

3/23/18

51073

VEHICLE AND EQUIPMENT LEASE AGREEMENT

by and between the

COUNTY OF GLOUCESTER, NEW JERSEY

and

TOWNSHIP OF WOODBURY HEIGHTS

**FOR THE PROVISION OF EMERGENCY MEDICAL
SERVICES VEHICLES AND EQUIPMENT**

Dated: February 1, 2018

Prepared by: Thomas G. Campo,
County Counsel

TABLE OF CONTENTS

Recitals3

Paragraph 1. Lease Vehicles and Equipment3

Paragraph 2. Ownership of Vehicles; and Equipment; Residual Value.....3

Paragraph 3. Rent3

Paragraph 4. Term3

Paragraph 5. Repair and Maintenance4

Paragraph 6. Insurance.....4

Paragraph 7. Indemnity4

Paragraph 8. Waiver4

Paragraph 9. Notices4

Paragraph 10. Dispute Resolution5

Paragraph 11. Total Agreement6

Paragraph 12. Applicable Law6

Paragraph 13. Severability.....6

VEHICLE AND EQUIPMENT LEASE AGREEMENT

THIS VEHICLE AND EQUIPMENT LEASE AGREEMENT ("Agreement"), is entered into this ___ day of _____, 2018, by and between the County of Gloucester, a body politic and corporate of the State of New Jersey ("County") and Borough of Woodbury Heights, a municipal corporation of the State of New Jersey ("Municipality").

RECITALS

1. The County of Gloucester ("County") is a body politic and corporate of the State of New Jersey with main offices located at Two S. Broad Street, Woodbury, New Jersey 08096;
2. The Borough of Woodbury Heights ("Municipality") is a municipal corporation of the State of New Jersey with offices located at 500 Elm Avenue, Woodbury Heights, New Jersey 08097;
3. County and Municipality have entered into a Shared Services Agreement, ("Shared Services Agreement"), which is referred to and incorporated herein. Pursuant to the Shared Services Agreement, the County has agreed to provide to the Municipality emergency medical services consisting of basic life support services;
4. Consistent with the terms of that Shared Services Agreement to provide emergency medical services consisting of basic life support services, the Municipality has agreed to lease to County certain ambulance and/or other emergency vehicles and the equipment set forth on the Schedule A attached to and made a part of this Agreement.

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

1. **LEASE VEHICLES AND EQUIPMENT.** Municipality agrees to lease to County, and County agrees to hire from Municipality, the vehicles and equipment specified in Schedule A attached hereto and made a part hereof, including the standard and any extra equipment installed on or used in connection with the operation of the vehicles.
2. **OWNERSHIP OF VEHICLES; AND EQUIPMENT; RESIDUAL VALUE.** Municipality is the owner of the vehicles and equipment. This is an agreement of lease only and may not be construed as a contract for the sale of vehicles. However, the parties agree that if, either during the term of this Lease or at the termination of this Lease, the County determines that the useful life of the vehicles and/or equipment have expired, then the County shall be entitled to the trade in or salvage value of the vehicles and/or equipment. The Municipality shall cooperate with County to transfer ownership of such vehicles and equipment at that time in order to enable the County to receive the trade in or salvage value.
3. **RENT.** As the total rent for the vehicles and equipment for the total term of the lease, County shall pay to the Municipality the sum of \$1.00. The parties specifically acknowledge that further significant consideration for the making of this Agreement is the services that shall be provided to Municipality consistent with the terms and provisions of the Shared Services Agreement, for which services Municipality is not obligated to pay any compensation.
4. **TERM.** The term of this Lease shall be for a period of 10 years commencing February 1, 2018 and concluding January 31, 2028.

It is the intention of the parties that the term of this lease shall be coincident with the term of the Shared Services Agreement. Accordingly, if either party terminates the Shared Services Agreement, then this Lease Agreement shall be deemed to be terminated simultaneously.

In addition, the County may, if it deems it appropriate to its continued provision of services pursuant to the Shared Services Agreement, terminate this lease by notice to the municipality, provided as set forth below, which notice shall be provided at least 18 months prior to the date chosen for termination. The County may therefore terminate this Lease without simultaneously terminating the Shared Services Agreement.

5. **REPAIR AND MAINTENANCE.** County shall be responsible for all maintenance costs in connection with the vehicles and the equipment.

