

7/22/15

RESOLUTION NO. 2015-0_

RESOLUTION APPROVING A SHARED SERVICES AGREEMENT
BY AND BETWEEN THE POLLUTION CONTROL FINANCING
AUTHORITY OF GLOUCESTER COUNTY AND THE COUNTY OF
GLOUCESTER, NEW JERSEY

WHEREAS, the Pollution Control Financing Authority of Gloucester County ("Authority") is a public body, corporate and politic, created pursuant to N.J.S.A. 40:37C-1, et seq., and

WHEREAS, the County of Gloucester, State of New Jersey, ("County") is a body politic and corporate of the State of New Jersey with its main office located at 2 South Broad Street, Woodbury, New Jersey, 08096; and

WHEREAS, the Pollution Control Financing Authority of Gloucester County has been established by the County of Gloucester in accordance with the New Jersey Pollution Control Financing Law, PL. 1973, C. 376, Paragraph 1, effective January 9, 1974, amended by PL. 1983, C. 298, Paragraph 2, effective August 8, 1983 (N.J.S.A. 40:37C-1, et seq.) by Resolution of the Gloucester County Board of Chosen Freeholders adopted February 5, 1974; and

WHEREAS, the Authority was created "for the purpose of acquiring, constructing, reconstructing, repairing, altering, improving, extending, owning, leasing, financing, selling, maintaining, operating and disposing of pollution control facilities within the County"; and

WHEREAS, the Authority does not currently employ personnel to carry out the above-described statutory authorized purposes; and

WHEREAS, the Authority has determined that, for reasons of efficiency and economy, utilizing the auspices of the Gloucester County Department of Health and the Gloucester

County Office of Emergency Management in lieu of employing its own personnel to provide certain pollution control services is prudent and financially sound; and

WHEREAS, N.J.S.A. 40A:65-1, et seq., specifically authorized local governmental units to enter into shared services agreements; and

WHEREAS, the Authority currently has excess funds which enables it to put those funds to a wise and efficient use in furtherance of its statutorily-mandated mission to, among other things, reduce, abate and prevent environmental pollution within the County of Gloucester; and

WHEREAS, in the spirit of inter-governmental cooperation and in furtherance of the principles underlying the Act, the County and the Authority desire to enter into a Shared Services Agreement whereby:

(A) The County shall provide to the Authority those pollution control services specifically constituting those environmental health services by utilizing existing trained personnel of the County for such purposes; and

(B) In consideration for the provision of such services by the County, the Authority shall pay to the County compensation for specifically designated County personnel an amount totaling Two Hundred Seventy-eight Thousand Nine Hundred Sixty-one Dollars (\$278,961.00), as set forth in the attached Shared Services Agreement; and

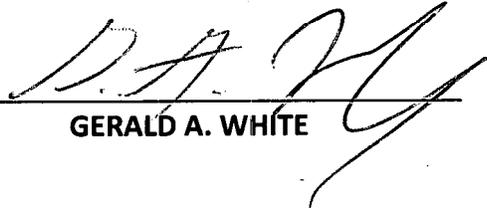
WHEREAS, said Shared Services Agreement, attached hereto and marked Exhibit "A", complies specifically with N.J.S.A. 40A:65-9.

NOW, THEREFORE, BE IT RESOLVED by the Pollution Control Financing Authority of Gloucester County, as follows:

1. The Shared Services Agreement to be adopted by and between the County of Gloucester, New Jersey, and the Pollution Control Financing Authority of Gloucester County is hereby approved for the purpose of providing cost efficient pollution control services under the terms and conditions set forth in the shared Services Agreement attached hereto and marked Exhibit "A".

A copy of this Resolution shall be published in The South Jersey Times, as required by law.

ADOPTED at a meeting of the Pollution Control Financing Authority of Gloucester County held on May 6, 2015.


