

INTERLOCAL SERVICE AGREEMENT

THIS INTERLOCAL SERVICES AGREEMENT made this 3rd day of June, 2009 by and between **THE TOWNSHIP OF WASHINGTON** (“the Township”), a municipal corporation in the County of Warren, State of New Jersey with offices at 211 Route 31 North, Washington, New Jersey 07882 and the **BOROUGH OF WASHINGTON** (“the Borough”), a municipal corporation in the County of Warren, State of New Jersey with offices at 100 Belvidere Ave., Washington, New Jersey, 07882.

WITNESSETH:

WHEREAS, the Borough wishes to ensure the safety and welfare of its residents by providing police protection which is professional, comprehensive and affordable; and

WHEREAS, the Township has a Police Department that is close by, qualified and able to provide such protection to the Borough; and

WHEREAS, the Township is willing to provide law enforcement services to the Borough; and

WHEREAS, the sharing of police protection services will benefit both the Borough and the Township by increasing the efficiency and decreasing the costs of those services; and

WHEREAS, the parties have agreed that the Township will provide law enforcement services to the Borough in accordance with the Uniformed Shared Services and Consolidation Act, *N.J.S.A. 40A:65-1 et seq.* (“the Shared Services Act”) and terms and conditions of this agreement; and

WHEREAS, notwithstanding the fact that the Township will provide law enforcement services to the Borough, the Borough’s current Chief of Police will remain in that position, but without enforcement or management responsibilities, until December 31, 2009 whereupon the Borough Police Department will be abolished; and

WHEREAS, the Borough has approved this Agreement pursuant to **RESOLUTION 114-2009** and the Township has approved this Agreement pursuant to **RESOLUTION 09-72**.

NOW, THEREFORE, with the foregoing recitals incorporated herein by reference and in consideration of the mutual covenants contained herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. SERVICES

(a) The Township agrees to provide police officers and equipment to render police services to Borough on a 24-hour, 7-day per week basis. Such services shall be provided under the sole and exclusive direction of the Chief of Police of the Township of Washington. All rules

and regulations pertaining to the Township's Police Department shall be promulgated and enforced by the Township.

(b) The 24-hours per day, 7-day per week coverage shall ensure that the Borough of Washington is designated as a specific zone of patrol that will receive police services equal to those provided to the Township of Washington. The Provider's police duties and responsibilities with respect to patrolling the Borough shall include, but are not limited to general patrols, response for general service calls, all part one (1) and part two (2) offenses identified under the Uniform Crime Report (UCR), all police/fire/medical emergencies, all traffic related issues, all offenses covered by New Jersey Fish and Game laws; and the like. The Township shall coordinate and provide off-duty "special event coverage", including construction detail and sporting or special events coverage in the Borough on the same terms as is provided in the Township of Washington and the Township shall be responsible for scheduling, billing, collection and payment of the officers for such services; however special events coverage will be an additional charge to the Borough at the Township's contractor's rate.

(c) By way of further explanation, police services provided by the Township shall include, but not be limited to:

1. All police patrol functions, including but not limited to, property checks, vacant home checks, burglar/fire alarms, Fire Department and First Aid Squad assists, initial investigations of crimes and offenses, radar enforcement, motor vehicle accident investigations and reporting, DUI roadblocks, alcohol breath test machines and operators, at the same level as provided to the Township of Washington and proportional to the respective geographic areas, populations and police related incidents;

2. All services related to domestic violence incidents, including, but not limited to matron service, and a Domestic Violence Response Team;

3. All detective and investigative services at the same level as provided to the Township of Washington, including, but not limited to, crime scene investigations, criminal complaint intakes, interviews, investigations and charging, background checks on current or prospective Borough employees, fingerprinting, and evidence identification and storage for cases commencing after the inception of this Agreement; and

4. Participation and attendance at court proceedings in connection with charges, summonses and other enforcement actions.

(a) The Township shall have full powers of performance and maintenance of the police coverage and protection services and full powers to undertake any ancillary police operations necessary or convenient to carry out its duties, obligations and responsibilities under this Agreement, including all powers of enforcement of administrative regulations applicable in the Borough.

(b) The Township's Chief of Police, with the assistance of other members of the Township's Police Department who may be detailed for that purpose, will submit a monthly

report. The Borough may from time to time request additional information from the Chief of Police, who will review the request and direct the police department accordingly.

5. The Township shall be required to enforce all regulations identified in the Revised General Ordinances of the Borough of Washington as applicable. If/When ordinances are created and/or amended, the Township shall promptly receive updated copies for their records.

