

BOROUGH OF AVALON

ORDINANCE NO. 05-1295

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY, ENACTED PURSUANT TO THE INTERGOVERNMENTAL COOPERATION ACT, ACT NO. 177 OF 1996, AS AMENDED, AUTHORIZING THE PROPER OFFICERS OF THE BOROUGH TO ENTER INTO AN INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE BOROUGH OF BELLEVUE, APPROVING AND CONFIRMING THE EXECUTION AND DELIVERY BY RICHARD S. CANCELLO, SOLICITOR FOR THE BOROUGH OF AVALON, THE INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE BOROUGH OF AVALON AND THE BOROUGH OF BELLEVUE RELATIVE TO THE SPRUCE RUN SEWER PROJECT.

WHEREAS, the Act of December 19, 1996, P.L. 1158, No. 177, § 1, et seq., 53 Pa.C.S. § 2303, the Pennsylvania "Intergovernmental Cooperation Act," authorizes two or more local governments in this Commonwealth to jointly cooperate in the exercise of any governmental function, power or responsibility; and

WHEREAS, the local governments of the Borough of Avalon and the Borough of Bellevue desire to jointly cooperate in the exercise or various governmental functions, powers or responsibilities which are of mutual interest and benefit; and

WHEREAS, the local governments of the Borough of Avalon and the Borough of Bellevue desire to jointly cooperate in obtaining the financing from FEMA and/or PEMA as such funding is necessary for completing the Spruce Run Sewer Project, where sections of this sanitary line were severely damaged as a result of Hurricane Ivan in September 2004.

NOW THEREFORE BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Council of the Borough of Avalon, County of Allegheny, Pennsylvania, as follows:

SECTION 1: The Borough of Avalon hereby approves and confirms the execution and delivery of the Intergovernmental Cooperation Agreement (hereinafter, "ICA") between the Borough of Avalon and the Borough of Bellevue, a true and correct copy of which is annexed hereto and made a part hereof as Exhibit "A."

SECTION 2: The execution and delivery by Richard S. Canciello of the within ICA, prior to Council's approval, was for the purpose of meeting the deadline for application of FEMA and/or PEMA grants, and it is hereby ratified.

SECTION 3: The aforesaid ICA is subject to such changes and amendments as the Borough of Avalon and the Borough of Bellevue shall agree to consistent with the rehabilitation of the Spruce Run Sewer Project, and consistent with FEMA, PEMA, and/or any other Allegheny County Health Department regulations.

INTERGOVERNMENTAL COOPERATION AGREEMENT

BY AND BETWEEN

The Borough of Avalon

and

The Borough of Bellevue

WITNESSETH:

WHEREAS, the Borough of Avalon and the Borough of Bellevue (hereinafter "the member municipalities"), the boundaries of which are illustrated on Exhibit "A," a copy of which is attached hereto and made a part hereof, each has agreed to participate fully in the rehabilitation of the Joint Spruce Run Sewer Project so as to rehabilitate and/or replace certain deficient sewer line segments and/or manholes damaged by Hurricane Ivan in September 2004; and

WHEREAS, the Boroughs of Avalon and Bellevue each desire to enter into an Intergovernmental Cooperation Agreement (hereinafter, "ICA"), pursuant to Ordinances duly adopted by each member municipality to finalize its intention to participate jointly in this project; and

WHEREAS, the Federal Emergency Management Administration (hereinafter, "FEMA") will fund the bulk of this project; and

WHEREAS, the Boroughs of Avalon and Bellevue recognize that entering into this ICA will result in a cost allocation formula that will reflect the proportionate ownership each

Borough has in the sewer line segments and/or manholes requiring rehabilitation and/or replacement; and

WHEREAS, the Borough of Avalon will permit the Borough of Bellevue to perform all the necessary rehabilitation and/or replacement of the sewer line segments and/or manholes; and

WHEREAS, the Boroughs of Avalon and Bellevue will accept, as payment in full, the amount of monies allocated by FEMA; and

WHEREAS, the Borough of Avalon and Bellevue recognize that any portion of the project not funded by FEMA will result in a cost allocation formula that will reflect the proportionate ownership each Borough has in the sewer line segments and/or manholes requiring rehabilitation and/or replacement; and

NOW THEREFORE, in consideration of the foregoing and of the mutual promises herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the member municipalities intending to be legally bound, hereby agree as follows:

1. Conditions of the Intergovernmental Cooperation Agreement.
 - a. All of the commitments and intentions set forth in the "WHEREAS" recitals hereinabove are incorporated herein and made a part hereof, as if more fully set forth herein at length.
 - b. The administration of any and all projects resulting from the FEMA compliance activities may include any or all of the following:

