

**INTERLOCAL SERVICES AGREEMENT BETWEEN THE BOROUGH OF
WHARTON AND THE TOWNSHIP OF MINE HILL
FOR THE BOROUGH OF WHARTON
TO PROVIDE POLICE COVERAGE AND PROTECTION
TO AND FOR THE TOWNSHIP OF MINE HILL**

THIS INTERLOCAL SERVICES AGREEMENT (the "Agreement") is made on the 11th day of April, 2002, by and between the Borough of Wharton, County of Morris, a municipal corporation of the State of New Jersey, with offices located at 10 Robert Street, Wharton, New Jersey, hereinafter referred to as "Provider," and the Township of Mine Hill, County of Morris, a municipal corporation of the State of New Jersey, with offices located at 10 Baker Street, Mine Hill, New Jersey, hereinafter referred to as "Township."

WITNESSETH

WHEREAS, it is deemed to be in the best interests of the residents of Provider and Township to enter into a contract pursuant to N.J.S.A. 40:8A-1, *et seq.* (the "Interlocal Services Act") to enable Provider to afford protection and coverage through Provider's Police Department to the Township; and

WHEREAS, by Resolution No. 35-02 adopted on March 11, 2002, and Resolution No. 42-02 adopted on April 10, 2002, the Township authorized entry into the within Agreement between the parties.

WHEREAS, by Resolution No. R42-02 adopted on March 11, 2002, Provider authorized entry into the within Agreement between the parties;

WHEREAS, The Township wishes to ensure the safety and welfare for its residents by having police protection and continuous coverage on a 24-hour per day, 7-day per week basis, which is economical, safe and prudent; and,

WHEREAS, the Interlocal Services Act permits and provides a mechanism for contracting between local units such as the Provider and the Township for police coverage and protection by entry into an interlocal services agreement; and,

WHEREAS, the Provider has in place a Police Department that is qualified and able to provide the Township's police coverage and protection in accordance with the terms set forth herein;

WHEREAS, the Provider and the Township wish to memorialize herein their Interlocal Services Agreement for the provision and funding of Provider's rendering police coverage and protection to Township on a full-time basis in lieu of Township's having its own Police Department in accordance with the Interlocal Services Act; and

WHEREAS, the Township has determined that its residents will be provided with substantially enhanced and increased public safety and police protection services at a significant savings by entering into this Agreement with the Provider, and therefore has chosen to eliminate and dissolve (and expressly not "merge") its existing Police Department.

NOW, THEREFORE, The Provider and Township in consideration of the mutual promises and covenants herein set forth, agree as follows:

1 (a) The Provider does hereby agree to provide professional police protection and coverage to Township as set forth in this Agreement, on a 24-hour, 7-day per week basis, in consideration of the following payments by the Township to Provider (reflecting a 5% per annum increase):

- (1) May 1, 2002: \$875,000 per annum pro rated: ^{\$583,333}
- (2) January 1, 2003: \$918,750
- (3) January 1, 2004: \$964,688
- (4) January 1, 2005: \$1,012,922
- (5) January 1, 2006: \$1,063,568
- (6) January 1, 2007: \$1,116,746
- (7) January 1, 2008: \$1,172,583. and
- (8) January 1, 2009: \$1,231,212

The respective annual payments shall be made by the Township to the Provider in equal quarterly installments on the fifteenth day of each tax calendar quarter in each respective year during the term hereof, except that the initial quarterly payment shall be made on full execution of this Agreement by all parties and the amount of such initial payment shall be adjusted and apportioned pro rata as of the date of the initial payment.

1 (b). The initial term hereof shall be for seven (7) years, commencing upon the effective date of this Agreement which is set forth in 4(a) below.

1 (c). The Provider, as agent for the Township, shall assume all responsibility for police protection and coverage in and for the Township. All rules and regulations pertaining to Provider's Police Department shall be promulgated and enforced by the Provider. Specifically excluded from the law enforcement services provided hereunder are, without limitation, school crossing guard services.

2. The Provider shall have full powers of performance and maintenance of the police coverage and protection services and full powers to undertake any ancillary police operations necessary or convenient to carry out its duties, obligations and responsibilities under this Agreement, including all powers of enforcement and administrative regulation applicable in the Township. However, no rule or regulation shall be established which shall in any way differentiate between the police protection and coverage provided to the Provider and to the Township, nor shall any policy, written or unwritten, be made which shall in any way provide unequal police protection. The Provider's police protection and coverage shall be the same in all manners and respects for the Provider and the Township.

