

Purchasing

(Resolution No. 2013-43)

2/20/13

SHARED SERVICES AGREEMENT BETWEEN THE COUNTY OF GLOUCESTER AND THE BOROUGH OF WENONAH FOR THE USE OF THE COUNTY'S PUBLIC WORKS/FLEET MANAGEMENT FUEL FORCE SYSTEM TO SUPPLY THE BOROUGH OF WENONAH'S VEHICLES WITH GASOLINE AND DIESEL FUEL

This Uniform Shared Services Shared Agreement ("Shared Services Agreement") dated this 20th day of February 2013, by and between the **Borough of Wenonah**, a body politic and corporate of the State of New Jersey, with offices at 1 S. West Ave, Wenonah NJ 08090 (hereinafter "**Borough**"), and the **County of Gloucester**, a body politic and corporate of the State of New Jersey, with offices at 2 South Broad Street, Woodbury, New Jersey 08096 (hereinafter the "**County**").

RECITALS

WHEREAS, the Borough, which is located in the County, has a need for the use of Public Works/Fleet Management Fuel Force System to supply the Borough's vehicles with gasoline and diesel fuel; and

WHEREAS, the County, through its Department of Public Works/Fleet Management Division, has the capacity to provide such service on an "as-needed" basis; and

WHEREAS, the Borough has requested the use of the Fuel Force System for their Borough Public Works and Police Department vehicles and will reimburse the County the cost of fuel used plus an additional ten cents (.10) per gallon for equipment maintenance; and

WHEREAS, the County is willing and able to make available access to the Fuel Force System with an ID code for each of the Borough's employee's approved to utilize the system to fill Borough's vehicles with gasoline or diesel fuel; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1, et seq. (hereinafter the "Act"), specifically authorizes local government units, including counties and municipalities, 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 hereto, the Borough and the County do hereby agree as follows:

AGREEMENT

A. DESCRIPTION.

The County will make available to the Borough access to the Fleet Managements Fuel Force System with an ID password for each qualified employee approved by the Borough.

Borough shall be responsible for reimbursement to the County on a quarterly basis the fuel used within that quarter by Borough employees.

B. PAYMENT FROM BOROUGH TO COUNTY.

The Borough, on a quarterly basis, will be forwarded a letter from the Public Works/Fleet Management Division for the amount of reimbursement of gasoline and diesel fuel due for that quarter. The letter shall include the breakdown with the vehicle ID, date, quantity of gasoline or diesel and employee. Payment shall be made by the Borough to the County within 60 days of receipt of letter. The Borough shall make the payments due hereunder to the County.

C. DURATION OF AGREEMENT

This Agreement shall be effective for the period of five (5) years, from February 20, 2013, to February 19, 2018.

D. LIMITATION OF DELEGATION AND LIABILITY; INDEMNIFICATION; INSURANCE.

Neither County nor Borough intends by this Shared Services Agreement to create any agency relationship other than that which may be specifically required by the Act for the limited purpose of the County's providing use of the Fuel Force System, as described in this Shared Services Agreement.

Notwithstanding any such agency relationship which may be created by the Act, the Borough and County hereby specifically agree to indemnify and hold the other harmless with regard to any claim of any kind, and with regard to cost for the same (including, without limitation, counsel fees, experts' costs, court costs and the like), arising out of any act or omission by them and/or any of their agents or employees in connection with the use of the Fuel Force System, which is the subject of this Shared Services Agreement.

In no event shall the County be liable for any loss, injury or damage, however arising, except what is set forth herein, and shall not in any account be liable for consequential loss or damage however caused or arising from stoppage or break-down of the Fuel Force System or any part thereof, nor shall the County be liable in any other way for performance of the Fuel Force System; and the County shall not be liable for any special, incidental, indirect, speculative, remote, punitive, or exemplary damages, whether arising out of or as a result of breach of contract, warranty, tort (including negligence), strict liability, or otherwise arising from, related to, or in connection with, the use of the Fuel Force System, and use thereof by the Borough for this Agreement.

The Borough and County both represent that both maintain General Liability and all other necessary and appropriate insurances related to the use of the Fuel Force System. Simultaneously with the execution of this Shared Services Agreement, the Borough and the County shall each provide to the other Certificates of Insurance for the relevant policies, and

shall provide that each is named as an additional insured on the others policies. The said insurance policies and coverage shall be satisfactory to the County and Borough in their sole discretion.

