

**CONSTRUCTION DEPARTMENT SHARED SERVICE AGREEMENT BETWEEN
THE TOWNSHIP OF BYRAM
AND
NETCONG BOROUGH**

THIS AGREEMENT is entered the latter of the dates on the signature page by and between

THE TOWNSHIP OF BYRAM, a municipal corporation of the State of New Jersey (referred to as "Provider"); and
NETCONG BOROUGH, a municipal corporation of the State of New Jersey; (referred to as "Recipient"); and

WITNESSETH, that the Provider and the Recipient agree as follows:

ARTICLE I: AUTHORITY

The Provider and Recipient enter into this Shared Service Agreement for the provision of construction department service in accordance with the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq.

ARTICLE II: SCOPE OF SERVICES

A. Designation as General Agent.

1. The Provider is hereby designated as the agent of the Recipient, to furnish Inspection Services under the Uniform Construction Code, N.J.A.C. 5:23-1 et seq. and its Subcodes, the State of New Jersey Uniform Fire Code.
2. Additional municipalities may be added as new participants to this Interlocal Construction Department at the sole discretion of the Provider. The addition of new participants shall not affect the level of services being provided to Recipient.

B. Responsibility.

For purposes of this Agreement, to the extent that an employee is utilized to provide services under this Agreement, the employee shall be an employee of the Provider and the employee's salary shall be paid by the Provider. The Township Manager of the Provider and/or the Department of Community Affairs, as appropriate, shall handle any public complaints involving the Inspectors.

At all times, the Provider shall maintain responsibility for and control over the personnel hired to perform the inspections. Such employees shall be subject to the employment practices and qualifications of the Provider including Title 11A the Civil Service Act (as applicable).

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C. Supervision and Director of Staff.

1. The Construction Code Official, furnished by the Provider, shall be responsible for the operation and supervision of the Construction Code Enforcement Office and shall direct and supervise all activities and employees of the Department.
2. The staff, furnished by the Provider, shall be properly licensed.

D. Designation as Code Officials and Inspectors

Provider shall designate the Inspector(s). All Inspectors shall be duly licensed by the New Jersey Department of Community Affairs, Division of Codes and Standards

ARTICLE III: ACTIVITIES

A. Services to be Performed

The following administrative and enforcement personnel will be provided by the Provider to the Recipient:

Construction Official
Building Subcode Official
Plumbing Subcode Official
Electrical Subcode Official
Fire Subcode
Technical Assistant to the Construction Official

B. Hours of Operation

1. The Construction Official and Subcode Officials shall be available for consultation with the public during normal business hours at scheduled times to be determined by the Construction Official. The hours shall be set in such a manner as to provide the public with reasonable access to the various officials.
2. At the minimum, the Construction Office shall be open during normal business hours of 30 hours per week, 8:00 a.m. to 2:00 p.m. Clerical employees of the Code Enforcement Office will be available to the public during this workweek. Inspectors will be available by appointment.

C. Place of Operation

1. Main business for the Department shall be conducted in the Provider's office.
2. The Provider shall staff the provider's office with a TACO to review application of fees.

3. A mailbox will be maintained in the Municipal Building of the Recipient for use by the Construction Department.
4. In the event it is determined by Provider and Recipient that satellite offices are necessary either on a temporary or ongoing basis in the Recipient's Municipal Building, such requests shall be reviewed in order to determine whether or not they will impede the efficiency and effectiveness of the Interlocal Department. In the event that satellite offices are necessary, the Provider reserves the right to adjust the charges to the Recipient in order to address such increased cost.

D. Maintenance of Records

1. Inspectors shall maintain documented records of activity on forms approved by the Construction Official and/or the New Jersey Department of Community Affairs, recording all inspections and activities. The records shall be specific with regard to the municipality, address, dates and hours of service. All forms will be submitted to the Provider's Township Manager for approval unless standard forms are required by the New Jersey Department of Community Affairs. The Provider's Township Manager will solicit input from duly designated representatives of the Recipient when approving the format of forms, stationery and related items for the Interlocal Department, to the extent such documents are not standard forms required by the New Jersey Department of Community Affairs.
2. All active files, records and support documentation shall be maintained on file in the offices of the Provider.
3. All inactive files, records and support documentation shall be returned and maintained on file in the offices of the Recipient.
4. In the event the Interlocal Agreement is terminated, all active and inactive files, records and support documentation will be returned to the Recipient.

ARTICLE IV: EMPLOYEES

A. Licensed Personnel and Staff

1. The Provider shall furnish duly licensed personnel and support staff as shown by the staffing pattern below.
2. The Provider may employ subcontractors and/or contract with third party entity to supply any services for which the Provider does not have qualified in-staff personnel, or in the event additional services are specifically requested by Recipient. There will be no additional cost to the Recipient, if such activities are required to be supplied by the Provider pursuant to Article III (A). However, in the event such services are required to meet demands of the Recipient that exceed the demands contemplated at the time this Agreement was entered into, Provider shall bill the Recipient for such contracted services. If additional services are

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requested by Recipient beyond those specified in Article III(A), the cost of such services shall be borne by the Recipient.

B. Staffing Pattern

1. The following shall constitute the staffing pattern for the Construction Department of the Provider:

- Part-time Construction Official.
- Part-time Building Subcode Official.
- Part-time Plumbing Subcode Official.
- Part-time Fire Subcode Official.
- Part-time Technical Assistant to the Construction Official

2. Adjustments and Considerations:

After initial staffing patterns have been approved upon execution of the agreement, if additional personnel are deemed necessary in order to operate the department, the addition shall be done by amendment to the existing agreement, including allocation of the costs amongst the participants.

ARTICLE V: ENFORCEMENT

A. Investigations and Inspections

The Construction Official shall conduct investigations and inspections or supervise personnel in making same and inform the Provider and Recipient regarding any violation of statutes and/or related local ordinances related to the Uniform Construction Code in their respective municipalities. The Netcong Borough Administrator and Byram Township Manager will establish a schedule to accommodate the needs of Netcong Borough. It is agreed that said schedule needs to be flexible, and may be altered from time to time as work load warrants.

B. Coordination with Municipal Attorneys

The Construction Official shall provide the Provider and Recipient with evidence of violations and assist the appropriate municipal attorney(s) in obtaining compliance and enforcing compliance with the law.

Recipient shall be solely responsible for its own enforcement actions. The sole cost of enforcement activities including but not limited to legal actions and collection of any fines and/or penalties assessed as the result of a legal action shall be borne solely by the Recipient. The Inspectors shall make themselves available to testify and provide documentation in support of the investigation they have undertaken, including the results of the investigation.

C. Violations

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To the extent authorized by law, the inspectors shall have the power to issue notices and summonses for violations on behalf of the Provider and the Recipient.

ARTICLE VI: REPORTS AND MEETINGS

A. Reports

1. Monthly: The Construction Official shall furnish the Recipient with a written report at least once a month. The report shall itemize all services rendered by the Construction Department to each municipality including fees collected.
2. Annual: The Construction Official shall furnish the Provider and the Recipient with an annual report of services rendered to each respective municipality.
3. Periodic: Periodic reporting of activities shall be made by the Construction Official, upon request by the Administrative Officer of the Provider and/or the Recipient.

B. Meetings

Provider's Township Manager shall be available for meeting with the representatives of the Recipient on a quarterly basis during the first year of the Agreement. In subsequent years, such meeting shall be held as requested. Discussions will cover mutual problems and needs, objectives, and an evaluation of accomplishments.

ARTICLE VII: FEES

A. Retention

All license fees, permit fees and other fees collected by the Construction Department Personnel shall be retained by the Township of Byram.

B. Collection

Collection of fees shall be the responsibility of the Provider. Staff personnel of the Construction Department shall comply with the State requirements for deposit of public funds collected by a municipality. Monthly reports of revenues received and appropriations expended shall be provided to the Recipient.

C. Establishment of Fees

The Provider and the Recipient shall adopt a uniform fee schedule as required by N.J.A.C. 5:23-4.17(e). The fee schedule will be utilized when assessing permit fees relating to permits obtained for work to be performed within the Recipient's borders. Notice will be given at least 10 days prior to the introduction of any amendments to the Provider's uniform fee schedule in existence at the time this Agreement is signed.

ARTICLE VIII: PROPERTY ARRANGEMENTS

During the life of the Interlocal Services Agreement, the Recipient shall not be separately billed for costs of equipment and/or vehicles acquired specifically for the Construction Department. Any items that are supplied by the Provider or obtained from other sources at the commencement of this Agreement and all equipment and materials acquired during the term of this Agreement shall remain the sole possession of Provider and the value will be considered as part of the annual service arrangement. Upon termination of this Agreement, all items and materials remain the property of Provider.

At the inception of this Agreement, Recipient will submit to the Provider an inventory of any items including but not limited to computers and office equipment that are being made available to the Provider for use by the Interlocal Department. In the event the Interlocal Agreement is terminated, such items included on each participant's inventory list will be returned to the appropriate municipality. In the event any piece of equipment submitted by a participant reaches the end of its useful life and is to be replaced, the item will be returned to the appropriate municipality for disposal, if the municipality so desires.

ARTICLE IX: PAYMENTS AND COMPENSATION

Recipient costs for the Construction Department shall be assessed as follows:

Payment from Recipient to Provider ("Annual Service Fee"): \$12,000 per year (Prorated for the period September 1, 2010 to December 31, 2010 (\$4,000))

The Annual Service Fee payment shall be due December 1 of the year for which services are provided. The amount due shall be offset by the fees collected by the Provider for the Recipient for those properties serviced in the Township of Byram.

Any payment of fees collected in excess the amount due shall be retained as compensation by the Provider.

In the event that the amount of fees collected during a year are less than the Annual Service Fee, the Provider shall send a written notice to the Recipient of the shortfall which payment shall be due on or before December 1st of that year. Recipient will receive a credit for any fees provided during the month of December which will be a credit applied against the charges for the succeeding year.

