

**RESOLUTION OF THE TOWNSHIP OF FRANKLIN, COUNTY OF
GLOUCESTER AND STATE OF NEW JERSEY AUTHORIZING THE MAYOR
TO EXECUTE A MUNICIPAL SHARED SERVICES DEFENSE AGREEMENT
AND AMENDMENT TO THE MUNICIPAL SHARED SERVICES DEFENSE
AGREEMENT**

R-183-2015

WHEREAS, the Township of Franklin has filed a Declaratory Judgment Action in the Superior Court of New Jersey, Gloucester 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 Franklin desires to participate in the preparation of a statewide fair share analysis, which was originally 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 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 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 estimated the cost to prepare the initial Burchell Fair Share Analysis to be \$70,000; and

WHEREAS, it was anticipated that there would 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 was anticipated that if each municipality contributed \$2,000, there would 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 could be collected to enter into an agreement with Rutgers (hereinafter "the Rutgers Agreement") and so that Burchell, along with various other experts from Rutgers, could 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, a number of municipalities entered into the aforementioned MSSDA for the purpose of retaining Dr. Burchell's services, and Dr. Burchell had begun performance of services pursuant to the terms of the MSSDA; and

WHEREAS, Dr. Burchell has since become ill and has been unable to complete the obligations under the Research Agreement as set forth in the MSSDA; and

WHEREAS, as a result, Rutgers University has exercised its right to terminate the Research Agreement as permitted under its terms; and

WHEREAS, the MSSDA requires modification to allow the members to retain one or more alternative experts, consultants and/or other professionals for the Litigation; and

WHEREAS, an Amendment to the MSSDA (“Amendment”) has been prepared to effectuate the modification; and

WHEREAS, the Township of Franklin recognizes that the Litigation requires immediate action and may require further expedited actions by its counsel determined to be necessary and appropriate; 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 an alternative expert to sign the MSSDA and pay the \$2,000 fee; and

WHEREAS, the Township of Franklin has determined that it is in the best interests of the citizens of the Township of Franklin to approve the Amendment, and/or to affirm and ratify the Amendment, and to authorize their designated counsel to take actions on behalf of the municipality with regard to the multiplicity of issues raised and associated with the continued implementation of the MSSDA;

NOW, THEREFORE, BE IT RESOLVED, by the Township of Franklin as follows: The terms and conditions of the MSSDA attached hereto are hereby approved, ratified and confirmed.

1. The terms and conditions of the Amendment to the MSSDA attached hereto are hereby approved, and/or ratified and confirmed.
2. The amount of \$2,000 is hereby authorized to be expended by the Township of Franklin for an alternative expert to prepare the Fair Share Analysis.
3. The Mayor and Township Clerk, be and are hereby authorized to execute the aforesaid MSSDA and the Amendment to the MSSDA.
4. The Township of Franklin hereby authorizes Jeffrey R. Surenian, Esq., to execute an agreement on behalf of the Township of Franklin with Econsult Solutions, Inc.
5. The Township of Franklin further authorizes its designated counsel to approve such other changes to the MSSDA as may be necessary to effectuate its purposes, and to take action on behalf of the municipality with regard to the multiplicity of issues raised and associated with the implementation of the MSSDA provided that the action will not require the municipality to appropriate and commit any additional funding for the MSSDA.
6. In the event such changes and actions require the municipality to appropriate and commit any additional funding for the MSSDA, The Township of Franklin shall only be responsible for such funding if it authorizes same.
7. If additional monies are needed to effectuate the intent and purpose of the MSSDA, no such services shall be authorized by designated counsel without further action from the Township of Franklin.
8. This Resolution shall take effect immediately.

This Resolution was adopted at a regular meeting of the Township Committee of the Township of Franklin on Tuesday, September 22, 2015.

ATTEST:

TOWNSHIP OF FRANKLIN

BARBARA FREIJOMIL, CLERK

EDWARD LEOPARDI, MAYOR

CERTIFICATION

I, Barbara Freijomil, Clerk of the Township of Franklin do hereby certify that the foregoing Resolution was presented and duly adopted by the Township Council of the Township of Franklin at a meeting held on September 22, 2015.

BARBARA FREIJOMIL, MUNICIPAL CLERK