

RESOLUTION NO. 2012-462

RESOLUTION OF THE TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF NEW JERSEY, APPROVING SHARED SERVICES AGREEMENT FOR FLEET MAINTENANCE SERVICES WITH THE BOROUGH OF TUCKERTON, COUNTY OF OCEAN, STATE OF NEW JERSEY, IN ACCORDANCE WITH THE PROVISIONS OF N.J.S.A. 40A:65-1 ET SEQ.

WHEREAS, the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey (hereinafter referred to as “Barnegat”) has entered into discussions with representatives of the Borough of Tuckerton, County of Ocean, State of New Jersey (“Tuckerton”) with regard to a Shared Services Agreement for fleet maintenance services in order to best assist and protect the interests of the citizens and taxpayers of the Township of Barnegat and the Borough of Tuckerton; and

WHEREAS, an Agreement has been reached in principle between representatives of Barnegat and Tuckerton, a true copy of which is on file at the office of the Township Clerk and can be reviewed during normal business hours, so that Barnegat and Tuckerton can share services, in accordance with the terms set forth therein, for the services referenced in that Agreement; and

WHEREAS, the Township has reviewed the proposed Agreement and finds it to be reasonable, appropriate, and in the long-term best interests of the residents and taxpayers of the Township of Barnegat:

NOW, THEREFORE, BE IT RESOLVED, this 20th day of August, 2012 by the Township Committee of the Township of Barnegat, County of Ocean, State of New Jersey, as follows:

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CHERKOS & CONNORS**

COUNSELLORS AT LAW

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FORKED RIVER, N.J. 08731

1. The Township approves the Shared Services Agreement with the Borough of Tuckerton, a true copy of which is on file at the office of the Township Clerk and can be reviewed during normal business hours.

2. The Township authorizes and directs the Mayor, Township Clerk and Township Administrator to execute any and all necessary documents in order to implement the intent of this resolution.

3. A certified copy of this resolution shall be forwarded by the Township Clerk to the following:

- (a) Honorable Alfonso Cirulli, Mayor;
- (b) New Jersey Department of Community Affairs;
- (c) Honorable George Evans, Mayor of Tuckerton Borough;
- (d) David Breeden, Administrator; and
- (e) Jerry J. Dasti, Esq.

CERTIFICATION

I certify that the foregoing Resolution was duly adopted by the Township of Barnegat at a meeting held on August 20, 2012, a quorum being present and voting in the majority.

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SHARON L. AUER, TOWNSHIP CLERK

Prepared by:

DASTI, MURPHY, McGUCKIN, ULAKY,
CHERKOS & CONNORS
Forked River, New Jersey 08731

SHARED SERVICES AGREEMENT BY AND BETWEEN

THE TOWNSHIP OF BARNEGAT

AND

THE BOROUGH OF TUCKERTON

OCEAN COUNTY, NEW JERSEY

WHEREAS, the Township of Barnegat, County of Ocean, State of New Jersey ("Barnegat"), with a business office located at 900 West Bay Avenue, Barnegat Township, New Jersey, and the Borough of Tuckerton, County of Ocean, State of New Jersey ("Tuckerton") with a business office located at 140 East Main Street, Tuckerton, New Jersey, have undertaken discussions in order to determine what services can be exchanged and shared by and between the municipalities in order to best serve the interests of the residents and taxpayers of each municipality; and

WHEREAS, the discussions have led to a determination by Barnegat and Tuckerton that the best interests of both municipalities will be served if the municipalities take advantage of the provisions of the Shared Services and Consolidation Act, N.J.S.A. 40:65-1 et seq.; and

WHEREAS, both municipalities currently and independently provide Fleet Maintenance services and duties; and

WHEREAS, Tuckerton, in the face of a 2% state mandated budget cap, and in the interests of reducing costs and maintaining critical services, is desirous of entering into an agreement with Barnegat for Fleet Maintenance services; and

WHEREAS, Barnegat currently has employees capable of supplying such services for both municipalities at a significant reduction in cost to both municipalities; and

WHEREAS, Barnegat is desirous of providing such services to Tuckerton for a fee as outlined herein below and pursuant to this Shared Services Agreement; and

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WHEREAS, accordingly Barnegat and Tuckerton have pursued a plan for providing shared services for Fleet Maintenance services; and

WHEREAS, as such Tuckerton designates Barnegat as the provider of Fleet Maintenance duties and services within Tuckerton; and

WHEREAS, N.J.S.A. 40:65-1, *et seq.* specifically authorizes local government units to enter into agreements for the provision of shared services:

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, Barnegat and Tuckerton do hereby agree as follows:

AGREEMENT

1. DESCRIPTION OF THE PROJECT.

Barnegat is hereby designated as the provider of fleet maintenance services for Tuckerton, wherein Barnegat shall provide Tuckerton with fleet maintenance needs of the Borough.

