

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL
OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS,
NEW JERSEY, AUTHORIZING EXECUTION OF THE TRANSITIONAL AID
MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE DIVISION OF LOCAL
GOVERNMENT SERVICES (DIVISION) AND THE BOROUGH OF MOUNT ARLINGTON**

WHEREAS, the Borough of Mount Arlington was awarded Transitional Aid for the Budget Year 2010 in the amount of \$500,000, by letter from Lori Grifa, NJDCA Commissioner, dated September 16, 2010; and

WHEREAS, the Memorandum of Understanding with the Division of Local Government Services imposes upon the local government certain obligations relative to accepting such aid; and

WHEREAS, the Division of Local Government Services wishes to secure the Borough's acceptance of the terms of the Memorandum of Understanding; and

WHEREAS, the Borough Council of the Borough of Mount Arlington has determined that it is in the best interest of the Borough to participate in this arrangement.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Mount Arlington, in the County of Morris, and State of New Jersey as follows:

1. The Borough agrees to comply with the various requirements set forth in the Memorandum of Understanding.
2. The Mayor and Borough Clerk are authorized to execute the Memorandum of Understanding on behalf of the Borough.
3. Copies of the Memorandum of Understanding are on file in the Municipal Clerk's Office.
4. This resolution shall take effect immediately.

I hereby certify the foregoing to be a true copy of a resolution adopted by the Borough Council of the Borough of Mount Arlington at its meeting held on November 9, 2010.



Linda DeSantis, RMC
Borough Clerk
Borough of Mount Arlington

MEMORANDUM OF UNDERSTANDING

By and Between:

**The Director of the Division of Local Government Services
and the Borough of Mount Arlington**

WHEREAS, the Director of the Division of Local Government Services (the “Director”) has determined that the Borough of Mount Arlington (the “Municipality”) is in serious fiscal distress and the Director has determined that an award of \$500,000 of Transitional Aid to Localities (“Transition Aid”) is appropriate, all in accordance with the criteria set forth in P.L. 2010, c.35 (the “State Budget”) and after reviewing an application submitted by the Municipality on July 14, 2010; and

WHEREAS, the State Budget directs that Transition Aid shall be provided subject to such conditions, requirements, orders, and oversight as the Director deems necessary including the implementation of government, administrative, and operational efficiency and oversight measures necessary for the fiscal recovery of the Municipality; and

WHEREAS, this Memorandum of Understanding By and Between the Director of the Division of Local Government Services and the Borough of Mount Arlington (the “Memorandum”) sets forth the minimum conditions, requirements, orders, and oversight in consideration for Transition Aid;

THEREFOR, the Municipality shall, in addition to complying with all applicable laws, regulations, and Local Finance Notices, observe and comply with the requirements set forth below and shall implement any and all government, administrative and operational efficiency, and oversight measures necessary for the fiscal recovery of the Municipality as the Director may order from time to time.

Submission of a Transition Plan

There is no guaranty of Transition Aid being available in the future and the Municipality shall not anticipate or rely on the existence of continued funding. The Municipality shall submit a plan on or before December 31, 2010 detailing how it intends to eliminate its reliance on Transition Aid as soon as possible (the Transition Plan). In no case shall the Transition Plan provide for a phase out of the aid over a period of more than four years. The Transition Plan must set forth a reasonable reduction in reliance on such funding in the Calendar Year 2011 Budget. The Transition Plan shall discuss initiatives to bring structural balance to the Municipality’s finances and shall include, but not be limited to, all of the following:

- An acknowledgement that the Municipality needs to reduce its reliance on Transition Aid; and
- A plan to reduce staffing costs for Calendar Year 2011 from Calendar Year 2010 levels through layoffs, attrition, restructuring, or other personnel actions; and
- A plan to eliminate or reduce the costs of services or activities not deemed essential or that are of low priority; and
- A plan to maximize recurring revenues, including but not limited to updating fees, fines and penalties, maximizing enforcement of revenue delinquencies, selling surplus land and property, and encouraging sustainable and taxable development; and
- A plan to address findings resulting from in various audits, investigations, and reports with respect to the Municipality, including municipal audits, applicable State Comptroller reports and audits, federal program audits, and other audits as identified by the Director.