2. TERM

The term of this agreement shall commence as of the first day of August 1, 2009 at 00:00 hours, and shall continue for a term of seven (7) years until July 31, 2016, unless terminated sooner pursuant to **Section 7** below. The parties may agree in writing to renew this Agreement at the expiration of its initial term for an additional five (5) years. The terms of the Agreement may be renegotiated for the renewal term. Notice of intent to renew must be provided no later than eighteen (18) months prior to the expiration of the initial term of this Agreement.

3. CONSIDERATION

- a. In consideration for providing the law enforcement services set forth herein, the Borough shall pay to the Township the following per annum amounts (the "base service fee"):

2009 pro-rated based on \$140,166.66 per month (1/12 of the total base service fee for 2009).

2010 and each subsequent year, for the length of this agreement, the Borough shall pay the Township the sum of \$1,682,432 ("base service fee") and;

After 2009, the Borough, in addition to the base service fee, shall pay the Township fifty percent (50%) of any increase from the previous year's total Township police budget. For purposes of this agreement, "total Township police budget" shall mean the total combined costs of the Township and Borough police services, but does not include any costs associated with the Township providing police services to any other municipality. In calculating total Township police budget, the Borough will receive a credit for any grants or other monies received by the Township and related to total Township police budget. If at anytime during the initial term of this agreement, or any extension thereof, the Township enters into similar agreements with another public entity, the terms and conditions of this agreement shall remain in full effect. Additionally, should the Township enter into similar agreements with one or more municipalities, at no such time shall the Borough be responsible to pay for or make contributions to the cost of serving any other municipality for which the Township provides police services.

Excluding the 2009 monthly pro-rated amount, all of the above annual amounts shall be paid in equal quarterly installments due: February 15, May 15, August 15 and November 15 of each year during the term.

- b. The Township shall hire twelve (12) of the Borough police officers, one (1) principal clerk/typist, and seventeen (17) crossing guards under the laws of the State of New Jersey at the commencement of this agreement to provide the services required hereunder. For a list Borough employees to be hired, see "Attachment A - Borough Employee List". In the event personnel on "Attachment A" are no longer employed with the Township either through eligible retirement or voluntary/involuntary separation, it shall be at the sole discretion of the Township whether or not those vacancies should be filled, while maintaining, at a minimum, a twenty-four (24) officer department. Whether these positions are filled or not, the remaining terms and conditions of this agreement will remain in full effect.

The twelve (12) Borough police officers shall be hired by the Township at their current rank, and will be afforded all rights and responsibilities of said rank. This agreement shall recognize and preserve the seniority, tenure and pension rights of every full-time law enforcement officer who is employed by each of the participating local units and who is in good standing at the time of the resolution authorizing this agreement. (See Attachment B)

The Township shall recognize years of service for Borough employees with respect to vacation time when they become Township employees. All Borough employees will be allotted vacation time in accordance with the current Washington Township PBA Contract and Township Vacation Policies. The costs associated with vacation time above-and-beyond what the Washington Township PBA contract and Township Vacation Policies currently allows for shall be solely borne by the Borough and paid by the Borough to the affected employees quarterly over an eighteen (18) month period at the final rate of pay while employed as a Borough employee. (See Attachment C)

Borough employees with accrued sick time saved are permitted to carry over up to three-hundred (300) sick time hours over to the Township, unless they have been compensated for these hours through the SHARE Implementation Grant from the Department of Community Affairs ("Grant"). A list of hours of sick time paid from the Grant and the number of hours transferred accrued sick time carried over by each Borough employee is attached hereto as Attachment C. No transferred accrued sick time can be exchanged for any form of monetary compensation. Transferred Borough employees who incur sick time used while employed by the Township will be required to first use sick time available in accordance with all Township PBA and Township personnel policies before using transferred accrued sick time from the Borough. The Borough will reimburse the Township for each day of transferred accrued sick time if and when used by former Borough employees employed by the Township. Said costs will be reimbursed to the Township at the employees' final rate of pay while employed as a Borough employee, as indicated in Attachment C. Any additional costs above the salary rates indicated on Attachment C shall be solely borne by the Township. In 2009, reimbursement payments for transferred accrued sick time, when applicable, shall be added to the pro-rated monthly payments indicated in Section 3a above. In 2010, and throughout the duration of this contract, such reimbursement payments, when applicable, shall be added to the quarterly payment requirements indicated in Section 3a above. All payment requests by

the Township for transferred accrued sick time reimbursement must indicate the employees name, date the sick time was used, and total hours used before payment will be made. The Township will keep accurate records of the sick time used by transferred Borough employees including information pertaining to those employees use of both Township sick time and transferred accrued sick time.

