RESOLUTION 2024 – 59

A Resolution of the Mayor and Council of the Borough of Mount Arlington, County of Morris, State of New Jersey, Executing a Shared Service Construction Office Agreement with Jefferson Township.

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 and Borough Clerk are authorized to execute the Five Year Extension to the Shared Services Agreement for Construction Official Between the Township of Jefferson and the Borough of Mount Arlington, effective April 1, 2024 to March 31, 2029.

This Resolution shall take effect immediately.

I hereby certify this to be an accurate and true resolution as approved by the Mayor and Borough Council at a Meeting held on April 2, 2024

Ashley N. Todd, Acting Borough Clerk

SHARED SERVICES AGREEMENT
FOR THE MUNICIPALITIES OF
TOWNSHIP OF JEFFERSON AND BOROUGH OF MOUNT ARLINGTON

SHARED CONSTRUCTION OFFICIAL AND BUILDING CODE INSPECTION SERVICES

THIS AGREEMENT is made this 1st day of April, 2024, by and between the Township of Jefferson, a Municipal Corporation of the State of New Jersey, located in Morris County, New Jersey, with an address of 1033 Weldon Road, Lake Hopatcong NJ 07849 (hereinafter referred to as "Jefferson" or "lead agency"); 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, Mt. Arlington, NJ 07856 (hereinafter referred to as "Mt. Arlington" or "supported agency").

WHEREAS, Jefferson and Mt. Arlington (hereinafter referred to as "Municipalities") share a contiguous border and have both the proximity and size that makes sharing of Construction Official and Building Code Inspection Services feasible; and

WHEREAS, there is a mutually beneficial opportunity to further improve the efficacy of Construction Official and Building Code Inspection Services for the Municipalities, while protecting the health, safety, and welfare of municipal residents and reducing the costs of delivering these services for the respective local governments; and

WHEREAS, the Municipalities have determined it to be in their mutual best interests to provide for shared Construction Official and Building Code Inspection Services for use by their respective communities with Jefferson as the lead agency; 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.*) as well as the provisions of N.J.A.C. 5:23-4.6.

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

I. SCOPE OF SERVICES

A. Jefferson agrees to provide for shared Construction Official and Building Code Inspection Services with Mt. Arlington from its municipal facility located at 1033 Weldon Road, Lake Hopatcong NJ 07849. Jefferson's Construction Official and Building Code Inspection Services shall include all

New Jersey Uniform Construction Code (UCC) technical standards for construction with along with a consistent method of administration and enforcement.

1. The services shall include four basic technical subcodes for construction: building, electrical and plumbing. The State of New Jersey, Division of Fire Safety, through mutual agreement with Mount Arlington, conducts all New Jersey Uniform Fire Code Life Hazard Use inspections for the Mount Arlington. Any other fire protection services as outlined in N.J.A.C. 5:23-5.3(a) 1 & 2 which do not fall within the scope of the aforesaid mutual agreement shall be performed by Jefferson. The services shall also include technical subcodes for fuel gas installations; mechanical installations; one- and two-family dwellings; accessible (barrier free) construction; the rehabilitation of existing buildings; the construction of manufactured homes; asbestos hazard abatement; radon hazard abatement; and playground safety.

B. All shared Construction Official and Building Code Inspection Services provided by Jefferson shall be performed within the performance guidelines established as per N.J.A.C.. 5:23-1, *et seq*.

C. Jefferson shall track the issuance or denial of permits, field inspections, final inspections, and the issuance of Certificates of Occupancy (CO) or Temporary Certificates of Occupancy (TCO) using one set of books and one calendar for both Municipalities. Mount Arlington shall be entitled to keep all fees for permits issued for work to be performed in Mount Arlington. The Borough of Mount Arlington Technical assistant shall collect such fees and forward them directly to the Borough of Mount Arlington Chief Financial Officer as provided by law.

D. Pursuant to N.J.A.C. 5:23-4.17, Jefferson shall use standard fee schedules for all shared Construction Official and Building Code Inspection Services and these fee schedules shall be adopted by ordinance by the jurisdictions of Jefferson and Mt. Arlington.

1. Standard fee schedules shall be set to facilitate the accumulation by Municipalities of the funds necessary to offset future construction code enforcement expenses, to ensure that construction code revenue is used only for construction code enforcement purposes, and to provide a means of making such revenue readily available for such purposes from year to year.

   Indirect and overhead expenses charged to the construction code fee revenues shall not exceed 12 percent of all other costs of the enforcing agency.