1. Planning and design of projects and preparation of cost estimates;
 2. Preparation of specifications and bid documents;
 3. Advertisement and acceptance of bids; and
 4. Construction management and site representation (a) through (d) collectively referred to herein as "Project Administrator.")
- c. This ICA sets forth the entire understanding between the parties with respect to its subject matter. Any and all previous agreements and understandings between or among the member municipalities regarding the subject matter hereof, whether written or oral, are superceded by this ICA.
- d. The enforceability of the within ICA is contingent upon each member municipality adopting an Ordinance authorizing the municipality to approve and execute the within ICA.
- e. Each member municipality shall deliver or cause to be delivered to the other member municipality such additional instruments as the other member municipality may reasonably request for the purpose of carrying out this ICA.
- f. This ICA may be amended by the member municipalities hereto at anytime hereafter by the execution of an addendum in writing signed by each member municipality. Any extension or waiver by any member municipality of any provision hereof shall be valid only if set

forth in an instrument in writing signed on behalf of such member municipality.

- g. Any notice, request, claim, demand, waiver, consent, approval or other communication required or permitted hereunder shall be in writing and shall be deemed given if delivered personally, sent by facsimile transmission with receipt of delivery, sent by registered or certified mail, postage prepaid and return receipt requested, or sent by overnight courier service, to the Secretary of each of the member municipalities hereof.

2. Duration of the Intergovernmental Cooperation Agreement. The within ICA shall be effective for the duration of the Spruce Run Sewer Project, until the project is complete.

3. Purpose and Objectives of the Intergovernmental Cooperation Agreement.
The purpose and objectives of the within ICA are as follows:

- a. To promote the rehabilitation and/or replacement of deficient sewer line segments and/or manholes damaged by Hurricane Ivan in September 2004; and
- b. To defray the cost of this project, with the aid of funds from FEMA, as set forth earlier in this agreement.

4. Powers and Scope of Authority Delegated.

- a. The Borough of Bellevue shall designate the professional engineers who will perform all work related to FEMA compliance and for any and

all projects resulting from FEMA compliance activities (hereinafter "the Designated Engineer");

- b. The Borough of Bellevue shall designate its Director of Administrative Services or such other administrator to perform all administrative work related to FEMA compliance and for any and all projects resulting from FEMA compliance activities (hereinafter "the Designated Administrator"); and
- c. The Borough of Bellevue shall designate a financial manager to perform all administrative work related to FEMA compliance and for any and all projects resulting from FEMA compliance activities (hereinafter "the Designated Administrator").

5. Manner and Extent of Financing.

- a. The cost of Project Administration for all FEMA-related work shall be distributed to and paid by each Borough based upon the ownership interest each Borough has in the sewer line segments and/or manholes requiring rehabilitation and/or replacement; and
- b. All costs of construction of any and all projects resulting from FEMA compliance activities shall be distributed to and paid by each Borough based upon the ownership interest each Borough has in the sewer line segments and/or manholes requiring rehabilitation and/or replacement; and

6. Organization Structure Necessary to Implement the Agreement. The organizational structure necessary to implement the within ICA shall be the organizational structure as set forth herein.

7. Manner of Acquisition and Management of Real Estate and Personal Property. The Boroughs of Avalon and Bellevue do not presently contemplate the acquisition, management, licensure or disposition of real or personal property through the within ICA. However, if in the future it becomes necessary or advisable to acquire, manage, license or dispose of real or personal property, such acquisition, management, licensure or disposition shall be borne by the Borough in which the real or personal property is located.

IN WITNESS WHEREOF, the Boroughs of Avalon and Bellevue have caused this agreement to be executed by their duly authorized respective appropriate officers this 17th day of January, ~~2005~~ 2006

ATTEST:

[Signature]
SEAL

BOROUGH OF AVALON

BY: [Signature]

ATTEST:

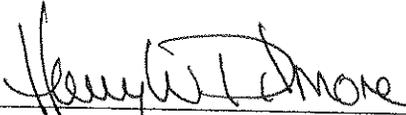
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SEAL

BOROUGH OF BELLEVUE

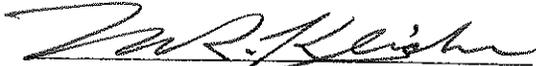
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SECTION 4: Any Ordinance, or part thereof, conflicting with the provisions of this ordinance is hereby repealed insofar as the same affects this ordinance.

ATTEST:



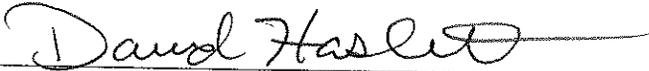
Harry W. Dilmore,
Borough Secretary



Edward Klicker,
President of Council

EXAMINED AND APPROVED this ____ day of September, 2005.

1-17-06
WK



Mayor of Avalon Borough