

**RESOLUTION 2019-183**

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE  
BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE  
OF NEW JERSEY, AUTHORIZING EXECUTION OF A SHARED SERVICES  
AGREEMENT BETWEEN THE BOROUGH OF MOUNT ARLINGTON AND  
THE BOROUGH OF WHARTON FOR THE PURCHASE AND USE  
OF CRACK SEALER AND LINE STRIPING EQUIPMENT**

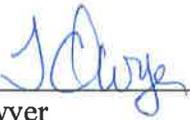
**WHEREAS**, the Borough of Mount Arlington and the Borough of Wharton have entered into a Shared Services Agreement for the Purchase and Use of Crack Sealer and Line Stripping Equipment

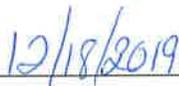
**WHEREAS**, Mount Arlington and the Borough of Wharton wish to execute the Agreement under the terms and conditions outlined in the attached Agreement; and

**WHEREAS**, the Mayor and Borough Council have reviewed, are familiar with and have agreed to the terms and conditions of the new Shared Service Agreement between Mount Arlington and the Borough of Wharton

**NOW, THEREFORE, BE IT RESOLVED**, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, State of New Jersey, that the Mayor is hereby authorized and directed to execute the attached Shared Service Agreement between Mount Arlington Borough and the Borough of Wharton.

**I HEREBY CERTIFY** this to be a true and correct Resolution of the Mayor and Borough Council of the Borough of Mount Arlington and adopted on December 17, 2019.

  
\_\_\_\_\_  
L. Dwyer  
Acting Borough Clerk

  
\_\_\_\_\_  
Date

**SHARED SERVICES AGREEMENT FOR THE MUNICIPALITIES OF WHARTON  
BOROUGH AND THE BOROUGH OF MOUNT ARLINGTON FOR THE SHARED  
PURCHASE AND USE OF PUBLIC WORKS EQUIPMENT**

THIS AGREEMENT is made this 3 day of December, 2019, by and between the Borough of Wharton, a municipal Corporation of the State of New Jersey, located in Morris County, New Jersey, with an address of 10 Robert Street Wharton, NJ 07885 (hereinafter referred to as Wharton) and the Borough of Mount Arlington, a municipal Corporation of the State of New Jersey, located in Morris County, New Jersey, with an address of 419 Howard Boulevard Mount Arlington, NJ 07856 (hereinafter referred to as Mount Arlington) collectively known hereinafter as the "Municipalities", and each a "Municipality".

WHEREAS, Wharton and Mount Arlington have mutually agreed there is an opportunity to further improve the efficacy of local municipal roads and other municipal paved area repair and maintenance for the Municipalities, while reducing the costs of delivering these public works services for the respective local governments; and

WHEREAS, the Municipalities have determined it to be in their mutual best interests to provide for the shared acquisition of specialized public works equipment for use by their respective Departments of Public Works with Wharton as the lead agency; and

WHEREAS, the Municipalities are authorized to implement a Shared Services Agreement between Wharton and Mount Arlington provided that the Agreement is entered into by both Municipalities, and provided that such Agreement is approved by their respective local governing bodies; and

WHEREAS, this Agreement is established in accordance with the Uniform Shared Services and Consolidation Act, P.L.2007, c.63 (C.40A:65-1, et seq.).

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the Municipalities agree as follows:

**I. SCOPE OF SERVICES**

- a. This Agreement provides for municipal sharing of specialized public works equipment and will allow for each participating Municipality to have scheduled access to and use of this specialized equipment over its useful life. The mutual purchase, maintenance, and use of this specialized public works equipment by the Municipalities is intended to save taxpayer monies.
- b. Wharton (hereinafter known as "Lead Agency") agrees to acquire and maintain specialized public works equipment, known as Shared Crack Sealer

**Melter Applicator, for mutual use with Mount Arlington (hereinafter known as "Supported Municipality").**

- c. Each Municipality shall have access to and use of the Shared Crack Sealer Melter Applicator according to an agreed upon schedule and shall provide its own operating personnel during its scheduled period of use.**
- d. All expenses associated with the purchase and maintenance of the Shared Crack Sealer Melter Applicator shall be borne equally by the Municipalities. Operational costs shall be the responsibility of each Municipalities during its scheduled use period.**