GERALD A. WHITE

ATTEST:



SHARED SERVICES AGREEMENT
BETWEEN
COUNTY OF GLOUCESTER, NEW JERSEY
AND
THE POLLUTION CONTROL FINANCING AUTHORITY OF
GLOUCESTER COUNTY

THIS SHARED SERVICES AGREEMENT, made this _____ day of _____, 2015 ("Agreement"), by and between the County of Gloucester, New Jersey, with its offices located at 2 South Broad Street, 3rd Floor, Woodbury, New Jersey 08096 ("County") and The Pollution Control Financing Authority of Gloucester County ("Authority"), with its offices located at 2 South Broad Street, 3rd Floor, Woodbury, New Jersey 08096 (each a "Party" and collectively, the "Parties").

WHEREAS, the PCFA has been established by the County in accordance with the New Jersey Pollution Control Financing Law, constituting Chapter 376 of the Pamphlet Laws of 1973, approved January 9, 1974, as amended (N.J.S.A. 40:37C-1 et seq.) ("PCFA Act"); and

WHEREAS, pursuant to the PCFA Act, the Authority has been established for the purpose of, among other things, reducing, abating, and preventing environmental pollution within the County ("Pollution Control Services"); and

WHEREAS, pursuant to the PCFA Act, "pollution" includes any form of environmental pollution deriving from the operation of public utility, industrial, manufacturing, warehousing,

commercial, office or research facilities, or deriving from the disposal of solid waste generated at residences, hotels, apartments or any other public or private buildings, including, but not limited to, water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution as determined by the various standards prescribed by the State of New Jersey ("State") or the Federal government and include, but are not limited to, anything which is considered as pollution or environmental damage pursuant to the laws, rules and regulations administered by the New Jersey Department of Environmental Protection; and

WHEREAS, the Authority does not currently employ any personnel to carry out its statutorily authorized purposes, including the provision of Pollution Control Services; and

WHEREAS, pursuant to the PCFA Act, in particular, pursuant to N.J.S.A. 40:37C-5(m), the Authority is authorized to employ engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in its judgment and to fix their compensation, in order in order to effectuate the provision of Pollution Control Services within the County; and

WHEREAS, pursuant to provisions of the County Environmental Health Act (N.J.S.A. 26:3A-2 et seq.) ("Environmental Health Act"), the County is required to provide environmental health services, including, but not limited to, the investigation and enforcement of air, water and noise pollution within the County and the undertaking of hazardous materials response in and for the County (collectively, "Environmental Health Services"); and

WHEREAS, the County Health Department and the County Office of Emergency Management provide such Environmental Health Services on behalf of the County in order to satisfy the requirements of the Environmental Health Act; and

WHEREAS, such Environmental Health Services include a portion of the services that would otherwise have been provided by the Authority as part of its Pollution Control Services generally; and

WHEREAS, the County and the Authority have heretofore discussed the provision by the County of those Pollution Control Services constituting the Environmental Health Services on behalf of the Authority in order to effectuate cost savings and operational efficiencies; and

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq. ("Act"), authorizes local units of the State, including the County and the Authority, to enter into agreements with any other local unit or units to provide or receive any service that each local unit participating in the agreement is empowered to provide or receive in its own jurisdiction; and

WHEREAS, the Authority has determined that, for reasons of efficiency and economy, utilizing the auspices of the County Department of Health and the County Office of Emergency Management in lieu of employing its own personnel to provide certain Pollution Control Services is prudent and fiscally sound; and

WHEREAS, the County has agreed to furnish to such Pollution Control Services pursuant to and in accordance with the Act and in accordance with the provisions of this Agreement; and

WHEREAS, in the spirit of inter-governmental cooperation, and in furtherance of the principles underlying the Act, the County and the Authority desire to enter into this Shared Services Agreement whereby: (i) the County shall provide to the Authority those Pollution Control Services specifically constituting the Environmental Health Services utilizing existing, trained personnel of the County for such purposes; and (ii) in consideration for the provision of such services by the County, the Authority shall pay to the County the amounts set forth herein.