6. **INSURANCE.** County shall maintain vehicle liability insurance on all vehicles, and may in its discretion insure the equipment with regard to loss by theft or other insurable damage.

The parties agree that in the event of partial or complete destruction of the vehicles and/or equipment, then County shall be entitled to the proceeds of the insurance maintained on the vehicles and the equipment. The Municipality may, in its discretion, separately maintain insurance on the vehicles and the equipment. The proceeds of any such insurance claims for damage to the vehicles and/or equipment shall also be payable to the County.

The parties acknowledge that such proceeds may be necessary for the County to replace the vehicles and/or equipment.

7. **INDEMNITY.** County shall indemnify save and hold harmless the Municipality from and against any and all claims or liability for injury or damage to any person or property occurring in or about the premises occurring during the term of this Lease, when such injury or damage shall be caused in whole or in part by the act, neglect, fault or omission of any duty of same by County, its agents, servants, employees and invitees. Nothing contained herein shall absolve the Municipality for any injuries or damage caused by the Municipality's negligence or the negligence of Municipality's agents, servants or employees. The Municipality will maintain appropriate ownership liability insurance. The Municipality shall indemnify, save and hold harmless County from and against any and all claims or liability for injury or damage to any person or property occurring during the term of this Lease, when such injury or damage shall be caused in whole or in part by the act, neglect, fault or omission of any duty of same by the Municipality, its agents, servants, employees and invitees.

8. **WAIVER.** The failure of either of the parties hereto in one or more instances to insist upon strict performance or observance of one or more of the covenants or conditions hereof, or to exercise any remedy, privilege, or operation herein conferred upon or reserved to such party, shall not operate and not be construed as a relinquishment or waiver for the future of such covenant or condition or of the right to enforce the same or to exercise such privilege, option, or remedy, but the same shall continue in full force and effect.

9. **NOTICES.** All notices to be given with respect to this Lease shall be in writing. Each notice shall be sent by registered or certified mail, postage prepaid and return receipt requested, or by overnight commercial courier service to the party to be notified at the address set forth herein or at such other address as either party may from time to time designate in writing. Notices may also be given by facsimile transmission weekdays (exclusive of County legal holidays) between the hours of 8:30 a.m. and 4:30 p.m. provided that any such transmission shall be promptly confirmed by any of the other permitted means of notice set forth above addressed to the following:

If to the County:

Chad Bruner, County Administrator
County of Gloucester
Two S. Broad Street
Woodbury, NJ 08096

With copy to:

Thomas G. Campo, County Counsel
County of Gloucester
Two S. Broad Street
Woodbury, NJ 08096

If to Municipality:

Robbie J. Conley, Mayor
Borough of Woodbury Heights
500 Elm Avenue
Woodbury Heights, New Jersey 08097

With copy to Solicitor of Municipality:

Brian Lozuke, Esquire
Mattleman, Weinroth & Miller, P.C.
401 Rt. 70 E, Suite 100
Cherry Hill, New Jersey 08034

Either party may, by notice given as described above, change its address for all subsequent notices. All notices hereunder shall be effective upon receipt or (if by other than personal delivery) first attempted delivery.

10. DISPUTE RESOLUTION.

- A. **Controversies and Claims Subject to Mediation.** Any controversy or claim arising out of or related to the contract, or the breach thereof, shall be settled by mediation.

If a dispute between County and the Municipality arises during the course of the contract, the parties will make a good faith effort to resolve the dispute through non-binding mediation.

- B. **Contract Performance Pending Mediation.** During mediation proceedings, County shall continue to perform the services described in this Agreement.

- C. **When Mediation May be Demanded.** Prior to either party demanding mediation, the aggrieved party shall attempt to resolve the problem directly with the other party. The aggrieved party shall submit a written notice of dispute to the other party. The other party shall respond in writing.

Demand for mediation of any claim shall not be made until the earlier of the following:

- (a) five (5) business days after the other party has provided its written response to the aggrieved party's notice of dispute;
- (b) 30 days have passed after submission of the original, written claim by the aggrieved party and the other party has not responded.

If the written response from the other party does not resolve the dispute, the aggrieved party shall have 30 days from the delivery of the other party's response to file a demand for mediation. If the aggrieved party fails to do so, it shall be deemed to have waived its right pursuant to this contract to demand Alternative Dispute Resolution.