## **II. ASSIGNMENT OF RESPONSIBILITIES**

### **a. Responsibilities of Wharton:**

- Wharton shall act as the Lead Agency in the acquisition and maintenance of the Shared Crack Sealer Melter Applicator and will be responsible for licensing and registering the equipment.**
- The public works personnel of Wharton shall coordinate the maintenance and scheduled use of the Shared Crack Sealer Melter Applicator with Mount Arlington.**
- The Shared Crack Sealer Melter Applicator will be stored at Wharton's public works facility when not in use by the Municipalities.**
- Wharton shall have access to and use of the Shared Crack Sealer Melter Applicator pursuant to a mutually agreed upon schedule over the useful life of the equipment. Special access and usage may also be scheduled with the mutual consent of both Municipalities.**

### **b. Responsibilities of Mount Arlington:**

- Mount Arlington will be the Supported Municipality under the terms of this Agreement.**
- The public works personnel of Mount Arlington shall coordinate their scheduled use of the Shared Crack Sealer Melter Applicator with the Lead Agency.**
- Mount Arlington shall have access to and use of the Shared Crack Sealer Melter Applicator pursuant to a mutually agreed upon schedule over the useful life of the equipment. Special access and usage may also be scheduled with the mutual consent of both Municipalities.**

- **Mount Arlington shall arrange for the movement or transport of the Shared Crack Sealer Melter Applicator from the Lead Agency at the beginning of each scheduled period of use, as well as to and from their job sites. At the end of a scheduled period of use of the Shared Crack Sealer Melter Applicator Mount Arlington shall arrange for the movement or transport of the Shared Crack Sealer Melter Applicator to the Lead Agency.**

### **III. TERM OF AGREEMENT**

- a. This Agreement shall commence on November 6, 2019 and shall remain in effect for twenty (20) years, which is the estimated useful life of the Shared Super Shot Melter/Applicator Equipment, until December 31, 2039, unless subsequently extended or renewed by the Municipalities.**
- b. This Agreement shall become effective for each Municipality upon passage of authorizing Resolutions or Ordinances by the Municipalities as required by the Uniform Shared Services and Consolidation Act, P.L.2007, c.63 (C.40A:65-1, et seq.).**
- c. This Agreement shall continue for the entire term of the Agreement, unless one Municipality notifies the others of its intention to withdraw at least 365 days prior to the annual anniversary date of this Agreement.**

### **IV. COMPENSATION**

- a. Wharton will incur the capital costs associated with the acquisition of the Shared Crack Sealer Melter Applicator by their Department of Public Works, the costs associated with the maintenance of the Shared Crack Sealer Melter Applicator and the licensing and registration fees.**
- b. The Supported Municipality shall pay one half (1/2) of the capital costs in a lump sum, along with one half (1/2) of the maintenance costs and one half (1/2) of the licensing and maintenance fees.**
- c. Accounting records for the expenses associated with maintenance and repair of the Shared Crack Sealer Melter Applicator will be maintained by Wharton and shall be available for inspection by the Supported Municipality upon request.**
- d. Review of actual expenses associated with the equipment maintenance and repair will be done at least quarterly; and will form the basis of any compensation true-up or adjustments recommended to the Municipalities.**

- e. **Operational expenses shall be the responsibility of each Municipality during their respective scheduled periods of usage.**

#### **V. PAYMENT PROCEDURE**

- a. **The Supported Municipality shall pay one half (1/2) of the capital costs in a lump sum, along with one half (1/2) of the licensing and registration fees, on the fifteenth day of the month following delivery of an invoice and other supporting documentation by the Lead Agency. Payment will be made directly to the Borough of Wharton.**
- b. **Wharton, as the Lead Agency, shall incur all maintenance and repair costs; and based on quarterly review of actual expenses, payment will be made by Mount Arlington to Wharton in an amount that is one half (1/2) of the maintenance and repair costs.**

#### **VI. LEVEL OF SERVICE**

- a. **Wharton agrees to access, utilize and maintain the Shared Crack Sealer Melter Applicator in a professional and workmanlike manner.**
- b. **Mount Arlington agrees to access and utilize the Shared Crack Sealer Melter Applicator in a professional and workmanlike manner.**
- c. **Wharton as the Lead Agency in performing the services under this Agreement, shall have full power and authority to undertake any ancillary operation reasonably necessary or convenient to carry out its duties, responsibilities, and obligations under the Agreement.**

