

CITY OF VINELAND

RESOLUTION NO. 2016- 163

RESOLUTION AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT BY AND BETWEEN THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY AND THE CITY OF VINELAND FOR REDEVELOPMENT PROFESSIONAL SERVICES IN ACCORDANCE WITH THE UNIFORM SHARED SERVICES AND CONSOLIDATION ACT

WHEREAS, the City Council of the City of Vineland is the Redevelopment Entity for the Energy and Minerals Condemnation Redevelopment Area (Redevelopment Area); and

WHEREAS, in accordance with N.J.S.A. 40:37A-55.1 the Cumberland County Improvement Authority (CCIA) is authorized to contract with professionals for the planning , implementation and completion of redevelopment projects and has certain professionals under contract or on staff to perform architectural, engineering and legal services in furtherance of the redevelopment of the Redevelopment Area; 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 and further recognizes shared services as a technique to reduce local expenses funded by property taxes; and

WHEREAS, City Council finds it to be in the best interest of the City to enter into a Shared Services Agreement with the CCIA for the provision of professional services to carry out the redevelopment of the Redevelopment Area at a cost not to exceed \$150,000; and

WHEREAS, the CFO has certified the availability of the funds.

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 Cumberland County Improvement Authority and the City of Vineland for the provision of professional services related to the redevelopment of the Energy and Minerals Condemnation Redevelopment Area in the form and substance substantially similar to the attached Agreement made a part hereof.

Adopted:

President of Council

ATTEST:

City Clerk

**SHARED SERVICES AGREEMENT
BETWEEN
THE CITY OF VINELAND
AND
THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY**

FOR THE PROVISION OF SERVICES RELATED TO REDEVELOPMENT

THIS AGREEMENT made this _____ day of _____, 2016, (“Effective Date”) by and between the City of Vineland, a body corporate and politic of the State of New Jersey, having its principal offices located at 640 East Wood Street, Vineland, New Jersey 08360 (“City” or “Vineland”) and the Cumberland County Improvement Authority, having its principal offices located at 2 North High Street, Millville, New Jersey 08332, (“CCIA”), collectively referred to individually as a “Party” or collectively as the “Parties.”

WITNESSETH:

Whereas, the City of Vineland desires legal and consulting services (“Services”) as it pursues creation and submission of a Redevelopment Plan for the Energy and Minerals Condemnation Redevelopment Area (“Redevelopment Project”); and

Whereas, the Parties intend upon jointly acquiring and developing the Redevelopment Area in accordance with the New Jersey Housing and Redevelopment Law; the City Council to act as the Redevelopment Entity and the CCIA to act as the Redeveloper, subject to the negotiation and execution of a Redeveloper’s Agreement; and

Whereas, the CCIA is capable of providing and wishes to provide the contemplated Services to Vineland for the purposes of the Redevelopment Project; and

Whereas, in an attempt to identify cost saving measures, the City and the CCIA have discussed specific areas where services can be shared; and

Whereas, the CCIA is empowered by the County Improvement Authorities Law to act as a vehicle for economic development for all municipalities within Cumberland County; and

Whereas, the City desires to pursue all economic development options available under New Jersey’s Housing and Redevelopment Law; and

Whereas, to that end, the City and the CCIA have negotiated this Shared Services Agreement Between the City of Vineland and the Cumberland County Improvement Authority (“Agreement”) with respect to the Services; and

Whereas, the Parties have the legal authority to enter into this Agreement under the Uniform Shared Service and Consolidation Act, N.J.S.A. 40A:65 et seq. (the “Act”); and

Now, Therefore, and in consideration of mutual promises, agreements and other considerations made by and between the Parties, the City and the CCIA do hereby agree as follows:

AGREEMENT

I. BRIEF DESCRIPTION.

The Cumberland County Improvement Authority seeks to partner with the City of Vineland in the pursuit of the City's contemplated redevelopment of the Redevelopment Project by providing legal and consulting Services to the City of Vineland, assisting in the funding and acquisition of the Redevelopment Area. Funding and acquisition shall be subject to a separate agreement which will set forth the obligations and duties relative thereto.