2. Appeals of any charges by construction applicants levied shall be made to the Morris County Construction Board of Appeals, in accordance with the procedures set forth in N.J.S.A. 40:55D-53.2a and N.J.A.C. 5:23A.

3. In the event that there is a conflict between this agreement and the provisions of the UCC, the UCC shall supersede this agreement.

4. Pursuant to the provisions of N.J.A.C. 5:23-4.6, the parties hereby agree to adopt appropriate implementing ordinances, which upon adoption shall be forwarded to the Department of Community Affairs.

II. ASSIGNMENT OF RESPONSIBILITY

A. RESPONSIBILITIES OF JEFFERSON:

1. Jefferson shall act as the lead agency in the delivery of shared Construction Official and Building Code Inspection Services as set forth in Paragraph I above.
2. Jefferson shall use state-licensed, municipally employed code enforcement professionals: construction official, subcode officials, and inspectors as set forth in Paragraph I above.
    a. The shared construction official shall be responsible for administering the UCC and overseeing subcode officials and inspectors for the lead and supported municipalities.
    b. The shared subcode officials shall implement the provisions of a specific technical subcode of the UCC and oversee the technical and administrative provisions of that subcode as set forth in Paragraph I above
    c. The shared inspectors shall enforce the requirements of a specific technical subcode under the supervision of a subcode official for the lead and supported municipalities. Jefferson shall be solely responsible for the compensation and emoluments of office provided to municipally employed code enforcement professionals.
3. The shared construction official shall approve or deny construction permit applications, including building plans and specifications, no later than twenty (20) business days after the submission of a complete application for the lead and supported municipalities. The applicant's submitted building plans and specifications will be released and construction work may begin when the construction permit is issued.
4. During construction, the shared code official(s) or inspector(s) shall conduct regular field inspections to ensure that the work performed complies with UCC standards for the lead and supported municipalities. The permit applicant is responsible for notifying the local enforcing agency that the project is ready for inspection at least 24 hours prior to the time the inspection is desired and all inspections must be performed within three (3) days of the notification.
5. Upon notification by the permit applicant that a construction project is ready for final inspections and a Certificate of Occupancy (CO), the shared code official or inspector shall perform the final inspections for the lead and supported municipalities.
    a. Once it is determined that the project complies with the UCC, that all required fees have been paid, and that the conditions of any prior approvals have been met, the construction official shall issue a CO verifying that the construction work authorized by the construction permit has been completed in accordance with the UCC.

b. A Temporary Certificate of Occupancy (TCO) may be issued if the work is substantially complete, there is no outstanding health or safety issue, and the building or space can be occupied safely. A TCO is issued for a defined period of time during which any remaining items are to be completed. The TCO may be renewed if additional time is needed.

6. On or before February 10 of each year, the shared construction official, with the advice of the subcode officials and in consultation with the municipal finance officers of the lead and supported municipalities, shall prepare and submit to the Municipalities' governing bodies, a report detailing the receipts and expenditures of the enforcing agency making recommendations for a fee schedule, based on the operating expense of the shared Construction Official and Building Code Inspection Services.
7. All records and related record procedures shall be governed by N.J.A.C. 5:23-4.5 as well as those standards set forth by the New Jersey Division of Archives and Records Management and the Open Public Records Act, N.J.S.A. 47:1A-1 et seq. . All construction files and related documents within the scope of services identified in this agreement shall be maintained by the Mount Arlington and shall be accessible by Jefferson during the term of this agreement.
8. Jefferson will be responsible for insurance, repairs, maintenance, or replacement of any damaged or unusable facilities, apparatus, vehicles, and inspection equipment for shared Construction Official and Building Code Inspection Services for the term of the Agreement.
9. Jefferson and its inspectors shall not be responsible for any local zoning enforcement within Mt. Arlington.

B. RESPONSIBILITIES OF MT. ARLINGTON:

1. Mt. Arlington will be the supported agency under the terms of this Agreement.
2. Mt. Arlington shall discontinue use of their current Construction Official and Building Code Inspection Services and utilize solely the shared Construction Official and Building Code Inspection Services provided by Jefferson.
3. Mt. Arlington shall terminate its current code enforcement professionals with the exception of one Technical Assistant;
4. Mt. Arlington shall be responsible for handling of all monies and financial reporting including but not limited to: collection of all Mt. Arlington monies, maintaining revenue ledger; reconciling deposits and revenue ledger on monthly basis; submitting monthly and annual revenue reports to the lead agency, and reconciling bank accounts, if applicable.