3a. The Provider shall annually budget adequate and sufficient monies or funds for professional police protection and coverage for the Provider and for the Township for the term of this Agreement.

3b. Notwithstanding the provisions of Paragraph (a) of this Section 3, in the event the United States or the State of New Jersey enact legislation which mandates police services or equipment beyond the scope of police services or equipment currently required by law, the parties agree to negotiate in good faith on the supplemental compensation due to the Provider to offset the Township's share of such increased costs. In the event the parties cannot agree on

the terms of an amendment to this Agreement to cover the supplemental compensation, the matter shall be submitted to binding arbitration in the manner prescribes by Paragraph 5a.

.In the further event that the Township requests additional law enforcement services which are clearly not contemplated by the Provider at the present time, and which would also result in a substantial increase in the Provider's cost due to the purchasing additional equipment, the hiring additional personnel, the provision of additional patrols on a permanent basis, and/or the addition of foot or bicycle patrols on a regular basis, the parties may agree to adjust the services provided so long as the Township pays the actual costs incurred by the Provider in providing the additional services.

4 (a). This Agreement shall be effective and performance of police coverage and protective services provided for herein shall commence at 7:00 a.m. on May 1, 2002 subject to: (1) Adoption of final Resolutions or Ordinances, if required, by the Provider and the Township approving the execution of this Agreement; (2) full execution of this Agreement by all parties; and (3) the Provider receiving written confirmation from the Township that the Township has met all statutory and/or regulatory requirements needed to dissolve the Township's existing Police Department.

4 (b). In the event that either party seeks to terminate this Agreement, said party shall provide at least one year's written notice in advance of the date of the termination, except that the Agreement may not be terminated prior to July 1, 2006 absent a showing of good cause. In the event that either party does not wish to renew this Agreement, said party shall provide at least one year's written notice in advance of the April 30, 2009 end date. Should the parties not give such notice, then they are bound to commence good faith negotiations for the renewal of this Agreement on or about January 1, 2007.

5 (a). The Provider's Chief of Police, who, under the Provider's form of government, has the duty and responsibility for control of Provider's Police Department, shall continue to have the duty and responsibility for said control and coverage as concerning the Township. The Chief shall advise the Provider and the Township immediately of any or all changes in police rules, regulations, or policy that could in any way materially affect police coverage or protection to the Township or its residents and inhabitants as contracted for hereunder. In the event an objection is raised by the Township respecting any such changes in police rules, regulations or policy, or there arises any other disputes or questions between the parties as to interpretation of the terms of the Agreement or the satisfactory performance by any of the parties of the services

and other responsibilities contracted for hereunder, the Chief shall meet with the Mayors of the Township and the Provider to resolve the matter. If the parties cannot then reach an agreement on such changes, disputes or questions, the parties agree to binding arbitration by a panel of three (3) retired New Jersey Superior Court Judges to resolve such changes, disputes, or questions. The New Jersey Rules of Evidence shall apply in any arbitration necessitated under this Agreement and the panel of Arbitrators shall issue written findings of facts and conclusions of law in connection with any arbitration conducted. Notwithstanding the existence of a dispute as to any amount to be paid by the Township to the Provider for payment of services performed by the Provider pursuant to this Agreement, the Township shall continue, pursuant to N.J.S.A. 40:8A-7, to make payments to the Provider in as set forth herein in paragraph 1(a) herein until a final, unappealable determination that the amount due was less than what was actually so paid, in which event the Provider shall forthwith repay the excess. In any arbitration proceedings brought pursuant hereto, in the event the Arbitration panel finds one party to have been solely in default, the Panel shall award costs and attorneys' fees to the prevailing party. In all other cases, the parties shall equally split the costs of the Arbitration Panel and proceeding and bear their own attorneys' fees.

In the event of a dispute as to interpretation of the terms of this Agreement or the satisfactory performance by any of the parties of the services and other responsibilities contracted for hereunder, The Provider shall be under a continuing obligation to provide police services as set forth herein pending resolution of the dispute. The Township shall be entitled to injunctive relief and all other equitable and legal remedies to enforce this provision of the parties' agreement.

