

# Township of West Milford

Passaic County, New Jersey

~ Resolution 2015- 227 ~

## RESOLUTION OF THE TOWNSHIP OF WEST MILFORD, COUNTY OF PASSAIC AND STATE OF NEW JERSEY AUTHORIZING A MUNICIPAL SHARED SERVICES DEFENSE AGREEMENT (MSSDA) WITH DR. ROBERT W. BURCHELL FOR AFFORDABLE HOUSING OBLIGATIONS REGARDING THE DECLARATORY JUDGMENT ACTION

**WHEREAS**, the Township of West Milford has filed or anticipates filing a Declaratory Judgment Action in the Superior Court of New Jersey, Passaic County in furtherance of the Supreme Court's March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the "Supreme Court Decision"); and

**WHEREAS**, Fair Share Housing Center ("FSHC"), through the services of David Kinsey, has prepared what it considers to be the statewide fair share numbers (the "FSHC Numbers") for use by the 15 vicinage Mt. Laurel Judges to calculate a municipality's affordable housing obligation pursuant to the Supreme Court Decision; and

**WHEREAS**, the Township of West Milford desires to participate in the preparation of a statewide fair share analysis to be undertaken by Rutgers, The State University of New Jersey ("Rutgers"), through Dr. Robert W. Burchell, Principal Investigator, and various other experts employed by Rutgers in order to establish a rational and reasonable methodology (the "Burchell Fair Share Analysis") for determination of a municipality's obligation to provide a realistic opportunity through its land use ordinances for its fair share of the region's affordable housing needs in accordance with the Mount Laurel Doctrine as set forth In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Decision") and prior decisions of the Courts of New Jersey, and the Fair Housing Act, N.J.S.A. 52:27D-301 et. seq.; and

**WHEREAS**, Rutgers, utilizing Dr. Burchell as the Principal Investigator and author has agreed to prepare the Burchell Fair Share Analysis within 90 days of being retained to establish his view of the proper way to determine each municipality's fair share obligation; and

**WHEREAS**, Dr. Burchell estimates the cost to prepare the initial Burchell Fair Share Analysis will be \$70,000; and

**WHEREAS**, it is anticipated that there will be a need for Dr. Burchell to analyze any challenges to his conclusions and prepare a rebuttal report to said challenges which is not included in the \$70,000; and

**WHEREAS**, it is anticipated that if each municipality contributes \$2,000, there will be sufficient monies to pay the cost to prepare the initial Burchell Fair Share Analysis, to analyze any challenges to the Initial Fair Share Analysis and to Prepare A Rebuttal Report given the number of municipalities that have expressed an interest in retaining Burchell; and

**WHEREAS**, a Municipal Shared Services Defense Agreement (hereinafter MSSDA"), has been prepared (a) so that monies can be collected to enter into an agreement with Rutgers (hereinafter "the Rutgers Agreement") and so that Burchell, along with various other experts from Rutgers, can perform the tasks described above and (b) so that the rights and responsibilities of each municipality that wishes to sign the agreement to retain Rutgers are defined; and

**WHEREAS**, the MSSDA provides that the Law Offices of Jeffrey R. Surenian and Associates, LLC ("Surenian") will serve as the administrative entity to sign the Rutgers agreement on behalf of the municipalities that signed the MSSDA and paid the \$2,000 fee; and

**WHEREAS**, it is imperative given the time constraints for municipalities that wish to retain Burchell to sign the MSSDA and pay the \$2,000 fee so that Burchell can conduct the necessary analysis; and

**WHEREAS**, notwithstanding the foregoing, it is possible that the MSSDA may need to be changed as a result of ongoing negotiations with the Rutgers agreement following execution of the MSSDA and the payment of the \$2,000 fee; and

**WHEREAS**, the Chief Financial Officer has certified as to the availability of funds and said funds to be encumbered from account # 01-201-20-161-450: and

**WHEREAS**, in such an event, any member that objects to the changes that Rutgers may require shall have the opportunity to relinquish membership in the Municipal Group and to receive back the \$2,000 payment as more specifically set forth in the MSSDA.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Council of the Township of West Milford, as follows:

1. The terms and conditions of the MSSDA on file in the Clerks Office are hereby approved, ratified and confirmed.
2. The amount of \$2,000 is hereby authorized to be expended by the Township of West Milford for Rutgers through Dr. Robert Burchell, Principal Investigator to prepare the Burchell Fair Share Analysis.
3. A certification of funds authorizing the aforesaid expenditure has been signed by the Chief Financial Officer of the Township of West Milford.
4. The Mayor be and is hereby authorized to execute the aforesaid MSSDA to memorialize the participation of the Township of West Milford in the preparation of the Burchell Fair Share Analysis and to take any and all actions reasonably required to effectuate said Agreement.
5. The Township of West Milford hereby authorizes Jeffrey R. Surenian, Esq. to execute on behalf of the Township of West Milford the Research Agreement with Rutgers to initiate and complete Burchell Fair Share Analysis and to do such other actions to effectuate the purposes of said Research Agreement.
6. If further changes to the MSSDA are needed as a result of finalizing the Rutgers Agreement, within ten (10) days of notification by Surenian of the changes, the Township of West Milford will inform Surenian if it objects to the changes and wishes to withdraw from the Municipal Group and obtain a refund of the \$2,000 it paid.
7. This Resolution shall take effect immediately.

Adopted: July 15, 2015

Adopted this 15<sup>th</sup> day of July, 2015  
and certified as a true copy of an original.

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Antoinette Battaglia, Township Clerk

I, Antoinette Battaglia, Clerk of the Township of West Milford, hereby certify that the above Resolution was approved by the Township Council of the Township of West Milford at a meeting held on July 15, 2015.

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Antoinette Battaglia