

CITY OF VINELAND

RESOLUTION NO. 2015 - 589

RESOLUTION AUTHORIZING ITS EXECUTION OF SHARED SERVICES AGREEMENT BY AND BETWEEN THE COUNTY OF CUMBERLAND AND CITY OF VINELAND FOR THE DESIGN AND CONSTRUCTION OF TRAFFIC CONTROL DEVICES FOR MAIN AND ELMER AND GARDEN AND MILL INTERSECTIONS IN VINELAND

WHEREAS, the City Council of the City of Vineland finds that two intersections located in the City of Vineland (City) have a need for traffic control devices for better safety and flow of traffic to wit the intersections of Main and Elmer Roads and Garden and Mill Roads (Project); and

WHEREAS, the County of Cumberland (County) is the controlling agency for any construction on intersections which has one or more county roads and both intersections consisting of the Project have one or more County Roads; and

WHEREAS, the City and County recognize that there are greater efficiencies by entering into a shared services agreement which reflects as cost savings to the taxpayers; and

WHEREAS, City Council further recognizes that sharing the design, configuration and improvements of the Project will be more expeditious if shared service agreement is entered into and that the joint construction of the Project will provide faster completion of the Project and enhance the public welfare and safety; and

WHEREAS, N.J.S.A. 40A: 65-1 et seq., The Uniform Shared Services Consolidation Act, allows the City and County to enter into a shared service agreement to provide or receive any service that the parties would perform.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Vineland that the Mayor and Clerk are authorized to execute a Shared Service Agreement by and between the County of Cumberland and City of Vineland for the design, acquisition of necessary land, construction and maintenance of traffic control devices at the intersections of Main and Elmer and Garden and Mill Roads and provide for the shared cost associate herewith; the form as is attached hereto.

Adopted:

President of Council

ATTEST:

City Clerk

SHARED SERVICES AGREEMENT

BETWEEN

COUNTY OF CUMBERLAND

AND

CITY OF VINELAND

This agreement is made this _____ day of _____, 2014, by and between the County of Cumberland, a body corporate, organized and existing under the Laws of the State of New Jersey having its principal offices at 790 E. Commerce Street, Bridgeton, New Jersey 08302 (hereinafter referred to as "the County") and the City of Vineland, a municipal entity of the State of New Jersey, having its principal offices located at 640 E. Wood Street, Vineland, New Jersey 08360 (hereinafter sometimes referred to as "City").

The parties recognize the benefits and economies to be achieved by utilizing shared services for the performance of services that can be done more efficiently in combination than separately.

The City of Vineland and the County of Cumberland recognize that a principal service offered by these entities is the performance of roadway and construction work including but not limited to the redesign, reconfiguration, and improvement of intersections to improve safety for the traveling public. The parties recognize that economies of scale and greater efficiencies may be achieved by entering into a shared service agreement to have such services performed between them on a basis that increases efficiency and economy.

The County and City are authorized pursuant to the Uniformed Shared Services Consolidation Act, N.J.S.A. 40A:65-1, et seq. to enter into a shared service agreement with any other local unit to provide or receive any service that each local unit could perform on its own;

NOW THEREFORE, in consideration of the mutual promises, agreements, and undertakings as set forth herein, the County and City agree as follows:

1. Consistent with the terms of this agreement, the City and County agree to perform design and construction work on two intersections located within the City of Vineland and County of Cumberland: Main Road and Elmer Road; and Garden Road and Mill Road. Garden Road and Main Road are County owned and controlled roadways and Mill Road and Elmer Roads are City owned and controlled roadways.
2. The purpose of this agreement is to reconfigure the intersections identified in the preceding paragraph in order to improve the intersections, paths of travel, and sight lines or turning radius of the intersections such that the intersections, after reconfiguration and reconstruction, are no longer offset on Main Road and Elmer Road and the turning radii are improved at Garden Road and Mill Road.
3. The City has acquired all properties, easements, or other property rights as may be required to reconfigure and realign Elmer and Main Roads. The City has also produced preliminary plans for the reconstruction and realignment of the Elmer and Main Road intersection. Full plans and specifications shall be prepared at the expense of the County of Cumberland.
4. The parties shall jointly acquire at their expense, rights-of-way, easements, or property, in order to improve and reconfigure the intersection of Garden Road and Mill Road. The City of Vineland has acquired the right-of-way on Elmer Road at its cost and expense for