Restrictions on Personnel Matters

1. **Hiring for New Positions and Positions not Filled as of the Date of Memorandum:** A "Request for Employment Approval" (Attachment A) shall be submitted to the Director for consideration prior to the Municipality hiring any person to fill any new positions or to fill any positions not filled as of the date of this Memorandum. No advertising or posting for new employees or hiring of such employees shall occur without the Municipality first receiving a Request for Employment Waiver approved and signed by the Director.
2. **Hiring for Essential Positions Vacated after the Date of the Memorandum:** The Municipality may replace an employee who has left the employment of the Municipality after the effective date of this Memorandum provided that the Municipality shall have determined that the position to be filled is essential. The Municipality shall notify the Director at least 15 days prior to replacing such employee by submitting an "Essential Employee Replacement Form" (Attachment B). If the position is being filled with an employee whose salary and compensation will exceed the salary and compensation of the employee being replaced, the hire shall be treated as a new hire and a Request for Employment Approval must first be approved pursuant to "1" above. Additionally, if the position is being filled with an employee whose title, rank, step or other classification is other than the title, rank, step or other classification of the employee being replaced, regardless of salary and compensation, the hire shall be treated as a new hire and a Request for Employment Approval must first be approved pursuant to "1" above.
3. **Salary Restraints for Elected Officials and Noncontractual Employees:** The Municipality shall not increase salaries or compensation for elected officials and employees not otherwise entitled to increases pursuant to the terms of a contract in effect as of the date of this Memorandum.
4. **Promotions and Transfers:** The Municipality shall freeze promotions and transfers involving salary increases unless required by contractual obligations.

Restrictions on Certain Contracts

1. The hiring of consultants and professionals, either directly or through a sub-contract, regardless of cost, shall be subject to the prior written approval of the Director of a "Contract Request Form" (Attachment C). This restriction shall include, but not be limited to legal counsel, risk management advisors or services, public relations, government affairs, engineering and public works, accounting and financial services and advice, public safety and health, management services; and without exception, all professional services and extraordinary services contracts as defined in the Local Public Contracts Law without regard to value.
2. Unless otherwise approved in advance by the Director, all contracts that are exempt from public bidding shall be procured subject to a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. unless otherwise procured pursuant to a process that provides greater transparency and competition than the minimum requirements under the "fair and open process."
3. Nothing herein shall require approval of the hiring of consultants and professionals whose services are needed to address an emergency, provided however, that such hiring to address an emergency shall be reported to the Director as soon as practicable.

Restrictions on the Award of Long Term Tax Exemptions

1. The Municipality shall receive prior written approval of the Director for any Redevelopment Plan or Redeveloper Agreement executed after the date of this Memorandum unless any Payment in Lieu of Taxes awarded under the agreement are allocated to county, school district, and other local government jurisdictions in the same proportion as ordinary taxes are allocated to such jurisdictions.

Restrictions of Miscellaneous Nature

1. The Municipality shall neither create new services nor expand existing services without the Municipality first submitting a "Creation/Extension of Services Form" (Attachment D) to the Director and receiving written approval therefore from the Director.
2. The Municipality shall not expend funds on out-of-State travel or overnight stays within New Jersey, without first submitting a "Travel Approval Form" to the Director and receiving written approval therefore from the Director. The Municipality shall explain good cause for the expenditure, which may include, but is not limited to, a need to ensure licensure or certification of statutory employees or essential training for public safety employees.
3. The Municipality shall not expend funds for educational expenses other than expenses related to certification or licensing requirements and continuing education requirements.

4. Reimbursement for employee meals (other than as required pursuant to contractual provisions as of the date of this Memorandum) or entertainment is prohibited and Municipal funds cannot be used for receptions for Municipal employees.
5. Any application for a grant that requires current or long term matching funds or a commitment of any resources or staffing levels of the Municipality as a condition of award or to ensure sustainability shall be approved by the Director prior to submission to the reviewing/awarding agency.
6. No funds shall be expended for non-statutory charitable contributions, bereavement, or celebratory purposes, for individuals or organizations.

