

**RESOLUTION 180-14**

**RESOLUTION AUTHORIZING EXECUTION OF  
AGREEMENT BETWEEN THE BOROUGH OF CLAYTON AND  
WESTVILLE REGIONAL WATER LABORATORY**

*WHEREAS*, Westville Regional Water Laboratory and the Borough of Clayton have agreed to enter into an Agreement for water testing; and

*NOW, THEREFORE, BE IT RESOLVED*, by the Mayor and Council of the Borough of Clayton, County of Gloucester, and State of New Jersey as follows:

1. That the governing body does hereby approve the attached Agreement between Westville Regional Water Laboratory and the Borough of Clayton.
2. That the Mayor be and is hereby authorized to execute said contract on behalf of the Borough of Clayton.

*ADOPTED*, at a regular meeting of the Mayor and Council of the Borough of Clayton held on September 11, 2014.

BOROUGH OF CLAYTON

  
\_\_\_\_\_  
THOMAS BIANCO, Mayor

Attest:

  
\_\_\_\_\_  
CHRISTINE NEWCOMB, Borough Clerk

**CERTIFICATION**

I, Christine Newcomb, Borough Clerk, of the Borough of Clayton, do hereby certify that the foregoing Resolution was presented and duly adopted by the Borough Council at a meeting of the Borough of Clayton, held on Thursday, September 11, 2014.

A handwritten signature in cursive script that reads "Christine Newcomb". The signature is written in dark ink and is positioned above a horizontal line.

CHRISTINE NEWCOMB, Borough Clerk

**BOROUGH OF WESTVILLE  
WESTVILLE REGIONAL LABORATORY  
SHARED SERVICE AGREEMENT**

Pursuant to the Interlocal Services Act, this agreement is made this 11<sup>th</sup> day of September, 2014, by and between the Borough of Westville, a municipal corporation of the State of New Jersey, having offices at 165 Broadway, Westville, NJ 08093 (hereinafter "Westville"), and Borough of Clayton, a municipal corporation of the State of New Jersey, having offices at 125 N. Delsea Dr., Clayton, (hereinafter "Member").

WHEREAS, Westville and Member have each adopted an authorizing resolution pursuant to the provisions of N.J.S.A. 40:8A-1, *et seq.*; and

WHEREAS, Westville and Member desire to reduce the costs for the periodic bacteriological analysis of potable water; and

WHEREAS, Westville currently operates the "Westville Regional Lab" and has the equipment and facilities to most adequately serve as the lead agency in this endeavor for several municipalities ("Member Municipalities"); and

WHEREAS, the Member Municipalities each have certain New Jersey State Department of Environmental Protection ("NJDEP") requirements for water analysis pertaining to their systems.

NOW, THEREFORE, Westville and Member agree as follows:

1. **Lead Agency.** Westville shall operate the Westville Regional Lab under the administration of the Public Works Department of Westville. Westville shall serve as the lead agency and employ the necessary personnel as agreed upon to service both Westville and all Member Municipalities. The Westville Regional Lab shall maintain NJDEP Certification in all parameters required and have a certified Lab Manager. All analysis work performed will be by qualified technicians for water analysis.

2. **Facilities and Equipment.** Westville shall provide the necessary facilities and equipment for NJDEP required testing. All items necessary for Westville to collect and deliver samples will be purchased by Westville in order to provide the services to all Member Municipalities.

3. **Billing for Costs.**

A. Westville shall keep records of all expenses for the operation of the Westville Regional Lab which shall include but is not limited to: heating; air conditioning; lighting; janitorial services; clerical services; fire insurance; comprehensive general liability insurance; workers' compensation insurance; lab equipment including chemicals, glassware, and equipment replacement; NJDEP Certifications and fees; salaries; social security payments; and employee benefits including medical, disability and life insurance.

B. Westville shall furnish Member Municipalities a monthly operation report with daily results of analysis performed for that month.

C. Westville shall furnish Member Municipalities an operation and billing report of expenses. These costs will be billed among the Member Municipalities according to the percentage of tests performed for each Member Municipalities on a quarterly basis.

D. Payments to Westville are due within thirty (30) days of the date billed. In the event there exists any dispute among the Member Municipalities as to the amount to be paid, the full amount billed by Westville shall be made. If through subsequent negotiation, arbitration or litigation the amount due should be determined, agreed or adjudicated to be less than the amount actually paid, Westville shall immediately refund the excess.

4. **Obligations of the Participants.** Member agrees to fully fund its obligations pursuant to this Agreement and to make such budget appropriations and adopt such ordinances or resolutions as are reasonably necessary pursuant to the laws of the State of New Jersey to provide for such funds.