#### **VII. DISPUTE OF PAYMENT**

- a. **As provided in the Uniform Shared Services and Consolidation Act, P.L.2007, c.63 (C.40A:65-1, et seq.), in the event of any dispute as to the amount to be paid under the terms of this Agreement, the full amount to be paid in accordance with Paragraph V shall be paid without prejudice to the disputing parties. If through subsequent negotiation, litigation, or settlement, the amount due shall be determined agreed to or adjudicated to be less than was actually so paid, Wharton shall promptly repay the excess.**

#### **VIII. INDEMNIFICATION**

- a. **In addition to the other rights and remedies of the parties herein, the Supported Municipality agrees to indemnify and hold harmless Wharton, including its employees and agents, from any and all liability and claims for damages or injury caused by, or resulting from, the negligent acts or omissions by the Supported Municipality personnel arising out of this**

**Agreement or any of the obligations assumed by the Supported Municipality hereunder, provided it is determined by a Court having the appropriate jurisdiction that the Supported Municipality is solely responsible for such liability. In the event it is determined by a Court that the Supported Municipality is not solely responsible for said liability, the liability of the Supported Municipality shall be limited to that degree of liability determined by said Court to be the proportionate liability of the Supported Municipality. The Supported Municipality, upon notice from Wharton, shall resist and defend, at the expense of the Supported Municipality, such action or proceeding with counsel reasonably satisfactory to Wharton. In addition, Wharton may engage separate counsel at its sole expense to appear on its behalf in such action or proceeding without waiving its rights or the obligation of the Supported Municipality under this paragraph.**

- b. In addition to the other rights and remedies of the parties herein, Wharton agrees to indemnify and hold harmless the Supported Municipality, including their officers, trustees, employees and agents, from any and all liability and claims for damages or injury caused by, or resulting from, the negligent acts or omissions by Wharton arising out of this Agreement or any of the obligations assumed by Wharton hereunder, provided it is determined by a Court having the appropriate jurisdiction that Wharton is solely responsible for such liability. In the event it is determined by a Court that Wharton is not solely responsible for said liability, Wharton's liability shall be limited to that degree of liability determined by said Court to be the proportionate liability of Wharton. Wharton, upon notice from a Supported Municipality, shall resist and defend, at the expense of Wharton, such action or proceeding with counsel reasonably satisfactory to the Supported Municipality. In addition, at its option, the Supported Municipality may engage separate counsel at their sole expense to appear on their behalf in such action or proceeding without waiving its rights or Wharton's obligation under this paragraph.**

**IX. DISPUTE RESOLUTION**

- a. In the event a dispute shall arise concerning the terms and conditions of this Agreement, the Municipalities agree to be governed by and the Agreement to be construed and enforced in accordance with the laws of the State of New Jersey.**

**X. MISCELLANEOUS**

- a. All notices, statements, or other documents required by this Agreement shall be hand delivered or mailed to the Municipal Clerk of each Municipality.**

**XI. GOVERNING LAW**

- a. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

**XII. ASSIGNMENT**

- a. No one party may assign this Agreement without the written consent of the other.

**XIII. ENTIRE AGREEMENT**

- a. This Agreement sets forth the entire understanding of the Municipalities with respect to the transactions contemplated herein. No change or modification of this Agreement shall be valid unless the same shall be in writing, duly authorized and signed by all the parties hereto.

**XIV. SEVERABILITY**

- a. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the Municipalities shall negotiate in good faith and agree to such amendments, modifications, or supplements of, or to this Agreement, or such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein. All other provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hand and seals and caused their corporate officers to sign same the day and year first written above.

**BOROUGH OF WHARTON**



William J. Chegwidan,  
Mayor

ATTEST:



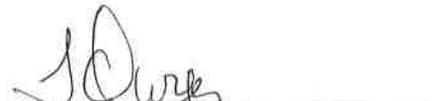
Gabrielle Evangelista,  
Borough Clerk

**BOROUGH OF MOUNT ARLINGTON**



Michael Stanzilis,  
Mayor

ATTEST:



Lizbeth Dwyer,  
Acting Borough Clerk