NOW IT IS THEREFORE AGREED BY THE PARTIES AS FOLLOWS:

1. **Services to be Performed.** The County shall perform the following services on behalf of the Authority:

(a) Provide certain Environmental Health Services constituting Pollution Control Services of the Authority which include, environmental health services related to the investigation and enforcement of "pollution" (as defined in the PCFA Act), hazardous materials response, and environmental clean-up, each in connection with the prevention, abatement, reduction and/or elimination of air, water and noise pollution within the County (such services to be hereafter referred to as the "County Environmental Services");

(b) The County shall at all times provide County Environmental Services in accordance with all applicable federal and State requirements; and

(c) Provide written reports (at least annually) to the Authority on status of the County Environmental Services provided and/or any issues noted with respect thereto.

2. **Maintenance of Records.** The County shall maintain documented records of any and all activity associated with the County Environmental Services performed pursuant to this Agreement. In addition, the County shall provide access to any and all records (bills, account statements, etc.) upon request of the Authority.

3. **Compensation.**

(a) In exchange for performing the County Environmental Services set forth in Section 1 above, the Authority shall, within thirty (30) days of the execution of this Agreement, provide funds to the County to pay for the costs of the salaries, fringe benefits and other amounts payable for the following County personnel and in the following amounts:

- (i) \$117,827 (Jeff McKenna, Senior Environmental Health Specialist-Hazardous Substances (Department of Emergency Management));
- (ii) \$125,786 (Karl Ott, Sanitary Inspector (Health Department)); and
- (iii) \$35,348 (Dennis McNulty, Deputy Emergency Management Coordinator (Department of Emergency Management)).

TOTAL: \$278,961

(b) For purposes of facilitating payment, a purchase order shall be issued from the Authority. No other order shall be accepted. With such purchase order, a voucher shall be submitted for signature by the County. The County shall sign the voucher and return it to the Authority thereafter.

(c) The County shall invoice the Authority for any and all additional services performed outside of the scope of this Agreement but related to the County Environmental Services; provided, however, that, prior to undertaking any such additional services, the County shall provide notice to the Authority of such additional services and any fees owed for such additional services must be accompanied with an itemized list setting forth the additional services performed and not otherwise part of the initial payment. The Authority shall not be responsible for any late fees or service fees.

4. **Funding.** In accordance with the provisions of N.J.S.A. 40A:11-15, this Agreement shall be subject to the availability and appropriation of sufficient funds in the year in which it is in effect.

5. **Duration.** This Agreement shall become effective as of _____, 2015, or upon a mutually agreeable date thereafter and upon the passage of an authorizing resolution by both Parties, as required by N.J.S.A. 40A:65-1 et seq., and following notification to the New Jersey Department of Community Affairs ("Effective Date"). This agreement shall initially terminate upon the 1st anniversary of its Effective Date ("Termination Date"); provided, however, that either Party may terminate this Agreement prior to the Termination Date upon

ninety (90) calendar days written notice to the other Party commencing after the first anniversary date of this Agreement; provided further, that such termination is agreed and consented to in writing by the Party in receipt of such notice to terminate.

6. **Insurance.** The Parties shall each: (i) procure and maintain all types of insurance typically procured for projects of the type similar to that described in this Agreement including those required by applicable law; (ii) continuously maintain such insurance in full force and effect; (iii) name each other Party as an additional insured on all such policies; and (iv) provide evidence of all of the same to each other Party, which shall be entitled to advance funds to maintain any insurance that is in danger of lapsing or that has lapsed.

In addition, any firms or contractors employed by the County for the County Environmental Services to be provided shall, at the firm or contractor's cost and expense, obtain and maintain insurance required under the Workmen's Compensation Law of New Jersey, and shall provide and keep in full force for the benefit of the Parties, general liability insurance, protecting the Parties against any and all liability or claims or liability arising out of, occasioned by, or resulting from any accident, happening, or otherwise, in connection with the provision of County Environmental Services or for injuries to any person or persons, with limits acceptable to the Parties for injuries to one person in any one accident or occurrence, and for loss or damage to property of any person or persons with limits acceptable to the Parties, and will save, hold and keep harmless and indemnify the Parties from and for all claims and liability for losses to persons or to any adjacent lands and property which may have been caused by the firm, contractor or contractor's workmen, agents, employees, invitee, or licenses.