A party who files a "Notice of Demand for Mediation" must assert in the demand all claims then known to that party for which mediation may be demanded. If a party fails to include a claim because of excusable neglect, or when a claim has matured or been acquired subsequently, the mediator or mediators may permit amendments.

- D. **Procedure to Request Mediation.** Either party may demand mediation by written notice to the other party. The written notice shall contain at minimum (1) a brief statement of the nature of the dispute, and (b) the name, address and the phone number of that party's designated representative for purposes of mediation.

The other party shall designate its representative for mediation in writing no later than five (5) business days after receipt of the demand for mediation.

The respective designees shall thereupon promptly, and with due regard for the need for timely action, choose a mediator. If the parties cannot agree on a mediator, they shall choose a reputable mediation firm.

Any mediation firm so chosen shall present a list of at least five (5) proposed mediators to the parties and shall provide the parties with a summary of each person's qualifications to serve as mediator. Each party shall rank the proposed mediators in order of preference.

The fifth and any lower ranked persons on each list will be excluded from further consideration.

The chosen mediator shall be the remaining person who is the combined highest ranking mediator on both preference lists, after deleting all excluded persons.

In the event of a tie, the mediator shall be chosen by lot.

- E. Procedures at Mediation.** The mediation shall be conducted in such reasonable and efficient manner as may be agreed between the parties and the mediator or, if the parties cannot agree, as may be determined by the mediator.

The parties will not be bound by the Rules of Evidence in presenting their positions before the mediator.

- F. Cost of Mediation.** Each party will bear its own cost of participation in the mediation. The mediator's fee will be divided equally between the parties.

- G. Failure of Mediation.** If a good faith effort to resolve the dispute through mediation is unsuccessful, either party may terminate the mediation by written notice to the mediator and to the other party. Thereafter, either party may submit the dispute to the Superior Court of New Jersey, Gloucester County, for adjudication, which court shall have exclusive original jurisdiction over the dispute.

11. TOTAL AGREEMENT. Applicable to Successors. This Lease contains the entire agreement between the Parties and cannot be changed or terminated except by a written instrument subsequently executed by the parties hereto. This Lease and the terms and conditions hereof apply to and are binding upon the successors and assigns of both parties.

12. APPLICABLE LAW. This Lease shall be governed by and construed in accordance with the laws of the State of New Jersey.

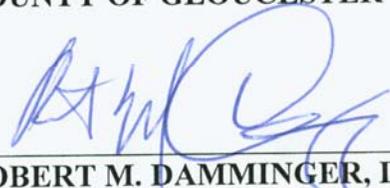
13. SEVERABILITY. If any term or provision of this Lease shall to any extent be held to be invalid or unenforceable under the applicable law, the remaining provisions of this Lease shall not be affected thereby but shall remain in full force and effect.

IN WITNESS HEREOF, Municipality and County have hereunto set their hands and seals, all as of the day and year first above written.

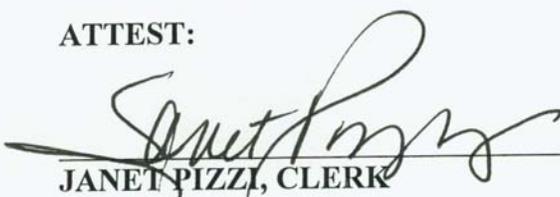
ATTEST:


LAURIE J. BURNS, CLERK

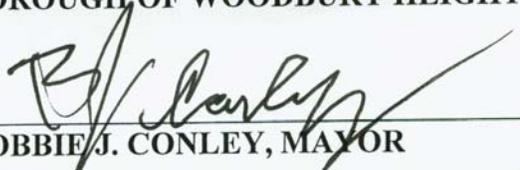
COUNTY OF GLOUCESTER


ROBERT M. DAMMINGER, DIRECTOR

ATTEST:


JANET PIZZI, CLERK

BOROUGH OF WOODBURY HEIGHTS


ROBBIE J. CONLEY, MAYOR

**SCHEDULE A
TOWNSHIP OF WOODBURY HEIGHTS**

The following data has been developed from on-site "walk through" evaluations of property and asset's. Local EMS Supervisory personnel were present and provided information to the best of their knowledge. It should be noted that some of these items may fact be the property of the Volunteer organizations and may, or may not be transferred to the County.

<u>VIN #</u>	<u>Year</u>	<u>Make</u>	<u>Model</u>	<u>Reg</u>
1FDXE45P16HA26044	2006	Ford		