2. SCOPE OF SERVICES.

Tuckerton shall designate Barnegat as the provider of fleet maintenance services and duties for Tuckerton. Barnegat shall provide fleet maintenance services to Tuckerton in accordance with this Agreement.

Fleet Maintenance services may consist of, but are not limited to, the provision of maintenance and repair on gasoline and diesel motor vehicles, including special purpose vehicles and associated equipment, performance of preventative maintenance on motor vehicles and equipment, diagnosis of automotive systems utilizing skills and equipment to determine and perform needed repairs and maintenance, inspection of motor vehicles and equipment when necessary, preparation of reports and records and diagnosis, repair and overhaul of vehicle systems when necessary.

Whenever practical, all work performed by Barnegat on Tuckerton's vehicles or equipment shall be performed at facilities provided for Tuckerton. Tuckerton is responsible for furnishing proper facilities to Barnegat mechanics to make all required repairs and to perform all necessary maintenance. Tuckerton will make all

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efforts to provide basic tools commonly used in the maintenance, repair and upkeep of a motorized fleet available to Barnegat's Mechanics.

Should in the determination of Barnegat's Mechanic(s) it be impossible or impractical to service any vehicle or equipment at the facilities provided by Tuckerton, then Barnegat in its discretion may repair or service such vehicle or equipment at Barnegat Public Works. Barnegat will not charge any fees to Tuckerton for the use of the Barnegat Public Works facility for the maintenance or repair of any Tuckerton vehicle or equipment at Barnegat Public Works. Tuckerton shall reimburse Barnegat for travel time required to transport any vehicle or equipment to Barnegat if such transportation is undertaken by Barnegat personnel.

3. COMPENSATION.

Tuckerton shall reimburse Barnegat as follows:

- a) Barnegat will be reimbursed by Tuckerton at a rate of \$30.00 per hour for the provision of Barnegat mechanics providing fleet maintenance services to Tuckerton during all periods of straight or regular time.
- b) Barnegat will be reimbursed by Tuckerton at the rate of \$45.00 per hour for the provision of Barnegat mechanics providing fleet maintenance services to Tuckerton during periods of overtime.
- c) Barnegat will be reimbursed by Tuckerton at the rate of \$60.00 per hour for the provision of Barnegat mechanics providing fleet maintenance services to Tuckerton during Sundays or during a designated Barnegat holiday.

The definitions applied to "straight time", "regular time", "overtime", "Sundays" and "holidays" shall be determined as such terms are defined and utilized in the Rules and Regulations of Barnegat Township and pursuant to the Collective Negotiations Agreements applicable to Barnegat's mechanics. Chargeable hours shall include actual time expended by Barnegat Mechanics in the repair or maintenance of Tuckerton vehicles and equipment, as well as the actual time expended by Barnegat Mechanics in researching with and communicating with vendors for parts ordering and

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supply ordering as necessary to properly repair and maintain Tuckerton vehicles and equipment.

The billable rate will be broken down into quarter hours. Tuckerton will remain responsible for ordering, obtaining and directly issuing full-payment for any parts and supplies necessary to repair Tuckerton's vehicle fleet.

In the event that Barnegat utilizes any part or supply from inventory maintained by Barnegat for the repair or maintenance of any Tuckerton vehicle or equipment, then Barnegat will invoice Tuckerton the cost of that item as expended by Barnegat to acquire such item. There will be no overhead or administrative fees assessed to Tuckerton for any item utilized from Barnegat's on-hand inventory to repair or service Tuckerton's vehicles or equipment.

In the event that at any particular time it is impossible or impractical for Tuckerton to order parts or supplies directly, then and in that event Barnegat may in its sole discretion choose to order, obtain and pay for any such parts and supplies. Should such an event occur, Tuckerton shall pay Barnegat cost on any parts and supplies ordered by Barnegat and utilized in connection with the repair or maintenance of Tuckerton's vehicles.

Barnegat will provide Tuckerton with an itemized bill on a monthly basis. Tuckerton agrees to promptly process Barnegat's vouchers for payment and to pay all bills within 45 days of submission by Barnegat to Tuckerton.

The scheduling and cost allocation however may be modified periodically in accordance with the provisions of N.J.S.A. 40A:65-7(a)(3).

4. TERM

This agreement shall be effective for the period commencing upon the execution date of this Agreement and shall continue until December 31, 2012. Both parties agree to utilize best efforts to evaluate the effectiveness of this Shared Services Agreement to determine whether any extensions of the Agreement are in the best interests of the parties and the taxpayers of each municipality.

Either party may, with or without cause, terminate this Agreement by notice to the other party. Such notices shall be provided in writing by the party wishing

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to terminate the Agreement to the other party at least 30 days prior to the designated termination date.