which no reimbursement from the County to the City shall be made. The cost of acquisition of the Main Road right-of-way, if any, shall be borne by the County. The City of Vineland has prepared plans and specifications with respect to the intersection of Garden and Mill Roads, at its cost and expense. Any design changes or upgrades to meet present standards shall be borne equally between the parties. However, the City of Vineland shall not be entitled to reimbursement for costs previously expended prior to the execution of this Agreement. It is anticipated that the parties will require the services of a professional for the completion of the acquisition of land, Grant applications and fund distribution. In the event that a professional is retained for said services, the parties agree to be responsible for the cost equally. In the event that any funds received by way of grant applications are specifically earmarked for reimbursement, the parties agree that they shall contribute the costs to complete the project equally, and thereafter, divide equally between the parties, any reimbursements received by either party from grant funding for the completion of the project. In the event that grant funding is not obtained to pay for or to reimburse the City and County with respect to the acquisition of rights-of-way on Garden Road and Mill Road, these costs shall be equally borne by the parties and split between them.

5. Any new signalization or traffic control devices to be installed at the intersections of Main and Elmer Roads and/or Garden and Mill Roads shall be installed and maintained after installation at the cost and expense of the County. The City shall be responsible for electrical costs associated with the operation of the traffic control devices.

6. The County will endeavor to bid the Main and Elmer Roads intersection project during the year 2015 with a view toward having the improvements and reconfiguration of this intersection accomplished as soon as reasonably practicable. As soon as right-of-way

acquisition is completed with respect to the Garden and Mill Roads intersection, the City will advertise for bids on the project. Both bids are contingent upon funds being available from both the City and the County.

7. The City and County agree that construction costs with respect to reconfiguration of the intersections of Main Road and Elmer Road and Garden Road and Mill Road (not including property acquisition costs or design costs) shall be borne equally by the parties; provided, however, in the event that either the County or City are able to utilize outside funding sources for either or both of the intersection projects, such funding shall be deducted and the balance of direct funding by the County and City shall be borne equally. Outside funding sources shall include, but are not limited to, such funding as discretionary state highway aid from the State of New Jersey or Federal HSIP highway funding (e.g., through the SJTPO) or other project specific highway funding.

8. Nothing in this agreement shall otherwise alter the obligations of the City with respect to its ownership or control of Elmer Road and Mill Road nor shall anything in this agreement alter the County's responsibilities with respect to ownership or control of Main Road and Garden Road.

9. Not later than thirty (30) days after the conclusion of work of the last of the two intersections to be reconfigured and realigned, the County and City agree to meet or confer with respect to an evaluation of costs expended. The City and County shall endeavor to agree as to all costs expended which shall be reimbursable and divided equally as outlined in this agreement within thirty (30) days thereafter. In the event an agreement cannot be reached then the arbitration and mediation provisions of this agreement shall apply.

INSURANCE

At all times during the term of this Shared Services Agreement, both the County and City shall maintain or cause to be maintained with responsible insurers (including a Joint Insurance Fund) who are authorized to do business in the State of New Jersey, or in such other manner as may be required or permitted by law, all-risk and comprehensive general liability insurance covering and insuring against losses or damages to third parties due to defective or negligent performance of work under this Agreement.

Both the County and the City, upon the request of the other, shall provide a Certificate of Coverage evidencing that appropriate insurance coverage on behalf of the other is in full force and effect.

INDEMNIFICATION

1. The City shall indemnify and shall hold the County, the members of its governing body, and its officers, agents, servants, and employees harmless and defend against any and all liability, losses, costs, damages, claims, judgments, or expenses, which shall be incurred by reason of any claim, suit, or action which is based upon alleged defective work or dangerous conditions arising from or related to City owned and controlled roadways.
2. The County shall indemnify and shall hold the City, the members of its governing body, and its officers, agents, servants, and employees harmless and defend against any and all liability, losses, costs, damages, claims, judgments, or expenses, which shall be incurred by reason of any claim, suit, or action which is based upon alleged defective work or dangerous conditions arising from or related to County owned and controlled roadways.
3. The County and City agree that after acceptance of the work with respect to the aforesaid intersections by the County and City, the City and County shall honor the indemnity