E. COMPLIANCE WITH LAWS AND REGULATIONS.

The Borough and County agree that they will at their own cost and expense promptly comply with, and cause to be complied with, all laws, rules, regulations and other governmental requirements which may be applicable to the use of the Fuel Force System described in this Shared Services Agreement; and to pay all legal assessments, taxes or public charges, either local, municipal, state or federal, which may be levied regarding said Fuel Force System, while in use of the Borough, as described hereunder.

F. USE; ASSIGNMENT.

The County will instruct the Borough's employee's on how to operate the Fuel Force System in accordance with any applicable manufacturer's manuals or instructions, by competent and duly qualified County personnel only, and in accordance with applicable governmental regulations, if any. The Borough agrees not to assign, sublet, pledge, hypothecate, or otherwise encumber or suffer a lien upon or against any interest in the Fuel Force System.

G. NOTICES.

Any notices and demands required to be given hereunder, shall be given to the parties in writing, and by personal delivery, overnight mail, or regular mail, at the addresses herein set forth, or to such other address as the parties may hereafter substitute by written notice.

H. MISCELLANEOUS.

1. **Amendment.** This Shared Services Agreement may not be amended or modified for any reason without the express prior written consent of the parties hereto.
2. **Successors and Assigns.** This Shared Services Agreement shall inure to the benefit of and shall be binding upon the County, the Borough, and their respective successors and assigns.
3. **Severability.** In the event that any provision of this Shared Services 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.
4. **Counterparts.** This Shared Services Agreement may be simultaneously executed in several counterparts, each of which shall constitute an original document and all of which shall constitute but one and the same instrument.

5. **Entire Agreement.** This Shared Services 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.
6. **Further Assurances and Corrective Instruments.** The Borough and the County shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments, as may reasonably be required for correcting any inadequate or incorrect description of the Shared Service Agreement, or to correct any inconsistent or ambiguous term hereof.
7. **Headings.** The Article and Section headings in this Shared Services Agreement are included herein for convenience of reference only and are not intended to define or limit the scope of any provision of this Shared Services Agreement.
8. **Non-Waiver.** It is understood and agreed that nothing which is contained in this Shared Services 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 in this Shared Services Agreement.
9. **Governing Law.** The terms of this Shared Services 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 such State, including all matters of enforcement, validity and performance.

I. EFFECTIVE DATE.

This Shared Services Agreement shall be effective as of the 20th day of February, 2013, which date shall be considered the commencement date of this Agreement.

IN WITNESS WHEREOF, the County has caused this Agreement to be signed by its Director, attested by its Clerk, and its corporate seal affixed hereunto, pursuant to a Resolution of the said party passed for that purpose; and the Borough has caused this Agreement to be signed by its properly authorized representative, and its seal affixed hereto, pursuant to a Resolution of said party passed for that purpose.

ATTEST:



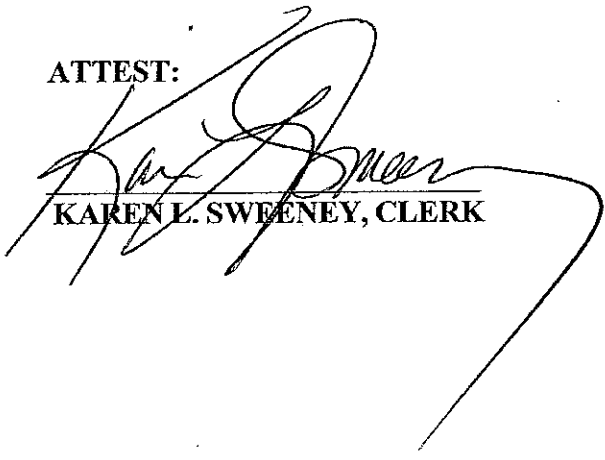
ROBERT M. LELLA, CLERK

COUNTY OF GLOUCESTER



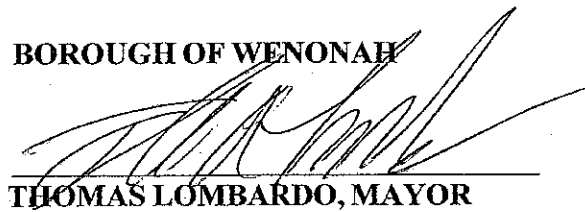
ROBERT M. DAMMINGER, DIRECTOR

ATTEST:



KAREN L. SWEENEY, CLERK

BOROUGH OF WENONAH



THOMAS LOMBARDO, MAYOR