5 (b). The Provider's Chief of Police shall make himself available, at such reasonable times required by the Township and directed by the Provider, for the purpose of providing status reports regarding police coverage and issues involving or affecting the Township.

6. The 24-hours per day, 7-day per week coverage shall ensure that the Township of Mine Hill is designated as a specific zone of patrol that will receive equal police patrol as that provided to those in the Borough of Wharton. The Provider's police duties and responsibilities with respect to the zone or district shall include, but not be limited to, funerals; marches; pickets; protests; community policing; contests, fairs, shows, performances and the like; and such other events, duties or responsibilities that are similarly offered and/or provided to the Borough of Wharton. The Provider shall coordinate and provide off-duty "special event coverage", including construction detail and sporting or special events in the Township on the same terms

as is provided in the Borough of Wharton and the Provider shall be responsible for scheduling, billing, collection and payment for such services.

By way of further explanation, police coverage from the Provider shall include, but not be limited to:

- All educational services offered and provided by the Provider to the Borough of Wharton, including, but not limited to DARE and PAL;
- All other police patrol functions, including, but not limited to, Fire Department and First Aid Squad assists, initial investigations of crimes and offenses, motor vehicle accident investigations and reporting, DUI roadblocks, breathalyzer machines and operators, at the same level as provided to the Borough of Wharton and proportional to the respective geographic areas, populations and police related incidents;
- All services related to domestic violence incidents, including, but not limited to, matron service, and a Domestic Violence Response Team;
- All detective and investigative services at the same level as provided to the Borough of Wharton, including, but not limited to, crime scene investigations, criminal complaint intakes, interviews, investigations and charging, background checks on current or prospective Township employees, fingerprinting, and evidence identification and storage for cases commencing at the inception of this Agreement; and
- The necessary participation and attendance in court proceedings in connection with charges, summonses and other enforcement actions in the Township's Municipal Court, including discovery and court attendance at the same level as provided to the Borough of Wharton Municipal Court. The Township shall elicit the cooperation of the Township's Municipal Court in coordinating the scheduling of court sessions.

7. As additional consideration hereunder, the Township shall provide, transfer and convey to the Provider all right, title and interest of the Township in the equipment and personally identified on the "Equipment List" attached hereto as Exhibit "A". The Provider shall be solely responsible for all future costs associated with any and all capital expenditures needed to maintain and/or upgrade its police force and other general operating expenses of a day-to-day nature. This is consistent with the objective of this Agreement, that the Township is

disbanding its existing police force and engaging the Provider to provide police coverage consonant with an inter-municipal agreement for services.

8. The Provider shall be solely responsible, financially and otherwise, for providing adequate and safe dispatching and 911 calling systems. The Provider is aware that the Township has also utilized the Morris County 911 Center. The Provider shall be solely responsible, financially and otherwise, for providing adequate safe dispatching for all police vehicles in the police services and one fourth (1/4) of the general dispatch fee pad by the Township to Morris County. Specifically excluded from the Providers dispatching responsibilities are dispatching of First Aid, Fire Department, Department of Public Works, Office of Emergency Management and any and all other municipal dispatching services which remain the sole responsibility of the Township.

The Provider will coordinate with the Township's fire department and local rescue/emergency units to ensure safe and proper 911 operations. There shall be no qualitative difference in the manner by which 911 calls are handled for the Borough of Wharton versus how they are handled for the Township of Mine Hill.

9. Nothing herein shall be deemed to affect the Township's keeping its own Municipal Court operation at the Township's Municipal Building, or the Township's having its own Judge, Prosecutor, Public Defender, Court Administrator and the staff Court sessions shall continue as scheduled unless changed by the Judge and Court Administrator, as may be permitted by applicable statute, regulation or Ordinance. While rendering the aforesaid services within the Township, the Provider shall issue summonses for violations of state law and municipal ordinances that shall be returnable in the Township's Municipal Court as appropriate. Violations of state law and municipal ordinances occurring within the Provider's municipality shall be returnable in Provider's municipal court as appropriate.

10. The Township shall disband, dissolve and/or eliminate its Police Department, as permitted by applicable statute and/or regulation, including N.J.S.A. 40:8A-6.I, for reasons of economy and efficiency. A listing of inventory, items and equipment to be transferred by the Township to the Provider under and as of the effective date of this Agreement is annexed hereto as Exhibit "A."