provisions in paragraphs 2 and 3 above. Upon notification of acceptance of the work by the City to the County and the County to the City, the County and City agree that they shall thereafter bear any responsibility or liability for any allegedly dangerous conditions, claims, damages, or injuries arising from or related to County and City roadways, respectively. In the event the County or City refuses to accept work performed by contractors retained by the County or City or determines that work performed by a contractor is inadequate or not in accordance with specifications, then the County or the City, as the case may be, shall take such corrective action as may be allowable pursuant to any contract and specifications regarding the work or withhold payment or take such other action as may be appropriate to have the work corrected. Once corrective action has been taken by the contractor, the City and County shall be permitted to inspect and accept the work. If the County or City should fail to inspect and accept the work as corrected, the City or County, as the case may be, shall inspect the work performed by the contractor and make an independent determination as to whether the work complies with the contract and specifications. If so, the work shall be deemed accepted and the provisions of this indemnity paragraphs above shall become applicable.

4. With respect to any claims for injuries or damages arising on City roadways on which work has been performed pursuant to this Agreement on or after the date of acceptance or otherwise as specified herein, the City shall become responsible for the condition of said roadways and shall thereafter be responsible for maintaining such roadways unless a latent or undetectable defect is later discovered. The City shall indemnify, defend, and hold harmless the County from any claims, causes of actions, or suits alleging liability against the County arising from claims, injuries, or damages occurring on or after the date of acceptance of the roadway work or as otherwise set forth in this agreement.

5. With respect to any claims for injuries or damages arising on County roadways on which work has been performed pursuant to this Agreement on or after the date of acceptance or otherwise as specified herein, the County shall become responsible for the condition of said roadways and shall thereafter be responsible for maintaining such roadways unless a latent or undetectable defect is later discovered. The County shall indemnify, defend, and hold harmless the City from any claims, causes of actions, or suits alleging liability against the County arising from claims, injuries, or damages occurring on or after the date of acceptance of the roadway work or as otherwise set forth in this agreement.

REMEDIES

1. In the event of any controversy or dispute between the parties every effort will be made to resolve the same through discussion and negotiations. Good faith attempts at resolution will be made and an exchange of information between the parties shall be made without the intervention of a third party. In the event that a dispute cannot be settled through direct discussions or negotiations, the parties agree to settle the dispute by mediation administered by the American Arbitration Association.
2. Any unresolved controversy or claim arising from or related to this contract shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its arbitration rules and a judgment on any award rendered by the arbitrator may be entered by any court having jurisdiction thereof.

NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER

In the event that any agreement which is contained in this Shared Services Agreement shall be breached by either party and thereafter such breach shall be waived by the other party,

such waiver shall be limited to the particular breach so waived and shall not be a waiver of any other breach hereunder.

NO PERSONAL LIABILITY

No covenant, condition or agreement contained in this Shared Services Agreement shall be deemed to be the covenant, condition or agreement of any past, present or future officer, agent or employee of either the City or the County, in his or her individual capacity, and neither the officers, agents or employees of the City or the County nor any official executing this Shared Services Agreement shall be liable personally on this Shared Services Agreement by reason of the execution hereof by such person or arising out of any transaction or activity relating to this Shared Services Agreement.

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 Local Units 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. Each Local Unit 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 Project 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.

COMPENSATION

Neither the County nor the City shall be required to pay any annual payment to the other under this agreement. All services provided under this agreement, including but not limited to engineering services, technical services, including testing and analyses, shall be agreed to

between the County and the City and the payment for such services shall be agreed to with respect to any project on a case by case basis. Whenever possible the City and County agree to use their own employees to provide any such services as may be available to the City or the County at no cost to the other or upon such terms and conditions as may be otherwise agreed upon. Payment by the City to the County shall be made as set forth herein.

In accordance with N.J.S.A. 40A:65-1, et seq. this Agreement shall be filed with the Division of Local Government Services.

ATTEST

Ken Mecouch, Clerk to the Board

COUNTY OF CUMBERLAND

Joseph Derella, Freeholder Director

ATTEST

CITY OF VINELAND