

**TOWNSHIP OF FRANKLIN
R-202-16**

RESOLUTION AUTHORIZING THE DEPUTY MAYOR TO SIGN A SHARED SERVICES AGREEMENT FOR THE LEASE OF PREMISES LOCATED AT 1549 DELSEA DRIVE IN FRANKLIN TOWNSHIP

WHEREAS, the County of Gloucester, (“County”) is a body politic and corporate of the State of New Jersey with main offices located at Two S. Broad Street, Woodbury, NJ 08096; and

WHEREAS, the Township of Franklin (“Municipality”) is a municipal corporation of the State of New Jersey with offices located at 1571 Delsea Drive, Franklinville, NJ 08322; and

WHEREAS, County and Municipality have entered into a Shared Services Agreement (“Shared Services Agreement”), which is referred to and incorporated herein. Pursuant to the Shared Services Agreement, the County has agreed to provide to the Municipality emergency medical services consisting of basic life support ambulance services; and

WHEREAS, Consistent with the terms of that Shared Services Agreement, Municipality has agreed to lease to County its ambulance shelter/office premises, described below which Municipality currently owns; and

WHEREAS, N.J.S.A. 40A:65-1 et seq. specifically authorizes local government units, including counties and municipalities, to enter into shared services agreements; and

WHEREAS, Accordingly, County and Municipality wish to enter into this Lease Agreement based on the terms and provisions which are set forth in this Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Franklin, County of Gloucester, State of New Jersey, that the Deputy Mayor is hereby authorized to sign a Lease Agreement for a period not to exceed 90 days. This lease agreement is effective September 15, 2016.

ADOPTED at the regular meeting of the Township Committee of the Township of Franklin on October 19, 2016.

ATTEST:

TOWNSHIP OF FRANKLIN

Barbara Freijomil, Municipal Clerk

Donald Krevetski, Deputy Mayor

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin, in the County of Gloucester, do hereby certify that the foregoing Resolution was presented and duly adopted by the Township Committee at a meeting of the Franklin Township Committee held on October 19, 2016.

Barbara Freijomil, Municipal Clerk

LEASE AGREEMENT

by and between the

COUNTY OF GLOUCESTER, NEW JERSEY

and

TOWNSHIP OF FRANKLIN

FOR THE LEASE OF PREMISES LOCATED

AT 1549 DELSEA DRIVE,

FRANKLINVILLE, NEW JERSEY 08322

Dated: October 5, 2016

Prepared by: Thomas G. Campo,
First Assistant County Counsel

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LEASE AGREEMENT

THIS LEASE AGREEMENT ("Agreement"), is entered into this 5th day of October, 2016, by and between the County of Gloucester, a body politic and corporate of the State of New Jersey ("County") and the Township of Franklin, a municipal corporation of the State of New Jersey ("Municipality").

RECITALS

1. The County of Gloucester ("County") is a body politic and corporate of the State of New Jersey with main offices located at Two S. Broad Street, Woodbury, NJ 08096;
2. The Township of Franklin ("Municipality") is a municipal corporation of the State of New Jersey with offices located at 1571 Delsea Drive, Franklinville, New Jersey 08322;
3. County and Municipality have entered into a Shared Services Agreement ("Shared Services Agreement"), which is referred to and incorporated herein. Pursuant to the Shared Services Agreement, the County has agreed to provide to the Municipality emergency medical services consisting of basic life support ambulance services;
4. Consistent with the terms of that Shared Services Agreement, Municipality has agreed to lease to County its ambulance shelter/office premises, described below which Municipality currently owns;
5. N.J.S.A. 40A:65-1 et seq. specifically authorizes local government units, including counties and municipalities, to enter into shared services agreements;
6. Accordingly, County and Municipality wish to enter into this Lease Agreement based on the terms and provisions which are set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises, agreements and other considerations made by and between the parties, County and Fire District do hereby agree as follows:

AGREEMENT TO LEASE

1. **PREMISES RENTED:** The premises rented is located at 1549 Delsea Drive, Franklinville, New Jersey 08322 also known as Block 4901, Lot 7. The County will be housing BLS 41 there and sharing office space and common areas.
2. **TERM.** The term of this Lease shall be for a period not to exceed 90 days. This Lease Agreement is effective September 15, 2016.

It is the intention of the parties that the term of this lease shall be coincident with the term of the Shared Services Agreement. Accordingly, if the Shared Services Agreement between the County of Gloucester and the Township of Franklin is terminated by either party, then this Lease Agreement shall be deemed to be terminated simultaneously.

In addition, the County may, if it deems it appropriate to its continued provision of services pursuant to the Shared Services Agreement, terminate this lease by notice to the Municipality, provided as set forth below, which notice shall be provided at least 30 days prior to the date chosen for termination. The County may therefore terminate this Lease without simultaneously terminating the Shared Services Agreement.

3. **RENT.** As the total rent for the premises for the total term of the lease, County shall pay to Municipality the sum of \$1.00. The parties specifically acknowledge that further significant consideration for the making of this Agreement is the services that shall be provided to Municipality consistent with the terms and provisions of the Shared Services Agreement, for which services Municipality is not obligated to pay any compensation.
4. **USE.** County may use the premises to operate a basic life support ambulance service, as that service is further described in the Shared Services Agreement.
5. **WASTE, NUISANCE, OR UNLAWFUL ACTIVITY.** County shall not allow any waste or nuisance on the premises. County shall neither use nor occupy the demised premises or any part thereof

for any unlawful, disreputable, or ultra hazardous business purpose nor operate or conduct its business in a manner constituting a nuisance of any kind.

6. EASEMENT, AGREEMENTS OR ENCUMBRANCES. The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the demised premises. Municipality will notify County of any easements, agreements, or encumbrances of which they have knowledge. Municipality covenants that the premises may legally be used for the operation of the basic life support ambulance service.

7. INSURANCE. The County shall at all times during the term of this Lease maintain hazard insurance and liability coverage insurance on the premises occupied by the County. Municipality shall be named as an additional insured. Municipality shall at all times during the term of the Lease maintain hazard insurance and liability insurance on the premises. County shall be named as an additional insured.

8. COUNTY REPAIRS. County shall, at its sole cost and expense, maintain and repair all parts of the leased premises which it occupies and for which Municipality is not expressly responsible, and shall maintain the premises in a reasonably good condition.

In the event that pursuant to this provision of this Agreement, County makes any improvements to the premises then, upon the termination of this Lease, Municipality shall reimburse County for the prorated value (based on the remaining useful life) of the cost of improvements.

9. UTILITIES. The County shall pay utilities on the building as the County will be occupying the entire building. In the event the County at some point does not occupy the entire building, the County will share the utilities with the Municipality based upon the percentage of use of the building.

10. QUIET ENJOYMENT. Municipality covenants and agrees that it has the full and unrestricted right and lawful authority to make and enter into this Lease. County, upon paying said rent and other charges herein and otherwise fully and punctually performing all the other terms and conditions imposed on County, shall and may peaceably and quietly have, hold and enjoy the premises hereby demised for the term aforesaid free from disturbance by the Municipality or anyone claiming by, through or under the Municipality.

11. INDEMNITY. County shall indemnify save and hold harmless Municipality from and against any and all claims or liability for injury or damage to any person or property occurring in or about the premises occurring during the term of this Lease, when such injury or damage shall be caused in whole or in part by the act, neglect, fault or omission of any duty of same by County, its agents, servants, employees and invitees. Nothing contained herein shall absolve Municipality for any injuries or damage caused by Municipality's negligence or the negligence of Municipality's agents, servants or employees. Municipality will maintain appropriate owner's liability insurance and Municipality shall indemnify save and hold harmless County from and against any and all claims or liability for injury or damage to any person or property occurring during the term of this Lease, when such injury or damage shall be caused in whole or in part by the act, neglect, fault or omission of any duty of same by Municipality, its agents, servants, employees and invitees.

12. SUBORDINATION. This Lease shall be subject and subordinate at all times to any and all encumbrances created by any bond financing, the purpose and part of which was to acquire or improve the premises.

13. ASSIGNMENT, SUBLEASE OR LEASE. County shall be permitted to assign the Lease or sublease the premises and any right or privilege connected therewith, after first obtaining the written consent of Municipality, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, no assignment or sublease by County shall relieve County of its obligations under this Lease.

14. WAIVER. The failure of either of the parties hereto in one or more instances to insist upon strict performance or observance of one or more of the covenants or conditions hereof, or to exercise any remedy, privilege, or operation herein conferred upon or reserved to such party, shall not operate and not be construed as a relinquishment or waiver for the future of such covenant or condition or of the right to enforce the same or to exercise such privilege, option, or remedy, but the same shall continue in full force and effect.

15. SURRENDER OF POSSESSION. County shall, on the last day of the term, or on earlier termination and forfeiture of the Lease, peaceably and quietly surrender and deliver the demised

premises to Municipality free of sub tenancies, including all buildings, additions, and improvements constructed or placed thereon by County, except movable trade fixtures, all in reasonably good condition and repair with regard to those portions of the premises which County has been required to maintain and repair. County shall, if not in default hereunder, remove its equipment, goods, trade fixtures, and effects and those of all persons claiming by, through or under it, provided that such removal does not cause irreparable damage to the premises.

In the event that pursuant to this Agreement, County makes any improvements to the premises then, upon the termination of this Lease, Municipality shall reimburse County for the prorated value (based on the remaining useful life) of the cost of improvements

16. NOTICES. All notices to be given with respect to this Lease shall be in writing. Each notice shall be sent by registered or certified mail, postage prepaid and return receipt requested, or by overnight commercial courier service to the party to be notified at the address set forth herein or at such other address as either party may from time to time designate in writing. Notices may also be given by facsimile transmission weekdays (exclusive of County legal holidays) between the hours of 8:30 a.m. and 4:30 p.m. provided that any such transmission shall be promptly confirmed by any of the other permitted means of notice set forth above addressed to the following:

If to the County:

Chad Bruner, County Administrator
County of Gloucester
Two S. Broad Street
Woodbury, NJ 08096

With copy to:

Matthew P. Lyons, County Counsel
County of Gloucester
Two S. Broad Street
Woodbury, NJ 08096

If to Municipality:

Township of Franklin
1571 Delsea Drive
Franklinville, New Jersey 08322
Attn: Borough Clerk

Either party may, by notice given as described above, change its address for all subsequent notices. All notices hereunder shall be effective upon receipt or (if by other than personal delivery) first attempted delivery.

17. MAINTENANCE OF LAWNS AND SNOW REMOVAL AND FOR TRASH REMOVAL.

County will be responsible for the maintenance of lawns and for snow and trash removal for any stand alone building which is the subject of this Lease Agreement. Municipality shall provide trash pick up services at the premises.

18. DISPUTE RESOLUTION.

- A. Controversies and Claims Subject to Mediation.** Any controversy or claim arising out of or related to the contract, or the breach thereof, shall be settled by mediation.

If a dispute between County and Municipality arises during the course of the contract, the parties will make a good faith effort to resolve the dispute through non-binding mediation.

- B. Contract Performance Pending Mediation.** During mediation proceedings, County shall continue to perform the services described in this Agreement.

- C. When Mediation May be Demanded.** Prior to either party demanding 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 other party shall respond in writing.

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

- (a) five (5) business days after the other party has provided its written response to the aggrieved party's notice of dispute;
- (b) 30 days have passed after submission of the original, written claim by the aggrieved party and the other party has not responded.

If the written response from the other party does not resolve the dispute, the aggrieved party shall have 30 days from the delivery of the other party's response to file a demand for mediation. If the aggrieved party fails to do so, it shall be deemed to have waived its right pursuant to this contract to demand Alternative Dispute Resolution.

A party who files a "Notice of Demand for Mediation" must assert in the demand all claims then known to that party for which mediation may be demanded. If a party fails to include a claim because of excusable neglect, or when a claim has matured or been acquired subsequently, the mediator or mediators may permit amendments.

- D. 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.

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.

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.

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.

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

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

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

- E. **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.

- F. **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.

- G. **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, either party may submit the dispute to the Superior Court of New Jersey, Gloucester County, for adjudication, which court shall have exclusive original jurisdiction over the dispute.

19. TOTAL AGREEMENT; APPLICABLE TO SUCCESSORS. This Lease contains the entire agreement between the Parties and cannot be changed or terminated except by a written instrument subsequently executed by the parties hereto. This Lease and the terms and conditions hereof apply to and are binding upon the successors and assigns of both parties.

20. APPLICABLE LAW. This Lease shall be governed by and construed in accordance with the laws of the State of New Jersey.

21. SEVERABILITY. If any term or provision of this Lease shall to any extent be held to be invalid or unenforceable under the applicable law, the remaining provisions of this Lease shall not be affected thereby but shall remain in full force and effect.

IN WITNESS HEREOF, Municipality and County have hereunto set their hands and seals, all as of the day and year first above written.

ATTEST:

COUNTY OF GLOUCESTER

**CHAD M. BRUNER,
ADMINISTRATOR/CLERK OF THE BOARD**

ROBERT M. DAMMINGER, DIRECTOR

ATTEST:

TOWNSHIP OF FRANKLIN

Barbara Freijomil, Municipal Clerk

Donald Krevetski, Deputy Mayor