11. The Provider shall be solely responsible for: all liability insurance, worker's compensation insurance, disability insurance, payroll, medical benefits, pension,

unemployment, social security, withholding, any and all other expenses related to employee compensation or benefits; and the training, hiring, firing, and discipline of police personnel and staff, including all incidental expenses and costs that accompany same.

12. The Provider and the Township agree that there will be no assignment of their respective rights or obligations under this Agreement, unless agreed in writing by both parties and with proper official public action.

13. The Provider's Police Chief, with the assistance of other members of the Provider's Police Department who may be detailed for that purpose, will submit a monthly report on police activity within the Township utilizing the same format as submitted to the Provider in accordance with New Jersey Law. The Township may from time to time, require additional information from the Police Department. The Township may request the additional information from the Provider, who will review the request and direct the police department accordingly.

14(a) Neither party shall be liable for any negligent, reckless or intentional acts or omissions of the other and each shall indemnify, defend and hold the other harmless from all losses, injuries or damages caused by the negligent, reckless or intentional acts or omissions of itself or any of its respective employees or independent contractors in rendering the law enforcement services set forth in this Agreement. Such indemnification shall include payment of reasonable attorneys fees and costs in the defense of any claim made by a third person incident to such negligent, reckless or intentional acts or omissions.

14(b) It is recognized and understood that the Provider and the Township participate in the Joint Insurance Funds ("JIF"). Final approval of this Agreement by the Provider and the Township is subject to each obtaining assurance of coverage by their respective JIF and that each will name the other as additional insured on any insurance policies it separately maintains. These policies shall include, without limitation, comprehensive general liability, automobile liability, errors and omissions and workers compensation with limits and deductibles as mutually agreed upon. Each party shall provide the other with a certificate of insurance setting forth the above coverage and naming the other as additional insured promptly upon the execution of this Agreement. In the event either the Provider or the Township ceases to participate in the JIF, such party shall provide alternative insurance comparable to the JIF and subject to the reasonable approval of the other party.

15. The Wharton Police Department shall be under the exclusive authority and control of the Provider. The Township shall not provide any direction or instruction to or discipline or reprimand any member of the Wharton Borough Police Department. All complaints, instructions, requests or other lines of communication shall be through the Borough of Wharton Mayor and/or Administrator, or such other chief administrative officer as may be designated from time to time. The Township shall further designate one of its Councilpersons together with its Mayor, as its representative for all communications with the Provider regarding the provision of law enforcement services under this Agreement. Nothing contained in this Section shall prevent the designated Councilperson or Mayor from the Township from contacting the Chief of Police or his/her designee with information or suggestions regarding law enforcement problems so long as the Wharton Borough Mayor or Administrator is made aware of such contacts and the substance thereof

16. The Provider and the Township agree to cooperate, seek and share, if required, any and all financial benefit(s), aid, funding, tax relief, credits, and the like available from other government units or entities, including the United States of America, the State of New Jersey, New Jersey's Regional Efficiency Aid Program (REAP), and/or the County of Morris, as a result of this shared services Agreement and the parties agree to make any written submissions and to execute any documents required in connection with the foregoing.

17. The Provider will hire eight (8) additional police officers in order to continue its current operations and provide the law enforcement services to the Township as provided herein. However, the Provider shall retain the right, throughout the duration of this Agreement, to increase or decrease its staffing levels as it deems appropriate to meet its needs, provided that no such changes in staffing alter any of the obligations of either party under this Agreement. Provided that they are otherwise qualified and subject to compliance with all applicable laws in the State of New Jersey, the Provider shall hire such additional police officers as are needed by the Provider at the commencement of this Agreement in order to provide the services required hereunder from those police officers who are being terminated by the Township pursuant to the provisions of N.J.S.A. 40A:14-180. In the event that any of the police officers presently employed by the Township are hired by the Provider, they shall be hired with full credit for prior years of service solely as it relates to salary and benefits, as is the Provider's established hiring practice and policy. The parties hereto expressly intend and recognize that this agreement does not provide for the "joint provision of law enforcement services," as contemplated by N.J.S.A. 40A:8A-6.1. As a result thereof, the Provider shall not be responsible for the police