II. SCOPE OF SERVICES.

The CCIA shall make available and provide the City upon its request (i) legal services by and through its professional staff and its's Special Projects Counsel; and (ii) consulting services by and through the CCIA, its officers, employees, agents, professional staff and/or independent contractors. (Services) Provision of the Services contemplated shall also include any and all ancillary services necessary for the provision of the Services, for matters relating to redevelopment. In rendering the Services contemplated in this Agreement, the CCIA shall, although not limited to, perform the following:

A. Initial strategic planning to determine the needs of the City with respect to the Redevelopment Project.

B. The development of both short-term and long-term strategic plans for the Redevelopment Project.

C. Performance and provision of all other consulting services as requested by the City, as they pertain to the Redevelopment Project.

D. The drafting of necessary legal documents essential to the redevelopment process.

E. All plans, documents, designs, data and work product associated with the Redevelopment Project and Services provided shall be the property of the City.

III. FEE FOR SERVICES.

The CCIA utilizes the services of a Special Projects Attorney, who bills the CCIA at the rate of \$150.00 per hour. For services performed within the scope of this Agreement by the Special Projects Attorney, the Parties shall share equally the cost.

When the CCIA is invoiced by its Special Projects Attorney, the CCIA will prepare an invoice for the City to reflect 50% of the cost of all services related to this Agreement. The City shall pay this invoice within thirty (30) days. The City shall be given an estimate of the cost for all other Services prior to said Services being provided or contracted for.

IV. STANDARD OF CARE.

The Parties, their employees, agents and independent contractors shall at all times act and render Services utilizing reasonable business efforts. Nothing in this section shall be construed as to limit any higher standard of care that may be required by law or the Professional Rules of Conduct.

V. TERM AND TERMINATION.

This Agreement shall begin on the Effective Date and shall remain in effect for a period of one (1) year or until such time that this Agreement is terminated pursuant to this Paragraph. Upon thirty (30) days written notice to the other Party, any Party may terminate this Agreement with or without cause.

VI. RENEWAL.

This Agreement shall automatically renew for an additional one year term, unless a Party provides thirty (30) days written notice of its intention not to renew the Agreement.

VII. MUTUAL COOPERATION.

The Parties agree to mutually cooperate with one another in performing the duties and responsibilities delineated herein.

VIII. INDEMNIFICATION.

A. The City shall indemnify and hold the CCIA, its governing body, its officers, employees, and agents harmless 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 personal injury, death, or damage to property, whether real, personal or both, arising out of or in any way related to the negligent performance of or any act or omission of the City or its employees under this Agreement.

B. The CCIA shall indemnify and shall hold the City, the members of its governing body, its officer, and employees harmless against any and all liability, losses, costs, damages, claims, judgments or expenses, excluding those arising from bad faith, criminal conduct or gross negligence of the CCIA, its agents and/or employees, which shall be incurred by reason of any claim suit or action which is based upon personal injury death, or damage to property, whether real, personal or both, arising out of or in any way related to performance under this Agreement. Such indemnification and hold

harmless by the CCIA shall include, but not be limited to any and all claims by any Service provider under the terms of this Agreement.

C. No Service providers subject to this Agreement shall be considered employees, agents or assigns of the City.

IX. ASSIGNMENT.

This Agreement shall not be assignable by either Party, except upon written agreement signed by both Parties.

X. REMEDIES.

A. Controversies and Claims Subject to Mediation. Any controversy or claim arising out of or related to this Agreement, or the breach thereof, shall be settled by mediation. If a dispute between the CCIA and the City arises during the course of this Agreement, the Parties will make a good faith effort to resolve the dispute through non-binding arbitration.

B. Performance Pending Mediation. During mediation proceedings, the CCIA and the City shall continue to perform all duties and responsibilities described in this Agreement subject to the terms of Paragraph V herein.

C. When Mediation May be Demanded. Prior to either Party submitting a demand for 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 receiving Party shall respond in writing.