In the event the amount of the fees exceeds \$15,000, the additional amount greater than \$15,000 will be split 50/50 between the Provider and the Recipient. If the amount of fees collected during any year exceeds \$20,000, the Provider and Recipient agree to meet to renegotiate the terms of payment and compensation for the next year and the subsequent years remaining under the agreement.

It is recognized that the Recipient has two redevelopment projects which are in the pre-planning phase. In the event that either of the redevelopment projects receives approval by the Recipient's Planning Board the Provider and Recipient agree to meet to renegotiate the terms of agreement.

ARTICLE X: INSURANCE & LITIGATION

A. Vehicle Insurance

In the event a vehicle(s) is acquired for use by the Construction Department, the cost of insuring the vehicle(s) shall be included as part of the cost Provider and Recipients are paying for the Construction Department Services. The insurance policy shall be secured by the Provider.

B. Liability Insurance and Litigation

The Provider and Recipient shall obtain sufficient liability insurance to cover their respective municipality from liability which may arise from the operation of the Construction Department within that municipality. In the event a claim, demand, debt, liability, cause of action, legal proceeding or similar such action is filed against a party to this Agreement stemming from the services provided under this Agreement, the municipality wherein the cause of action arose shall defend such action, including providing a defense to any employee, including, but not limited to, inspectors or construction or subcode officials, as well as bear the resulting liability, including attorneys' fees and costs.

C. Submission of Agreement to Insurance Agents and/or Companies

Each party to this Agreement shall provide a copy of this Agreement to its respective insurance agent and/or insurance companies providing professional as well as general liability coverage. The parties agree in the event one or more of their respective insurance companies raise an issue as to coverage under this Interlocal Agreement the parties shall amend this Agreement to reasonably address such insurance coverage issues. In the event an insurance agent or company raises an issue as referenced above such action shall not serve as a basis for voiding or terminating this Agreement.

ARTICLE XI : DURATION OF CONTRACT, TERMINATION, AMENDMENT & INTERPRETATION

A. Duration

Duration of the agreement shall be for a period of four (4) consecutive years, as provided for by N.J.A.C. 5:23-4.6, beginning on or about , September 1 , 2010, and terminating on August 31, 2014.

B. Termination

This agreement may not be terminated prior to December 31, 2011. Thereafter either party may terminate participation in this Agreement effective January 1st of any calendar year during the term of this Agreement by providing written notice to the other party on or before September 1st of the prior calendar year. Notice of termination shall be served on the other party via certified mail to the Clerk of the other party.

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In the event that the Recipient is the terminating municipality, it shall pay its share of expenses as well as any outstanding charges owed to the Provider up through the date of withdrawal as well as any costs associated with the withdrawal.

Pursuant to NJAC 5:23-4.6, the Provider will provide for the administration and enforcement of the code to the Recipient on an interim basis, should the agreement be terminated or otherwise be found to be unenforceable. This service will continue until the Recipient can get a new department up and running or make other arrangements. The terms of payment and compensation for continued administration and enforcement are as outlined in Article IX.

C. Amendment

The agreement may be amended at any time by mutual agreement of the parties, provided that such amendment is reduced to writing, executed by the Chief Administrative Official of each municipality or his/her designated representative and specifies the date the provisions of such amendment shall be effective.

D. Interpretation

Any questions regarding proper interpretation of the terms of the agreement shall be submitted by the Township Manager of the Provider, to the municipal attorney of the Provider as well as to the municipal attorneys of the Recipient, for interpretation. Absent a unanimous opinion, and provided that the item at issue constitutes a material term in this Agreement, the requesting party may terminate their participation in the agreement as provided for in Article XI, Section B, or file an action in a court of competent jurisdiction with venue in Sussex County. A material term under this Agreement is defined as one which affects the type or amount of services to be provided or the charges being paid under this Agreement. Each party shall bear its own cost of any litigation. In the event of a dispute between the Recipients in which the Provider is named as a party, the Recipients shall equally bear the costs of Provider's attorneys' fees and costs in such action.

E. Filing with the DCA.

A copy of this Agreement shall be filed, for informational purposes, with the Division of Local Government Services in the Department of Community Affairs.

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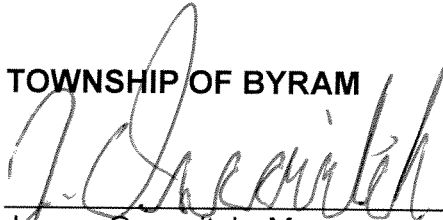
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date written below.

ATTEST:




Doris Flynn, Municipal Clerk

TOWNSHIP OF BYRAM



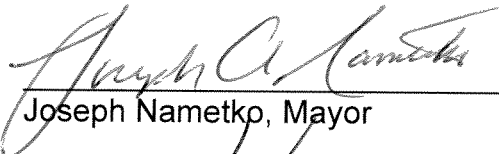
James Oscovitch, Mayor
Dated: 8/20/10

ATTEST:



Dolores Dalessandro, Borough Clerk

BOROUGH OF NETCONG



Joseph Nametko, Mayor
Dated: 8/14/10