5. **Terms and Termination.** This Agreement will become effective upon the execution of this Agreement and shall terminate on December 31, 2014. This Agreement shall renew automatically for consecutive one (1) year terms commencing January 1, 2015 unless either party hereto provides written notice of termination not less than ninety (90) days prior to the end of any term.

6. **Insurance.** Member agrees that in addition to any liability insurance maintained by Westville applicable to the operation of the laboratory, Member will maintain liability insurance which shall cover liability in connection with the distribution of water by Member.

7. **Miscellaneous.**

A. **Entire Agreement.** This Agreement sets forth all the promises, covenants, agreements, conditions and undertakings between the Parties hereto with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and undertakings, inducements or conditions, express or implied, oral or written, between the Parties hereto.

B. **Supplements.** The Parties shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may be required to correct any inconsistent or ambiguous term of the Agreement.

C. **Non-Waiver.** It is understood and agreed that nothing which is contained in this Agreement shall be construed as a waiver on the part of the Parties, or any of them, of any right which is not explicitly waived herein.

D. **Amendments.** This Agreement may not be amended or modified for any reason without the express prior written consent of the Parties hereto.

**E. Severability.** In the event that any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**F. Successors/Assigns.** This Agreement shall insure to the benefit of and shall be binding upon the Parties and their respective successors and approved assigns.

**G. Notices.** Unless otherwise provided in writing, and notices to be given or to be served upon any Party hereto, in connection with this Agreement, must be in writing and may be delivered personally or be certified or registered mail and, if so mailed, shall be deemed to have been given and received forty-eight (48) hours after a registered or certified letter containing such notice, postage prepaid, is deposited in the United States mail, and if given otherwise, shall be deemed to have been given when delivered to and received by the Party to whom it is addressed. Such notice shall be given to the Parties at their following respective addresses or at such other addresses as each Party may hereafter designate to the other Parties in writing:

If to Westville:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Borough of Westville  
Westville Municipal Building  
165 Broadway  
Westville, NJ 08093

If to Member:

Name: Thomas Bianco  
Title: Mayor  
Borough of Clayton  
125 N. Delsea Drive  
Clayton NJ 08312

**H. No Personal Liability.** No covenant, condition or agreement contained in this Agreement shall be deemed to be the covenant, condition or agreement of any past, present or future officer, agent or employee of the Parties, and neither the officers, agents or employees of the Parties nor any official executing this Agreement shall be liable personally on this Agreement by reason of the execution hereof by such person or arising out of any transaction or activity relating to this Agreement.

**I. Governing Law.** The terms of this Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New Jersey applicable to agreements made and to be performed entirely within the State of New Jersey, including all matters of enforcement, validity and performance.

**J. Venue.** In any action on or relating to this Agreement, the hereto consent to the exclusive jurisdiction and venue of the state courts located in Gloucester County, New Jersey.

**K. Legal Construction.** If any provision of this Agreement is held to be illegal, invalid or otherwise unenforceable, then: (a) the same shall not affect other terms or provisions of this Agreement; and (b) such term or provision shall be deemed modified to the extent necessary to render such term or provision enforceable and the rights and obligations of the parties shall be construed and enforced accordingly, preserving to the fullest extent the intent and agreements of the parties set forth herein.

**L. Counterparts.** This Agreement, and any other documents required hereunder, may be executed in counterparts, including by facsimile or electronic form, which together shall be considered an original document.

**M. Representation by Counsel.** Each party to this Agreement stipulates that it has been represented by and has relied upon the counsel of its choice in the negotiations for the preparation of this Agreement, and that each has read this Agreement and has had its contents and effect fully explained by such counsel and is fully aware of and understands all of its terms and the legal consequences thereof, or has had the opportunity to do so. It is acknowledged that the parties to this Agreement have mutually participated in the preparation of this Agreement, and it is agreed that no provision in this Agreement shall be construed against any party by virtue of the activities of that party or its attorneys.

**N. Further Assurances.** In addition to the obligations expressly required to be performed hereunder, each of the parties to this Agreement agrees to cooperate with each other and to perform such other acts and to execute, acknowledge and deliver such other instruments, documents and materials as the other party may reasonably request and as shall be necessary in order to fulfill the spirit and intent of this Agreement.

**IN WITNESS WHEREOF,** and intending to be legally bound, the Parties have caused this Agreement to be duly signed, sealed and executed by their respective proper officials as of the day and year first written above.

ATTEST:

Borough of Westville

BY \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

Christie Newcomb

Borough of Clayton (Member)

BY \_\_\_\_\_

Name: Thomas Bianco

Title: Mayor