III. TERM OF AGREEMENT:

1. This Agreement shall be put in place to allow Mt. Arlington to utilize Jefferson's Construction Official and Building Code Inspection Services, commencing on this 1st day of May 2019; and shall remain in effect for a period of five (5) years until the 30th day of April, 2028, unless subsequently extended or renewed by the parties.
2. This Agreement shall become effective upon passage of any authorizing Resolution by the Municipalities as required by with the Uniform Shared Services and Consolidation Act, P.L.2007, c.63 (C.40A:65-1, *et seq.*).
3. This Agreement shall remain in full force and effect for the entire period of the Agreement, unless Mt. Arlington notifies Jefferson, by certified mail, of its intentions to withdraw at least one hundred and eighty (180) days prior to January 1 each year.

IV. COMPENSATION

1. Mt. Arlington agrees to pay a base fee of $46,194.00 for 2024, $47,117.88 for 2025, $48,060.24 for 2026, $49,021.44 for 2027 and $50,001.87 for the use of Jefferson's Construction Official and Building Code Inspection Services. In addition to the base fee set forth above, the supported municipality shall pay 50% of the prior year fees for permits, not to exceed the total fees for prior year, such that the total fees paid to the Lead agency from the supported municipality shall not exceed the base year fee plus 50% of the prior year UCC fees a year which shall not exceed the total fees for prior year.
2. Mt. Arlington will be responsible for paying 1/4 of the annual fee on a quarterly basis directly to the Township of Jefferson. This monthly payment entitles Mt. Arlington to the full use of Jefferson's Construction Official and Building Code Inspection Services.
3. The annual base fee may be adjusted periodically over the duration of this Agreement to account for changes in salary and benefits and/or operating costs as substantiated by accounting records associated with the shared Construction Official and Building Code Inspection Services. The annual change should not exceed the maximum appropriation cap levy of 3.5% without consent of both parties.
4. Accounting records for the expenses associated with shared Construction Official and Building Code Inspection Services operations will be maintained by Jefferson and shall be available for inspection by Mt. Arlington upon request. Review of actual expenses associated shall be done in conjunction with annual UCC report that both municipalities are required to submit to the State of New Jersey. and will form the basis of any compensation and other expense adjustments recommended to the Municipalities.

5. There will be no adjustment to the annual base fee for the duration of this Agreement due to costs associated with repairs, maintenance, or replacement of any damaged or unusable facilities, apparatus, vehicles, and inspection equipment for shared Construction Official and Building Code Inspection Services.
6. Annual fee for the hosting of the SDL system Township of Jefferson cloud for SDL for Mt. Arlington.

V. PAYMENT PROCEDURE

1. Jefferson will provide a bill for 1/4 of the annual fee on a quarterly basis, along with an invoice for payment to Mt. Arlington.
2. Mt. Arlington agrees to pay Jefferson for 1/4 of the annual fee quarterly x within thirty (30) days after submission of the bill and invoice. The invoice shall be provided by the Township of Jefferson on December 1st, March 1st, June 1st, and September 1st each year.
3. Municipal checks for payment should be made out to Township of Jefferson, reference the invoice number on the memo line, and be returned to Chief Financial Officer, Township of Jefferson, 1033 Weldon Road, Lake Hopatcong NJ 07849.

VI. LEVEL OF SERVICE

1. Jefferson agrees to provide Mt. Arlington with shared Construction Official and Building Code Inspection Services in a professional manner.
2. Mt. Arlington agrees to utilize Jefferson's shared Construction Official and Building Code Inspection Services in a professional manner.
3. Jefferson, 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

1. 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 rights of the parties to pursue the disputation of the payment. 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, Jefferson shall promptly repay the excess.

XVII. INDEMNIFICATION

1. In addition to the other rights and remedies of the parties herein, the supported Municipality – Mt. Arlington – agrees to indemnify and hold harmless Jefferson, 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's 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 supported Municipality's liability 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 Jefferson, shall resist and defend, at the expense of the supported Municipality, such action or proceeding with counsel reasonably satisfactory to Jefferson. In addition, Jefferson may engage separate counsel to appear on its behalf in such action or proceeding without waiving its rights or the supported Municipality's obligation under this paragraph.