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

1. Five (5) business days after the receiving Party has provided its written response to the aggrieved Party's notice of dispute; or
2. Thirty (30) days have passed after submission of the original, written notice of dispute by the aggrieved Party and the receiving Party has not responded.
3. If the written response from the receiving Party does not resolve the dispute, the aggrieved Party shall have thirty (30) days from the date of the receiving Party's response to file a demand for mediation ("Mediation Demand"). If the aggrieved Party fails to do so, it shall be deemed to have waived its right pursuant to this Agreement to demand mediation with regards to the dispute.

E. A Party who files a Mediation Demand must assert all claims then known to that Party for which mediation may be demanded. Any claim that the Party fails to assert shall be deemed waived. If a Party fails to include a claim because of excusable neglect, or when a claim has matured or is subsequently acquired, the mediator or

mediators may permit amendments.

F. 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.

1. 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.

2. 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.

3. 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.

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

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

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

G. 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.

H. 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.

I. 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, any Party may submit the dispute to the Superior Court of New Jersey, Cumberland County, for adjudication, which court shall have exclusive original jurisdiction over the dispute.

J. Should any dispute arise pertaining to any Invoice issued by the CCIA, the City shall provide written notification of such dispute within five (5) business days of receiving the Invoice. Notwithstanding the provision of written notice of a dispute, the City shall render performance in accordance with Paragraph III. The Parties shall work together to negotiate in good faith a reasonable resolution with regards to the dispute. If

the Parties are unable to reach a resolution, the Parties shall act in accordance with this Paragraph. If through subsequent negotiation, arbitration or litigation the amount due shall be determined, agreed or adjudicated to be less than was actually so paid, then the Party having received the payment shall forthwith repay the excess.

XI. INSURANCE.

At all times during the term of this Agreement, the CCIA shall maintain or cause to be maintained with responsible insurers 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, casualty, all-risk and comprehensive general liability insurance. The CCIA shall be obligated to pay for the cost of all such insurance and shall name the City as an additional insured.

XII. WAIVER.

In the event that any provision which is contained in this 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.

XIII. NO PERSONAL LIABILITY.

No covenant, condition or agreement contained in this 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 CCIA, in his or her individual capacity, and neither the officers, agents or employees of the City and the CCIA, nor any official executing this Agreement shall be liable personally on this Agreement by reason of the execution hereof by such person or arising out of any transaction or activity relating to this Agreement.

XIV. MISCELLANEOUS.

A. Relationship Between the Parties. Pursuant to the Act, any Party performing a service under this Agreement is the general agent of any other Party on whose behalf that service is performed, and that agent-Party has full powers of performance and maintenance of the service contracted for, and full powers to undertake any ancillary operation reasonably necessary or convenient to carry out its duties, obligations and responsibilities under the agreement. These powers include all powers of enforcement and administrative regulation which are, or may be, exercised by the Party on whose behalf the agent-Party acts pursuant to the Agreement, except as the powers are limited by the terms of the Agreement itself.

B. Either Party may freely enter into another agreement or agreements with any other eligible entities for the performance of any service or services pursuant to the Act. The participation in one agreement shall not bar participation with the same or other parties in any other agreement.

C. Amendment. This Agreement may not be amended or modified for any

reason without the express prior written consent of the Parties hereto. Any amendment to this Agreement must be signed by both Parties and attached hereto.

D. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

E. Severability. In the event that any provision of this 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.

F. Counterparts. This 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.

G. Entire Agreement. This 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.

H. Further Assurances and Corrective Instruments. Each Party 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 Services or to correct any inconsistent or ambiguous term hereof.

I. The Paragraph and Section headings in this Agreement are included herein for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

J. Non-Waiver. It is understood and agreed that nothing which is contained in this 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 Agreement.

K. Governing Law. The terms of this Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New Jersey.

XV. COMPLIANCE WITH THE UNIFORM SHARED SERVICES AND CONSOLIDATION ACT.

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

ATTEST

CITY OF VINELAND

Dated:

ATTEST

**CUMBERLAND COUNTY
IMPROVEMENT AUTHORITY**

Dated: