

CITY OF VINELAND

RESOLUTION NO. 2018-_____

RESOLUTION AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT BY AND BETWEEN THE CITY OF VINELAND AND THE VINELAND BOARD OF EDUCATION FOR THE ACQUISITION, STORAGE AND PROVISION OF GASOLINE/DIESEL FUEL.

WHEREAS, the City of Vineland has a gasoline/diesel facility for the use in all City vehicles and purchases the same at bulk prices; and

WHEREAS, the Vineland Board of Education (VBOE) operates vehicles including school busses, maintenance and other types of vehicles and purchases gasoline/diesel fuel for the vehicles on an as needed basis and a cost greater than is paid by the City in bulk; and

WHEREAS, the Parties recognize the benefits and economies to be achieved by utilizing shared services for the purchase of commodities such as gasoline and diesel products that can be done more efficiently in combination than separately and the Parties are authorized, pursuant to the Uniform Shared Services Consolidation Act, N.J.S.A.40A: 65-1, et seq., to enter into a shared services agreement with any other local unit to provide or receive any service that each local unit could perform on its own.

WHEREAS, the Parties intend upon entering into a Shared Services Agreement for the use of the Vineland gasoline/diesel facility and purchasing the products at a greater volume and sharing the cost of the facility and lower costs in proportions based upon usage; and

WHEREAS, the Parties wish to outline their respective duties and obligations relative to the purchase of gasoline/diesel fuel, cost of the maintenance, operation and use of the Vineland facility.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Vineland that the Mayor and Clerk are hereby authorized to enter into a Shared Services Agreement with the Vineland Board of Education for the acquisition of gasoline/diesel fuel and related products, cost of storage, operation and maintenance of the Vineland gasoline/diesel fuel facility in the form and substance substantially similar as the Agreement attached hereto, subject to modifications as approved by the City Solicitor.

Adopted:

President of Council

ATTEST:

City Clerk

SHARED SERVICES AGREEMENT

by and between the

THE CITY OF VINELAND

AND

THE VINELAND BOARD OF EDUCATION

Dated: _____, 2018

SHARED SERVICES AGREEMENT

THIS SHARED SERVICES AGREEMENT ("Agreement"), dated this _____ day of _____, 2018, by and between the Vineland Board of Education with offices located at 61 West Landis Avenue, Vineland, New Jersey (VBOE), and the City of Vineland, a municipal corporation of the State of New Jersey with offices at 640 Wood Street, Vineland, New Jersey 08360 ("City").

RECITALS

- A. The City and the VBOE agree that a reduced expenditure of municipal and school tax dollars while providing a greater level of governmental services can be achieved through a shared services agreement;
- B. The VBOE and City have recognized their value to each other by providing reciprocal assistance when needed in the form of labor and equipment as well as essential ideas to benefit the community and our school children and young adults.
- C. The City and the VBOE further recognize the value of interlocal cooperation as a way of reducing duplication and overlap of services;
- D. In enacting the "Uniform Shared Services and Consolidation Act", N.J.S.A. 40A:65-1 et seq. (the "Act"), the New Jersey Legislature has encouraged any local unit of the State to enter into an agreement with any other local unit or units for the joint provision within their several jurisdictions of any service which any party to the agreement is empowered to render within its own jurisdiction as a means to reduce local expenses funded by property taxpayers;
- E. The City and the VBOE as "local units" defined by the Act are empowered to enter into shared services agreements;
- F. The VBOE wishes to utilize the equipment and purchasing power of the City to provide the most cost effective method of purchasing fuel, acquiring and maintaining necessary equipment to fuel its bus fleet and other VBOE vehicles recognizing it would be cost effective to share such services;
- G. Through this Agreement, it is the intention of the parties to cooperate and collaborate with one another in order to share certain services and resources set forth herein to operate in a more cost effective manner thereby providing more expeditious and efficient services to the tax payers;
- H. Acting pursuant to the Act, the City and the VBOE desire to enter into this Shared Services Agreement (the "Agreement") through which the City and the VBOE shall hereinafter share certain services and resources in order to decrease costs by the City and VBOE;
- I. The City and the VBOE have authorized execution of this Agreement by the adoption of a Resolution.

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, and pursuant to all applicable federal, state, and local laws, statutes, codes or ordinances, the City and the VBOE do hereby agree as follows:

BASIC TERMS OF AGREEMENT

1. The VBOE shall be authorized to utilize the City's vehicle fuel island facility (Facility) located at Walnut Road, Vineland, New Jersey for the sole purpose of refueling its bus fleet and other vehicles owned or leased by the VBOE with gas/diesel fuel (Fuel).
2. The City shall be responsible for the purchase and delivery of Fuel to the Facility, which shall be purchased in accordance with the Public Contracts Laws to be used by the VBOE and the City and to keep all records of purchases, including the cost for the fuel and gallonage.
3. The VBOE shall be given access keys and/or cards for access to the Facility and the fuel pumps and shall have access to the Facility at all times the Facility is available for operation.
4. The VBOE shall have a card for each vehicle to be fueled which will identify the vehicle and employee of the VBOE obtaining Fuel. All fueling of VBOE vehicles shall be performed by employees of the VBOE.
5. At the end of each month, the VBOE shall be provided a calculation of the amount of Fuel utilized by the VBOE with a breakdown by vehicle of its consumption as well as the cost per gallon for Fuel which shall be at the cost last paid by the City for Fuel delivered to the Facility.
6. Within 20 days of the delivery of the calculation, the VBOE shall reimburse the City for the total cost for Fuel utilized by the VBOE.
7. At the end of each calendar year the City shall calculate all of the costs associated with the regular maintenance, repair, and upkeep of the Facility (Maintenance Costs) including but not limited to
 - a. Environmental Insurance insuring the Facility and the City against any costs associated with an accidental spill or other contamination associated with the operation of the Facility.
 - b. Costs of annual tank testing and underground piping of the Facility.
 - c. Cost for maintenance and updating all software, including Gas Boy and/or Fuel Master and card readers
 - d. Gas island maintenance and repairs and snow removal.
 - e. Electric and other utility usage.
 - f. Emergency generator costs including regular maintenance and repair.
 - g. An Administrative fee of 2% of the total Fuel purchased.

Regular maintenance and repair shall not include the cost for the replacement of any major component of the Facility unless damaged by VBOE. For purposes of this Agreement "major component" shall be defined as fuel holding tanks and related piping, complete replacement of existing fuel pumps, fixtures, light poles, gates, and electrical service . The City shall calculate the percentage of Fuel used by the VBOE of the total Fuel utilized by the City

combined with the VBOE (VBOE Percentage). The calculation shall be submitted to the VBOE, The VBOE shall pay the VBOE Percentage of the Maintenance Costs within 20 days of the receipt of the same. The Parties agree that the VBOE shall not be responsible for the cost of any remediation or cleanup of spills or contamination which occurred prior to the date of this Agreement.

8. The City shall not be responsible for any costs incurred by the VBOE in the event the Facility is inoperable and the VBOE is required to seek an alternative fueling facility.

9. The City and the VBOE agree that they will at their own cost and expense promptly comply with, or cause to be complied with, all laws, rules, regulations and other governmental requirements which may be applicable to its supplying of the resources and/or the performance of the services described in this Agreement.

TERM OF AGREEMENT

This Agreement shall take effect upon the adoption of the respective Resolutions and execution of this Agreement by all parties and continue for a period of two years thereafter unless sooner terminated under the terms of this Agreement.

INSURANCE

The City and VBOE shall each maintain adequate property liability, auto liability and workers' compensation coverage related to its employees and their participation in this Agreement; and shall name the other party as an Additional Insured for all activities that occur and are directly related to the responsibilities under the terms of this Agreement. Each party shall maintain adequate property liability, auto liability and workers' compensation coverage, related to its employee(s) and participation in this Agreement.

INDEMNIFICATION

The City and VBOE shall not be liable for any intentional acts or omissions related to an employee performing its duties in the discharge of this Agreement. Each party shall indemnify, defend and hold the other harmless from all losses, claims, liabilities, injuries or damage caused by an employee's performance of his or her duties to his or her employer when engaged in activities contemplated by this Agreement; including but not limited to any allegations against the City arising out of the City's purchasing of Fuel and/or maintenance and repair to the equipment. Such indemnification shall include payment of reasonable attorneys' fees and costs in defense of any claim. To the extent any damages are covered by applicable insurance, the City and the VBOE waive all rights against each other.

DISPUTE RESOLUTION

In the event a dispute arises concerning the terms and conditions of this Agreement the parties shall attempt to mutually agree upon a third party to arbitrate any such dispute which arises under this Agreement. Any decision by the arbitrator shall be binding on the parties. In the event the parties are unable to mutually agree on the selection of a single arbitrator, each party

shall appoint an attorney licensed to practice in the State of New Jersey to serve as arbitrators. Such appointment shall be made within fifteen (15) days after written notice by any party of the election to proceed with arbitration by a panel of arbitrators. Any decision by a majority vote of the three attorneys shall be binding on the parties. The costs and expenses of the arbitrator(s) and fees charged by such arbitrator(s) shall be shared equally by the parties; however, each party shall be solely responsible for their own attorney fees and expenses related to retention of their own experts and witnesses.

CHOICE OF LAW

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

ENTIRE AGREEMENT

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

SEVERABILITY

If any part of this Agreement shall be held to be unenforceable, the remainder of this Agreement shall remain in full force and effect.

TERMINATION.

This Agreement may be terminated, upon thirty (30) days written notice to the other party or parties, as appropriate, as follows:

- a. If, through any cause, a party shall fail to fulfill in timely and proper manner its obligations under this Agreement, or if a party shall violate any of the covenants, agreements, or stipulations of this Agreement, the aggrieved party shall thereupon give 10 days' written notice to cure and upon the failure of the breaching party to cure, the aggrieved party shall have the right to terminate this Agreement upon giving 10 days' written notice of such termination to the breaching party.
- b. A party may terminate this Agreement for public convenience at any time by a notice in writing to the other party or parties, as appropriate.
- c. Termination shall not operate to affect the validity of the indemnification provisions of this Agreement, or to prevent either party from pursuing any other relief to which it may be entitled pursuant to the terms of this Agreement.

LIMITATION OF DELEGATION.

This Agreement shall not be construed as delegating any authority other than the authority to provide the services and resources described in this Agreement, consistent with the terms and provisions of this Agreement.

Neither the City nor the VBOE intend by this Agreement to create any agency relationship or merger it being understood that both entities shall remain separate, independent local units.

WARRANTIES & REPRESENTATIONS.

The City and the VBOE both warrant that its representatives who have signed this Agreement on behalf of the City and the VBOE are authorized to do so.

COMPLIANCE WITH LAWS AND REGULATIONS.

The City and the VBOE agree that they will at their own cost and expense promptly comply with, or cause to be complied with, all laws, rules, regulations and other governmental requirements which may be applicable to its supplying of the resources and/or the performance of the services described in this Agreement.

NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER.

In the event that any agreement which is contained in this Agreement should be breached by any party and thereafter such breach shall be waived by the other party, as appropriate, such waiver shall be limited to the particular breach so waived and shall not be a waiver of any other breach hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

ATTEST:

VINELAND BOARD OF EDUCATION

JEFFREY BORDLEY, PRESIDENT

ATTEST:

THE CITY OF VINELAND

**ANTHONY R. FANUCCI
MAYOR, CITY OF VINELAND**