All Borough employees covered under this agreement will not be considered new hires for the purposes of Township medical benefits. Additionally, under no circumstances shall any pre-existing health conditions of any Borough employee or their family member be reason for health insurance coverage being denied.

Military leave for all Borough employees will be administered in accordance with minimum requirements of all Federal and State laws and statutes. Employees of the Township of Washington will not be covered by Title 11A, as the Township is not a civil service community.

- c. The Township shall acquire Borough equipment as listed in Attachment D. The total value of equipment acquired as shown on Attachment D shall be deducted by the Borough from the first monthly pro-rated payment. The vehicle currently being used by the Borough Chief of Police will remain a Borough asset until December 31, 2009. On January 1, 2010, this vehicle will be turned over to the Township Police Department for use in their fleet.
- d. In the event the United States or the State of New Jersey enacts legislation which mandates police services or equipment beyond the scope of police services or equipment currently required by law, the parties agree to negotiate in good faith on the supplemental compensation due to the Township to offset the Borough's share of such increased costs. In the event that the parties cannot agree on the terms of an amendment to this Agreement to cover the supplemental compensation, the Township shall have the option to terminate this Agreement on three hundred sixty (360) days notice to the Borough.

In the event the Township needs to purchase capital goods for the operation of its Police Department in order to provide services above-and-beyond the services required by the Borough, the cost of said purchase will be solely borne by the Township. If said purchase will be used to directly affect the services received by the Borough, the Township and the Borough will share the cost, only if said purchase is agreed to in advance by both parties.

4. INDEMNIFICATION

The Borough shall not be liable for any negligent, reckless or intentional acts or omissions of the Township and the Township shall indemnify, defend and hold the Borough harmless from all losses, injuries or damage caused by the negligent, reckless or intentional acts or omissions of the Township or any of its respective employees or independent contractors in rendering law enforcement services including any allegations against the Borough arising out of the provision of police services. Such indemnification

shall include payment of reasonable attorney's fees and costs in the defense of any claim made by a third person against the Borough incident to such neglect, reckless or intentional acts or omissions. The Township is not obligated to indemnify the Borough if the acts or omissions are exclusively that of the Borough. Until such time as the Borough's police department is eliminated, the Borough shall indemnify, defend, and hold the Township harmless from all losses, injuries or damage that result from any activity or failure to act of the Borough Chief of Police, if that activity or failure to act was the sole cause of the loss, injury or damage.

In the event that the validity of this Agreement is challenged by a resident or employee of the Borough, the Borough will defend the Agreement and the Borough and the Township will share the costs of that defense evenly.

5. INSURANCE

Final approval of this agreement by the Township and the Borough is subject to the Township's obtaining insurance coverage which shall include, without limitation, police professional liability, comprehensive general liability, automobile liability, errors and omissions and workers compensation with limits and deductibles in the following minimum amounts:

The Township will cause the Borough to be named as an additional insured on all of the above policies on a primary, non-contributory basis.

6. APPLICABLE LAW

Each party shall comply with all applicable laws pertaining to the provisions of law enforcement services including, without limitation to the Uniformed Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq.

7. TERMINATION

Either party may terminate this Agreement for any reason provided that the party seeking the termination provides a one (1) year written notice in advance of the date of the termination, except that this Agreement may not be terminated prior to two years from the date of this Agreement without a showing of good cause.

8. DISPOSITION OF ASSETS UPON TERMINATION OR NON-RENEWAL

In the event that this agreement is terminated or not renewed pursuant to the terms of this agreement, Township police department tangible assets shall be valued and disposed of as follows to assist the Borough in re-establishing its police department:

- A. Assets owned by the Township at the time of termination or non-renewal of this agreement that will no longer be needed by the Township as a result of such termination or non-renewal shall be offered to the Borough for purchase at fifty percent (50%) of their agreed upon current value.

- B. Any assets that were jointly purchased by the Township and Borough prior to the termination or non-renewal of the agreement that will no longer be needed by the Township as a result of such termination or non-renewal shall be offered to the Borough for purchase at fifty percent (50%) of their agreed upon current value.
- C. In the event that the Township and Borough cannot agree on a list of surplus assets and/or the current value of such assets, the dispute shall be resolved in accordance with the dispute resolution procedure set forth in Section 11 below.