officers presently employed by the Township other than its obligation to hire those officers needed by the Provider to provide the services hereunder, without rights of seniority, tenure or rank, but only after they have been terminated by the Township for economics reasons pursuant to N.J.S.A. 40A:14-180. The Township further agrees to indemnify, defend and hold the Provider harmless from and against any and all claims of the current Township police officers that should be hired by the provider and/or, if they are hired, that they have seniority, rank or tenure rights; provided, however, that such indemnification shall not apply with respect to any claims that are made as a result of the Provider's failure to satisfy its obligations under this Section to hire police officers who are needed at the commencement of this Agreement from those terminated by Township police officers pursuant to N.J.S.A. 40A:14-180. Such indemnification shall apply to any and all costs incurred by the Provider including, without limitation, the payment of any additional wages or damages to any of the Township police officers hired or not hired by the Provider and all of the Provider's legal expenses in defending any such claims.

18. The consideration paid by the Township to the Provider shall remain fixed in the amounts set forth on Paragraph 1a. above and subject to the percentage increases as provided in 4.b. above. The Provider shall be precluded from making any "charge-backs" or similar invoicing to the Township for any overtime required to meet the obligations of the Provider as provided for herein, except for special event coverage as described in paragraph 6 above.

19. The parties shall not be responsible for any part or share of the cost of acquiring, constructing or maintaining any capital facility acquired or constructed by a party or agent thereof unless such part or share is provided for in the contract or in an amendment thereto which shall have been ratified by the contracting parties in the manner by which this Agreement was ratified.

20. The Township agrees to indemnify and hold the Provider and Borough of Wharton, its officials, directors, officers, attorneys, representatives, employees, agents, and legal assigns or successors harmless from and against any employment-related claims, suits, grievances or liability attributable to any hiring pursuant to paragraph 17 herein of any presently or previously employed police officers of the Township. The Township shall pay all costs and reasonable attorney's fees in any such defense of such claims, lawsuits, allegations, cross-claims, third-party claims, demands, liens for payment, and other legal actions.

21. The Township shall provide to the Provider current street map for the Township, updated periodically as necessary, and shall further post and maintain all street signs in the Township. The Township will furnish the Provider with 3 complete copies of the Township's Municipal Code for use in enforcing the Township's local ordinances, and will provide ongoing supplements as necessary.

22. This Agreement represents the entire agreement between the parties and cannot be changed or modified orally. This Agreement may be supplemented, amended or revised only by a writing, which is signed by all of the parties hereto.

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

24. Failure to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement at any one time shall not be deemed a waiver of such term, covenant, or condition at any other time nor shall any waiver or relinquishment of any right or power herein at any time be deemed a waiver or relinquishment of the same or any other right or power at any other time,

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their respective mayors and their corporate seals affixed hereto and attested by their respective clerks the day and year first above written.

ATTEST:

Susan Best
Susan Best, Clerk

BOROUGH OF WHARTON

By *William E. Chegwidde*
William Chegwidde, Mayor

ATTEST

Patricia T. Korpos
Patricia T. Korpos, Clerk

TOWNSHIP OF MINE HILL

By *Richard E. Leary*
Richard E. Leary, Mayor

EXHIBIT "A"

Property and Equipment to be Transferred

1. Firearms, ammunition, gun cleaning kits, and firearm related equipment.
2. Body armor/bullet-proof vests.
3. Police uniforms and related accessory equipment, including, without limitation, boots, belts, holsters, handcuffs, mace, batons.
4. Portable communication devices, including walkie talkies and remotes.
5. Breathalyzer machine and all related equipment and accessories, including kits, ampules, etc..
6. Detective division investigatory/crime scene equipment, including, without limitation, fingerprint kits, cards, pads, etc..
7. Law enforcement manuals, books, regulations, guidelines, etc..

Vehicles

Provider shall have the option of assuming the existing lease/purchase contracts on any or all of the following vehicles currently utilized by the Township's Police Department:

- a. 2001 Ford Crown Victoria
- b. 2002 Ford Crown Victoria
- c. 2002 Ford Crown Victoria

In the event Provider shall assume the lease obligations on any of the above vehicles, Township shall transfer and convey with each vehicle so assumed, all accessory equipment installed thereon, including, without limitation, lights, light bars, strobes, wig wags, MDT's, repeaters, cages, radar guns/units, and MobileVision Camera and Recorder.