7. **Indemnification/Hold Harmless.** To the extent permitted by law, each Party agrees to indemnify, defend and hold harmless the other Party, its officers, employees and agents, from and against all claims, suits, actions, damages, judgments, liabilities, fines, penalties, costs and expenses for loss of life, personal injury or damage to property arising from or out of occurrences during the term of this Agreement, so long as the actions upon which the demand or claim or assertion of liability, are founded to have been performed in the course of carrying out official duties on behalf of the other Party and were not beyond the scope of performing official duties or performed in bad faith, and did not constitute actual fraud, actual malice, willful misconduct, an intentional wrong or criminal act. If either Party shall be made a party to any litigation commenced by or against it or by any third party and connected in any way with this Agreement, each Party shall indemnify and hold the other Party harmless and shall pay all costs, expenses and reasonable attorneys' fees incurred or paid by the other party in connection with such litigation, subject to the limitation set forth above.

It is also understood and agreed that the personnel and employees of the County are not employees of the Authority.

8. **Dispute of Services.** In the event a dispute shall arise under this Agreement, the Parties may select any mutually acceptable member from the panel of the American Arbitration Association. If the Parties cannot agree or have no particular choice of mediator and simply request that the American Arbitration Association assign one to the case, then a list and resumes of available mediators will be sent to the Parties, each of whom shall have the option of striking

the names of any mediator on the list. If no names remain or more than one name remains, the American Arbitration Association will choose the mediator.

Prior to submission of a dispute as set forth above, a meeting shall be held with one (1) elected official (or other duly authorized representative) from each Party to rectify any outstanding issue(s). The Parties shall have twenty (20) days to resolve the dispute unless each Party agrees to a greater time limit.

9. **Governing Law.** This Agreement shall be governed by the provisions of the Act and all other applicable law of the State. All actions and amendments to this Agreement must be authorized in conformance with the Act.

10. **Entire Agreement.** This Agreement sets forth the entire understanding of the Parties hereto with respect to the transactions contemplated herein. No change or modification of this Agreement shall be valid unless the same shall be in writing and signed by both Parties hereto.

11. **Severability.** If any clause, sentence, paragraph, section or part of this Agreement shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

12. **Notices.** Any notices required under the terms of this Agreement shall be provided as follows:

To the County: Chad Bruner
County Administrator
2 South Broad Street, 3rd Floor
Woodbury, New Jersey 08096

With a copy to: Matthew Lyons, Esquire
County Counsel
2 South Broad Street, 3rd Floor
Woodbury, New Jersey 08096

To the Authority: Gerald A. White
Chairman
2 South Broad Street, 3rd Floor
Woodbury, New Jersey 08096

With a copy to: Thomas G. Heim, Esquire
14 Harrison Street, Suite 102
Woodbury, New Jersey 08096

13. **Default.** In the event that either Party defaults under this Agreement for any reason, the Parties acknowledge and agree that the non-defaulting Party shall have the right to immediately cancel and terminate this Agreement unless the defaulting Party cures the breach within 30 days of receiving written notice of the breach by the non-defaulting Party. It is agreed that if the defaulting Party fails to cure its breach within 30 days, the non-defaulting Party's sole and exclusive remedy shall be cancellation of this Agreement. Each Party expressly waives and disclaims any and all further claims and remedies including but not limited to injunctive relief, specific performance, the filing of a notice of Lis Pendens, and claims for monetary compensation including but not limited to benefit-of-the-bargain damages, lost profits, lost income, expenses incurred, and all other costs, expenses, compensation and damages of whatever nature whether founded upon law or in equity.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

ATTEST

COUNTY OF GLOUCESTER, NEW JERSEY



BY:



CHAD M. BRUNER
ADMINISTRATOR/CLERK OF THE BOARD

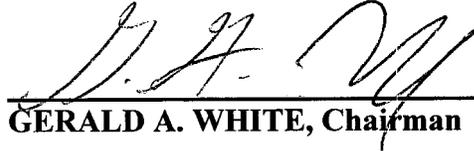
ROBERT M. DAMMING,
FREEHOLDER DIRECTOR

ATTEST

THE POLLUTION CONTROL FINANCING
AUTHORITY OF GLOUCESTER COUNTY



BY:



GERALD A. WHITE, Chairman