5. STAFFING

Barnegat will provide mechanics and fleet maintenance personnel to perform those duties and services for Tuckerton. Barnegat shall be the lead agency in connection with this agreement, and the primary employer of all personnel utilized for the provision of mechanic and fleet maintenance services provided in connection with this agreement.

6. INDEMNIFICATION

No party shall be liable for any negligent, reckless or intentional acts or omissions of any other(s) and each shall indemnify, defend and hold the other(s) harmless from all losses, injuries or damages caused by negligent, reckless or intentional acts or omissions of itself or of any of its respective employees or independent contractors in rendering the services set forth in this Agreement. Such indemnification shall include payment of reasonable attorneys' fees and costs in the defense of any claim made by a third person incident to such negligent, reckless or intentional acts or omissions. The terms and conditions of this paragraph shall survive the execution, delivery and performance of this Agreement and any succeeding documents, shall be binding upon their heirs, successors, administrators and assigns of each of the parties hereto. No party to this Agreement waives any immunity to which it may be entitled pursuant to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, *et seq.*

7. PROFESSIONAL LIABILITY COVERAGE

It is recognized and understood that Barnegat and Tuckerton are each currently insured through the Municipal Joint Insurance Fund. Barnegat and Tuckerton agree that each will name the other as an additional insured on any insurance policy they separately maintain. These policies shall include, without limitation, comprehensive general liability, garage liability, automobile liability, errors, and omissions and workers compensations with limits and deductibles as mutually agreed upon.

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In the event that either party ceases to participate in its insurance program as is in effect on the date of this Agreement, such party shall provide alternate insurance comparable in coverage in effect on the date of this Agreement subject to the approval of the other parties, which approval shall not be unreasonably withheld, conditioned or delayed.

8. EMERGENCY CONTINUATION

In the event that this Agreement shall be invalidated by a court of competent jurisdiction then, at the option of Barnegat, Barnegat shall continue to provide the services specified herein on an interim or emergency basis for a period of ninety (90) days as permitted within an order of the court.

9. NOTICES

All notices hereunder shall be in writing and sent certified mail, return receipt requested, to the Municipal Clerk of each municipality at the address indicated above.

10. DISPUTE RESOLUTION

The parties agree that it is in the best interest of their respective taxpayers and citizens to avoid litigation if at all possible. Therefore the parties agree to jointly mediate any and all outstanding issues pertaining to cost reimbursement or other related issues which have not been specifically provided for in this agreement

11. PERSONNEL DISPUTES

Both parties agree that if any personnel issue arises involving an employee of Barnegat who will perform the services for each municipality as set forth herein, the Township Administrator of Barnegat and the Borough Administrator of Tuckerton shall meet and use their best efforts to resolve the issue amicably.

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Unresolved issues should be referred to Barnegat for investigation as soon as possible.

12. AUTHORIZATION

Each party to this Agreement represents and warrants to the other that all municipal actions necessary for Barnegat and Tuckerton to enter into and perform all obligations required by this Agreement have been validly taken and that the undersigned are authorized to execute this agreement.

13. MISCELLANEOUS

The following provisions shall apply to this Agreement:

A. Construction of this Agreement

The parties acknowledge that this Agreement was prepared under New Jersey Law and shall therefore be interpreted under the laws of that State.

B. Amendments

This Agreement may not be amended, altered or modified in any manner except in writing signed by the parties thereto.

C. Headings

This section and any other headings contained in this Agreement are for reference only and shall not affect the meaning and interpretation of this Agreement.

D. Invalid Clause

The invalidity of any clause contained herein shall not render any other provision invalid and the balance of this Agreement shall be binding upon all parties hereto.

E. Entire Agreement

This Agreement shall consist of the entire Agreement of the parties and it is acknowledged that there is no side or oral Agreement relating to the undertakings as set forth.

F. Assignability

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This Agreement and all rights, duties and obligations contained herein may not be assigned without either party's prior written permission.

G. Waiver

It is understood and agreed by the parties that failure or delay in the enforcement of any of the provisions of this Agreement by either of the parties shall not be construed as a waiver of those provisions.

H. No Presumption Against Drafter

The parties acknowledge that this Agreement was reviewed by their respective Legal Counsel, and therefore, no presumption shall arise against the Drafter of this Agreement.

IN WITNESS WHEREOF, the appropriate elected officials of the Township of Barnegat and the Borough of Tuckerton have placed their signatures and appropriate seals on this _____ day of _____, 2012.

ATTEST:

TOWNSHIP OF BARNEGAT

Sharon Auer, Municipal Clerk

Honorable Alfonso Cirulli, Mayor

ATTEST:

BOROUGH OF TUCKERTON

Jenny Gleghorn, Municipal Clerk

Honorable George Evans, Mayor

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