK AND THE TOWNSHIP OF MORRIS FOR THE SHARING OF RESPONSIBILITY RELATED TO THE PROVISION OF SEWER SERVICE TO CERTAIN PROPERTY LOCATED WITHIN THE BOROUGH**

**WHEREAS**, the Township of Morris (the "Township") currently and historically has provided sewer service to the certain property, which is located in the Borough, pursuant to the terms of an agreement, dated July 28, 1981, between the Sisters of Charity ("Sisters"), the Township and the Borough; and

**WHEREAS**, pursuant to the 1981 Agreement, the Sisters constructed, owned and operated a sewer conveyance system, including a pump station, and received service from and were included in the Morris Township Sewer Service area; and

**WHEREAS**, since that time, the service has been expanded to include additional development on the Sisters property as well as that owned by the Saint Elizabeth University, the Morris County Golf Club and Florham Park Property, LLC. (formerly the Villa at Florham Park, LLC.); and

**WHEREAS**, on July 8, 2015, the Borough of Florham Park filed the declaratory judgment action captioned In the Matter of the Application of the Borough of Florham Park for a Determination of Mount Laurel Compliance, Docket No. MRS-L-1698-15, seeking court approval of a housing plan to satisfy its constitutional fair share housing obligation, imposed by the Mount Laurel doctrine, for the period 1999-2025; and

**WHEREAS**, following extensive negotiations, the Borough, along with the Sisters and various other intervenors and interested parties, entered into a settlement agreement; and

**WHEREAS**, by way of Orders entered on July 28, 2017 and March 7, 2019, the Court approved the settlement agreement and further found and declared the Borough's Amended Housing Element and Fair Share Plan as well as the implementing ordinances adopted to be compliant and satisfied the Borough's Mt. Laurel constitutional obligations as it pertains to affordable housing; and

**WHEREAS**, said settlement agreement and orders, among other things, identified a twenty-two (22) acre site owned by the Sisters, consisting of a portion of Block 1301, Lot 2, on the official tax map of the Borough of Florham Park (the "Property"), as a location suitable for the construction and development of inclusionary development/affordable housing; and

**WHEREAS**, the Property is part of the Township sewer service area and, along with the other users referenced herein, received sewer service through the Township; and



**WHEREAS**, the Borough of Florham Park Planning Board adopted a resolution granting preliminary and final major site plan approval with variance relief and final minor subdivision approval in connection with the development and construction of affordable housing and other units on the Sister's Property; and

**WHEREAS**, sewer was specifically not addressed in the aforementioned development application as it was represented to the Planning Board, and the application expressly contemplated, that any issues with respect to sewer service or related infrastructure were not part of the application as same were the subject of a separate arrangement with the Township and had previously been included in the Township's sewer service area; and

**WHEREAS**, a dispute arose between the Sisters and the Township after plans were formulated by the Sisters to make and assume the cost of certain improvements to the pump station necessary to accommodate the additional use projected from the affordable housing development and the Township ultimately declined the request to make sewer available or take over the operation of the upgraded pump station; and

**WHEREAS**, the Sisters commenced litigation against the Township seeking to compel the Township to make sewer service available for the development to be constructed on the Property and to take over operation of the pump station, upon completion of upgrades and improvements meeting local specifications, and

**WHEREAS**, the matter was litigated between the Sisters and the Township, judgment was entered by the trial court and later overturned on appeal; and

**WHEREAS**, upon remand of the matter to the trial court, the action was expanded to include additional parties and various additional claims, cross-claims and counterclaims were filed with the Borough being brought into the case, initially by way of third-party complaint by the Township and later as direct party defendant pursuant to the Sister's amended complaint; and

**WHEREAS**, upon discovery, considerable motion practice and extensive and exhaustive court ordered mediations and negotiations the parties came to a settlement agreement, which was formally adopted and approved by the Borough on February 1, 2024, pursuant to Resolution #24-44; and

**WHEREAS**, the settlement agreement provided for, among other things: the Township to make available the requisite sewer service necessary to accommodate the construction and development of inclusionary development/affordable housing units on the Sister's Property located in the Borough; the upgrade and improvement of the pump station on the Property by and at the Sister's sole cost and expense in accordance with plans and specifications reviewed and approved by both the Township and Borough Engineers and their respective engineering consultants; that upon completion of the upgrades and improvements and the satisfaction of various other terms and preconditions, the Borough will assume operation of the pump station and force main servicing the Property located within Florham Park; and a rate sharing arrangement under which both municipalities would be compensated for their costs; and

**WHEREAS**, the settlement agreement also provided for adoption of a Shared Services Agreement between the Borough and the Township setting forth the means and manner of





implementation and administration and the respective obligations of the municipalities with regard to the same; and

**WHEREAS**, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, *et seq.*, allows municipalities to enter into an agreement with another municipality to provide or receive any service to and for its residents which each respective municipality is individually empowered to provide or receive for residents within its own jurisdiction; and

**WHEREAS**, the Borough and the Township undertook a review of cost and feasibility of entering into an agreement under the Uniform Shared Services and Consolidation Act, whereby the Borough and the Township would share responsibility, in the manner set forth therein, of providing sewer service to various users within the Borough; and

**WHEREAS**, the Borough has determined for reasons of efficiency and economy it is fiscally prudent and responsible to enter into the Shared Services Agreement with the Township; and

**WHEREAS**, the Township of Morris adopted an Ordinance authorizing the Township to enter into a Shared Services Agreement with the Borough for the provision of sewer service and wastewater treatment;

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the Borough of Florham Park, in County of Morris, and State of New Jersey as follows:

#### **Section 1.**

1. that entry into the Shared Services Agreement by and between the Borough of Florham Park and the Township of Morris is hereby authorized and approved in accordance with the terms and conditions set forth therein.
2. that the Mayor shall be and is hereby authorized to execute the Shared Services Agreement with the Township of Morris, on behalf of the Borough of Florham Park on terms substantially similar to those set forth.
3. that said Shared Services Agreement shall be attached hereto and expressly incorporated by reference herein and upon execution of the Shared Services Agreement by the Borough and the Township, a copy of this Ordinance and the Shared Services Agreement shall be filed with the Borough Clerk and made available for public inspection.

**Section 2.** Repealer. All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

**Section 3.** Severability. Each section, subsection, paragraph, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, preempted, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions.



of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

**Section 4.** Effective Date. This Ordinance shall take effect immediately upon final passage and publication according to law.

**Section 5.** Prior actions. All actions of the Borough of Florham Park taken prior to the date of adoption hereof contemplated by this Ordinance are hereby ratified and approved.

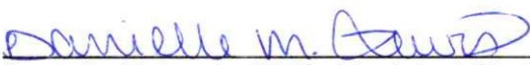
**Section 6.** Codification. This Ordinance may be renumbered for codification purposes.

INTRODUCED: April 4, 2024

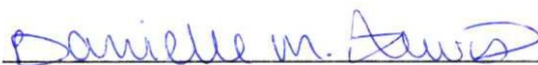
ADOPTED: May 2, 2024

  
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Mark Taylor, Mayor

Attest:

  
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Danielle M. Lewis, RMC, Municipal Clerk

**I HEREBY CERTIFY** this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Florham Park, and adopted on May 2, 2024.

  
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Danielle M. Lewis, RMC, Municipal Clerk