2. In addition to the other rights and remedies of the parties herein, Jefferson agrees to indemnify and hold harmless the supported Municipality – Mt. Arlington, including its 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 Jefferson arising out of this Agreement or any of the obligations assumed by Jefferson hereunder, provided it is determined by a Court having the appropriate jurisdiction that Jefferson is solely responsible for such liability. In the event it is determined by a court that Jefferson is not solely responsible for said liability, Jefferson's liability shall be limited to that degree of liability determined by said Court to be the proportionate liability of Jefferson. Jefferson, upon notice from the supported Municipality shall resist and defend, at the expense of Jefferson, such action or proceeding with counsel reasonably satisfactory to the supported Municipality. In addition, at its option, the supported Municipality may engage separate counsel to appear on its behalf in such action or proceeding without waiving its rights or Jefferson's obligation under this paragraph.

IX. INSURANCE

1. The supported Municipality will keep in force, at its expense, Comprehensive General Liability Insurance with insurance companies licensed in the State of New Jersey or with the Morris County Municipal Joint Insurance Fund, which insurance shall be evidenced by Certificates and/or policies as determined by Jefferson.
2. The supported Municipality shall provide this Comprehensive General Liability Insurance with a combined single limit of $1,000,000/$3,000,000 aggregate for bodily injury and property damage. A "claims made" policy is not acceptable. This insurance shall indicate on the Certificate of Insurance the following coverages:
    - Operations
    - Use of Independent Contractors and/or Subcontractors

- Products and Completed Operations
- Broad Form Contractual
- Broad Form Property Endorsement

3. Each Certificate or policy shall require that a thirty-day (30) notice shall be given to Jefferson by registered mail, return receipt requested, if any policy or any individual coverage is altered or cancelled. All such notices shall name the supported Municipality and identify the Agreement or municipal contract number if applicable.
4. Certificates of Insurance shall be delivered to Jefferson, prior to the commencement of this Agreement and all Certificates of Insurance shall state that "Jefferson is an additional insured" for this Agreement.
5. The insurance required under this section shall protect the supported Municipality and all Subcontractors respectively, against damage claims which may arise from operations under this Agreement whether such operations are by the Insured or by anyone directly or indirectly employed by the supported Municipality and also against any of the special hazards which may be encountered in the performance of this Agreement.
6. All policies and Certificates of Insurance shall be approved by the Municipalities prior to the inception of any work under this Agreement.
7. In the event Mount Arlington engages an independent contractor or other third party for the performance of service in connection with the position of Technical Assistant, Mount Arlington agrees to notify its insurance carrier to ensure such individual is covered by the insurance policy of the Mount Arlington.

X. DISPUTE RESOLUTION

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

XI. MISCELLANEOUS

1. The designated Municipal Contact for Jefferson is Debra Millikin, Business Administrator.
2. The designated Municipal Contact for Mount Arlington is Carolyn Rinaldi, Municipal Administrator/CFO/QPA.
3. The designated representatives shall be designated the contact persons for any issues which may arise under this agreement, including changes in fees or the provision of services.

XII. AGREEMENT EXTENSION AND RENEWAL

1. This Agreement may be extended or renewed by the participating Municipalities in an increment of five (5) years as desired and agreed by the Municipalities.
2. Agreement extension or renewal shall be accompanied by an adjusted annual base fee to account for then current expenses associated with Jefferson providing Mt. Arlington with shared Construction Official and Building Code Inspection Services.
3. Agreement extension or renewal shall be accompanied by an allocated amount of costs associated with replacement of any damaged or unusable apparatus, vehicles, and inspection equipment for shared Construction Official and Building Code Inspection Services over the new term of Agreement.
4. Expansion of supported municipalities to this agreement: In the event that during the operation of this agreement, Jefferson either provides services envisioned under this agreement to a municipality other than Mount Arlington or enters into an agreement to provide services envisioned under this agreement to a municipality other than Mount Arlington, Mount Arlington may be entitled to a percentage reduction of the base fee and additional payments under this agreement. The anticipated cost and level of service afforded to each additional supported municipality shall be considered, along with the relative population size of any future supported municipalities.

XIII. GOVERNING LAW

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

XIV. ASSIGNMENT

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

XV. ENTIRE AGREEMENT

1. 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 all the parties hereto.

XVI. SEVERABILITY

1. 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 parties hereto 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 Municipalities as reflected herein. All other provisions of the Agreement shall remain in full force and effect.

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

ATTEST:

TOWNSHIP OF JEFFERSON

BY:

_____

Michele Reilly, RMC, Municipal Clerk

_____

Eric F. Wilsusen, Mayor

ATTEST:

BOROUGH OF MOUNT ARLINGTON

BY:

_____

Ashley Todd, Acting Borough Clerk

_____

Michael Stanzilis, Mayor