

RESOLUTION 15-070

RESOLUTION AUTHORIZING THE EXECUTION OF A PARTIAL RELEASE AND USE AGREEMENT BETWEEN RVRSA AND BOONTON RE WASHINGTON STREET POCKET PARK

WHEREAS, on March 12, 2015, the RVRSA adopted Resolution 15-036 to authorize the Chairman of the Board of the RVRSA to execute an Agreement and Release to resolve any and all claims as between the RVRSA and the Town of Boonton with respect to the Pocket Park on Washington Street in the Town of Boonton, which Agreement and Release was not accepted by the Town of Boonton; and

WHEREAS, the RVRSA desires to rescind Resolution 15-036 and restate and amend the Agreement and Release language relevant to the Release from any Claim associated with environmental damage related to the bypass pump failure that occurred on May 19, 2011 and resulting discharge of sewage at the intersection of Monroe and Washington Street in the Town of Boonton and to add language regarding the use of the Pocket Park until such time as all work associated with RVRSA (Contract 38 "Monroe Street Pumping Station and Force Main and Morris Avenue Gravity Sewer Project") and rehabilitate the Jersey City Trunk Sewer (Contract 39 – "Jersey City Trunk Sewer Rehabilitation) and until such time as the Washington Street sewer relining project is completed; and

WHEREAS, the Rockaway Valley Regional Sewerage Authority ("RVRSA") entered into a public contract with Insituform Technologies, Inc., f/k/a Insituform Technologies, LLC (hereinafter referred to as "ITI") entitled Interceptor Sewer Rehabilitation Project 2009, Contract No. 35 - Rebid, NJEIT Project No. S340756-02, for the construction and operation of a temporary by-pass line and pumping system, and rehabilitation of the RVRSA trunk line; and

WHEREAS, it was necessary to decommission an adjacent park owned by the Town of Boonton ("Washington Street Pocket Park"), remove the existing playground equipment and establish the by-pass pumping operation at the Washington Street Pocket Park; and

WHEREAS, during the course of performance of the work under Contract No. 35 – Rebid, certain issues arose regarding the bypass pumping in the Town of Boonton performed by ITI, including a bypass pump failure occurring on May 19, 2011 causing the discharge of sewage at the intersection of Monroe and Washington Street in the Town of Boonton impacting the Washington Street Pocket Park, which discharge required that the park be closed; and

WHEREAS, promptly following the bypass pump failure, the RVRSA undertook an environmental investigation and sampling of soils in the Washington Street Park, which concluded the discharge did not cause contamination of the Park, but Boonton is not prepared to execute a release regarding such discharge at this time; and

WHEREAS, at this time, the parties are unable to agree on the resolution of claims for environmental damages related to the bypass pump failure occurring on May 19, 2011 and resulting discharge of sewage at the intersection of Monroe and Washington Street in the Town of Boonton, and accordingly, these claims shall not be affected by the execution of this Partial Release and Use Agreement, Exhibit A, attached and made a part hereof; and

WHEREAS, in August 2011, during and as a result of Hurricane Irene, a portion of the Interceptor sewer line which crossed under the Rockaway River (the “Interceptor”) was washed out as a result of the flood surge of the Rockaway River; and

WHEREAS, in order to temporarily remediate the damage to the Interceptor, the RVRSA constructed a temporary by-pass line and pumping system that is presently conveying raw sewage to the treatment plant in place of the Interceptor section that was washed out during Hurricane Irene, which temporary by-pass pumping is utilizing a portion of the Washington Street Pocket Park to convey wastewater flows; and

WHEREAS, the temporary by-pass line is required until such time as the RVRSA shall construct a permanent direct connection (Contract 38 - “Monroe Street Pumping Station and Force Main and Morris Avenue Gravity Sewer Project”) and rehabilitate the Jersey City Trunk Sewer (Contract 39 – “Jersey City Trunk Sewer Rehabilitation) and until such time as the Washington Street sewer relining project is completed; and

WHEREAS, RVRSA and Boonton desire to enter into this Partial Release and Use Agreement (Exhibit A) to fully resolve certain claims with respect to the use of the Washington Street Park, and the removal, replacement and reinstallation of playground equipment.

NOW THEREFORE, IN CONSIDERATION of the mutual promises and obligations of the parties, ROCKAWAY VALLEY REGIONAL SEWERAGE AUTHORITY (“RVRSA”) and Boonton, agree as follows:

NOW, THEREFORE, BE IT RESOLVED by the Rockaway Valley Regional Sewerage Authority as follows:

1. The Executive Director is hereby authorized and directed to execute the attached Partial Release and Use Agreement, Exhibit A, attached and made a part hereof.
2. This Resolution shall take effect as provided by law.

C E R T I F I C A T I O N

I hereby certify that this Resolution was adopted at a meeting of the Rockaway Valley Regional Sewerage Authority held on August 13, 2015.

on motion of: Michael Guadagno

and second by: John Cegelka

ROLL CALL VOTE:

YEAS: (7) Andes, Cegelka, Guadagno, Lowell, Recchia, Schaefer, Schorno

NAYS: (0) None

ABSTAIN: (1) Vincitore

ABSENT: (2) Corbett and Secco



Michael Guadagno
Board Secretary