Requirement to Adopt Pay to Play Ordinance

Within three months of signing this memorandum, the Municipality shall adopt a pay to play ordinance pursuant to PL 2005, c.271 limiting the awarding of public contracts by the Municipality or its agencies to business entities that have made a contribution pursuant to C19:44A-1 *et seq* and limiting the contributions that the holders of a contract can make during the term of a contract. The ordinance shall not be repealed or amended for so long as this Memorandum is in effect. The ordinance shall be substantively identical to the provisions of Jersey Municipality's ordinance concerning pay to play (Ordinance 08-128) which can be found at <http://www.state.nj.us/state/secretary/ordinances/Jersey-City-Ordinance-No.-08-128.pdf>

Reporting Requirements – Labor Contracts

90 days prior to the start of collective negotiation agreement renewal negotiations between the Municipality and labor union representatives, it shall be the responsibility of the participating Municipality to provide the Director with a written notification of intent to begin negotiations with the subject collective bargaining unit(s). In addition, the Municipality shall provide the Director with the following:

- Documentation as to whether current collective bargaining agreements were reached by mutual agreement or arbitrator's award, and if decided by arbitration, a copy of the Interest Arbitration Decision and Award document.
- Salary guide showing pay increases over the last 3 contract years
- A description and status report of any matters with the bargaining unit currently in grievance arbitration or otherwise being handled as an unfair labor practice charge.

In the event collective negotiation agreement discussions are already in progress or are about to begin as of the date of this Memorandum, the Municipality shall submit the requested documentation within 14 days of date of this Memorandum and representatives of the Municipality shall brief the Director on the status of the negotiation and issues under discussion.

The Director will review all materials submitted and make recommendations to the Municipality with regard to the language and disposition of subsequent collective bargaining agreements as well as any related policies, programs or procedures.

Upon settlement of any collective negotiation agreement, the Municipality shall submit a copy to the Director.

The Municipality acknowledges that agreeing to any contract that would increase total annual expenditures for salary and compensation in excess of 2% in any year will be viewed negatively in the context of future applications, including, but not limited to, applications for Transition Aid, approval of nonconforming maturity schedules and approval of down payment waivers for capital projects.

Reporting Requirements - Miscellaneous

1. The Municipality shall submit to the Director detailed quarterly revenue and expenditure budget reports.
2. The Municipality shall, within three weeks of the date of this Memorandum, submit to the Director a list, as of the pay period ending immediately preceding this Memorandum, of all employees with their name, salary, title, Department or organizational unit, and date of employment with the Municipality. A similar list shall be submitted to the Director by August 1, 2011 of all such employees with their name, salary, title, Department or organizational unit, and date of employment as of the payroll ending immediately prior to June 30, 2011. Similar lists shall be provided upon request of the Director.
3. The Municipality shall submit to the Director all findings, decisions, penalties, orders and requirements resulting from complaints, investigations, and reports issued by State regulatory agencies including but not limited to the Department of Labor and the Public Employee Relations Commission.
4. The Municipality shall file a copy of its Offering Statement prepared in relation to its most recent short or long term financing.

Meeting Requirements

1. Municipality representatives shall meet with the Director or his staff quarterly to discuss budget and fiscal progress, or more often as requested by the Division.

Implementing Provisions and Flexibility

The Director may be represented by designees who shall be authorized to act on his behalf.

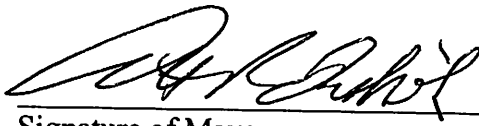
The Municipality may apply in writing to the Director for an exception for good cause to any prohibition or requirement contained in this Memorandum.

Duration

The provisions of the Memorandum shall remain in force and effect until December 31, 2011.

Governing Body Acknowledgement

The Municipality Governing Body shall review this Memorandum of Understanding and pass a resolution indicating awareness of its contents within 30 days of the effective date.



Signature of Mayor

Date 11/09/10

Signature of Chief Administrative Officer as Applicable

Date _____

Signature of Director

Date _____



Certification of Municipal Clerk

Date 11/09/10