9. REMEDIES

In the event either party defaults in the performance of any of its obligations under this Agreement and following thirty (30) days prior written notice and an opportunity to cure within such time period, the non-defaulting party shall be entitled to all remedies available at law or equity. The defaulting party shall be entitled to an additional thirty (30) days if the default cannot reasonably be cured within such time period, providing the defaulting party is using reasonable, diligent efforts to cure the default. The non-defaulting party shall also be entitled to receive from the defaulting party costs and expenses, including legal fees, caused by the default. Such remedies shall include, without limitation, the right to terminate this Agreement. In the event of termination by either party, the Township shall provide the Borough with law enforcement services for an additional period of one-hundred and eighty (180) days and the Borough shall pay for those services under the terms of this agreement. In addition, following termination of service, the non-defaulting party shall be entitled to payment equal to a three (3) month period which the parties acknowledge is the reasonable estimate of damages that would be suffered by the non-defaulting party as a result of a default.

10. CHAIN OF COMMAND

The Township Police Department shall be under the exclusive authority and control of the Township of Washington. The Borough shall not provide any direction, instruction to, discipline or reprimand to any member of the Township Police Department. All complaints, instruction, and requests shall be made directly to the Township Chief of Police or his designee, unless the complaint concerns the Chief of Police. The Borough designates the Borough Manager as its representative for all formal communications with the Township regarding the provision of law enforcement services under this Agreement. Nothing contained in this section shall prevent the Borough Manager from contacting the Township Administrator or Governing Body members with information or suggestions regarding law enforcement issues, provided the Township Chief of Police is informed of such contacts and the substance thereof unless the communication relates directly to the performance of the Chief of Police. Nothing in this section shall prevent informal communication between members of the governing body of the Township and the Borough regarding law enforcement issues.

The Township Chief of Police or his designee shall attend the meetings of the Borough of Washington when necessary or requested. In addition, the Township Chief of Police or

his designee shall provide the Borough with a monthly report of police activity within the Borough.

The Borough may from time to time request additional information from the Chief of Police.

11. CHOICE OF LAW AND DISPUTE RESOLUTION

- A. All remedies provided elsewhere in this Agreement to resolve disputes, claims and protests shall be exhausted.
- B. The Borough and Township shall endeavor to settle all disputes by mediation. Either party may initiate the mediation process by making a written demand for mediation upon the other party and by providing the names of three acceptable mediators. Within 20 days of the date of a demand for mediation, the other party must either accept one of the mediators recommended or submit its own list of three mediators. If no mediator is mutually agreed upon within 30 days of the initial request for mediation, then the party initiating the mediation request shall make application to the Vicinage Assignment Judge for the appointment of a mediator. Each party shall be equally responsible for the mediator's fees. Any mediation shall be completed within 60 days of the date of the appointment of the mediator, unless the parties mutually agree to extend the time. Nothing herein shall be construed to prevent the Borough and Township from mutually agreeing to utilize any other alternative dispute resolution procedure in lieu of or in addition to mediation.
- C. In the event that mediation is unsuccessful, the parties agree to submit any dispute to binding arbitration. No later than 20 days after the conclusion of the mediation process, either party may initiate the arbitration process by making a written demand for arbitration upon the other party and by providing the names of three acceptable arbitrators. Within 20 days of the date of a demand for arbitration, the other party must either accept one of the arbitrators recommended or submit its own list of three arbitrators. If no arbitrator is mutually agreed upon within 30 days of the initial request for arbitration, then either party may make application to the Vicinage Assignment Judge for the appointment of an arbitrator. Each party shall be equally responsible for the arbitrator's fees. Any arbitration shall be completed within 90 days of the date of the appointment of the arbitrator, unless the parties mutually agree to extend the time. The arbitrator and the parties shall meet within 20 days of the arbitrator's appointment to discuss whether any discovery is necessary and the procedures to be followed for that discovery process. If the parties cannot mutually agree as to either the need for, the timing or the scope of discovery, the arbitrator shall resolve all such disputes. Any decision by the arbitrator of a factual nature shall be final in accordance with New Jersey law; any legal ruling by the arbitrator may be challenged in the Superior Court within 45 days of the arbitrator's final decision. Nothing herein shall be construed to prevent the Borough and Township from mutually agreeing to utilize any other alternative dispute resolution procedure in lieu of the arbitration procedures described herein.

Any dispute under this Agreement or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

12. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties and may not be supplemented, amended or revised unless in writing and signed by the parties to the original agreement.

13. SEVERABILITY

If any part of this Agreement shall be held to be unenforceable, the remainder of this Agreement shall remain in full force and effect.

14. WAIVER

Failure to insist upon strict compliance with any of the terms, covenants or conditions of this Agreement at any time shall not be deemed a waiver of such term, covenant or condition at any other time; nor shall any waiver or relinquishment of any right or power herein at any time be deemed a waiver or relinquishment of the same or any other right or power at any other time.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

ATTEST:

Clerk

TOWNSHIP OF WASHINGTON

By: _____
Mayor

ATTEST:

Clerk

BOROUGH OF WASHINGTON

By: _____
Mayor