

INTERLOCAL SERVICES AGREEMENT

THIS INTERLOCAL SERVICES AGREEMENT made this 9th day of December, 2008 by and between THE CITY OF CAPE MAY (“Cape May”), a municipality in the County of Cape May, State of New Jersey and THE BOROUGH OF CAPE MAY POINT (“Cape May Point”), a municipality in the County of Cape May, State of New Jersey.

WITNESSETH:

WHEREAS, Cape May Point desires to renew the shared services contract with Cape May for law enforcement and dispatching services under the Interlocal Services Act, *N.J.S.A. 40:8A-1 et seq.* (the “Interlocal Services Act”);

WHEREAS, Cape May desires to provide law enforcement and dispatching services to Cape May Point under the Interlocal Services Act;

WHEREAS, the parties have agreed that Cape May will provide law enforcement and dispatching services to Cape May Point in accordance with the terms and conditions of this Agreement;

WHEREAS, Cape May Point has approved this Agreement pursuant to **Resolution _____** and Cape May has approved this Agreement pursuant to Resolution 276-12-2008.

NOW, THEREFORE, with the foregoing recital paragraphs incorporated herein by this reference and in consideration of the mutual covenants contained herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Services

Cape May shall provide for Cape May Point those law enforcement and dispatching services which are more specifically set forth on Schedule A attached hereto and by this reference made a part hereof. This agreement shall not include any law enforcement or other services that are not clearly contemplated by Schedule A. Specifically excluded from the law enforcement services provided hereunder are, without limitation. The law enforcement services enumerated in Schedule A are descriptive, not exhaustive, and nothing in Schedule A shall

relieve Cape May of its obligation under this Agreement to provide Cape May Point with a level of law enforcement services that, in the discretion of the Chief of Police, will assure a reasonable and sufficient degree of police protection to the citizens of Cape May Point at all times.

2. Term

The term of this Agreement shall commence as of the first day of January, 2009, and shall continue for a term of seven (7) years until December 31, 2015 (the "Term"), unless terminated sooner pursuant to the terms and conditions of Section 8 below.

3. Consideration

a) It is estimated that Cape May's cost of providing the law enforcement and dispatching services to Cape May Point during the term of this Agreement will be ONE MILLION SEVEN HUNDRED SEVENTY-SIX THOUSAND EIGHT HUNDRED FORTY-NINE (\$1,776,849.00) DOLLARS. Accordingly, in consideration for providing the law enforcement and dispatching services set forth herein, Cape May Point shall pay to Cape May the following per annum amounts (the "Service Fee"):

2009	\$231,890
2010	\$238,847
2011	\$246,012
2012	\$253,393
2013	\$260,994
2014	\$268,824
2015	\$276,889

All of the above annual amounts shall be paid in equal quarterly installments due on January 15, April 15, July 15 and October 15 of each year during the Term.

(b) Notwithstanding the provisions of Paragraph (a) of this Section 3, in the event there is a change in the law necessitating additional law enforcement services which are clearly not contemplated by Schedule A and, as a result thereof, there is a substantial increase in Cape May's cost due to the purchasing of additional equipment, the hiring of additional personnel, the provision of additional patrols on a permanent or seasonal basis, and/or the addition of foot or bicycle patrols on a regular or seasonal basis, such additional cost will be documented to Cape May Point and Cape May Point will be responsible for a proportionate share of such additional cost as an increase to the Service Fee which may be up to one hundred (100%) percent in those cases where such additional law enforcement services are to be provided exclusively for Cape May Point. In the further event that Cape May Point requests additional law enforcement services which are not clearly contemplated by Schedule A, and which would also result in a substantial increase in Cape May's cost due to the purchasing of additional equipment, the hiring of additional personnel, the provision of additional patrols on a permanent or seasonal basis, and/or the addition of foot or bicycle patrols on a regular or seasonal basis, the parties may agree to adjust the services provided so long as Cape May Point pays the actual costs incurred by Cape May in providing the additional services.

4. Street Map and Signs

Cape May Point shall provide to Cape May a current street map for Cape May Point, updated periodically as necessary, and shall further post and maintain all street signs in Cape May Point. A failure of Cape May Point to comply with the requirements of this Paragraph shall be subject to the notice and cure requirements of Section 10 below.

5. Indemnification

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.

6. Insurance

It is recognized and understood that Cape May and Cape May Point participate in the Joint Insurance Fund ("JIF"). Final approval of this Agreement by Cape May and Cape May Point is subject to each obtaining assurance of coverage by 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 Cape May Point or Cape May 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.

7. Applicable Law

Each party shall comply with all applicable laws pertaining to the provision of law enforcement and dispatching services including, without limitation, *N.J.A.C. 40A-14-118 et seq.* and the Interlocal Services Act.

8. Remedies

In the event either party defaults in the performance of any of its obligations under this Agreement after thirty (30) days prior written notice and an opportunity to cure, or if either party commits a default under the Lease, as defined above, after the applicable notice and cure periods set forth in the Lease, the non-defaulting party shall be entitled to all remedies available at law, in equity, or both. Notwithstanding the above, the cure periods shall be extended past thirty (30) days if the default cannot be reasonably cured within such time period provided that

the defaulting party is using reasonably diligent efforts to effectuate said cure. If the defaulting party is using reasonably diligent efforts to effectuate said cure and the parties cannot reconcile the default within one hundred twenty (120) days from notification of the default, the Agreement will automatically terminate; and the non-defaulting party shall be entitled to receive from the defaulting party all “costs and expenses”, plus legal fees, as a result of such default. In the event Cape May is the non-defaulting party, such remedies shall include, without limitation, the right to terminate this Agreement and recover from Cape May Point as liquidated damages and not as a penalty an amount equal to the Service Fee for the six (6) month period immediately succeeding the effective date of termination. In the event Cape May Point is the non-defaulting party, such remedy shall include, without limitation, the right to terminate this Agreement and receive from Cape May as liquidated damages and not as a penalty continued police coverage for up to a six (6) month period immediately succeeding the effective date of termination at fifty (50%) percent cost to Cape May Point. This will provide Cape May Point police coverage while seeking alternative arrangements. The parties acknowledge that the liquidated damages set forth above represent a reasonable estimate of the damages that will be suffered by the non-defaulting party as a result of a default of this agreement by the other party.

9. Chain of Command

The Cape May Police Department shall be under the exclusive authority and control of Cape May. Cape May Point shall not provide any direction of instruction to or discipline or reprimand any member of the Cape May Police Department. All complaints, instructions, requests or other lines of communication shall be through the Cape May Mayor and/or City Manager, or such other chief administrative officer as may be designated from time to time. Cape May Point shall further designate one of its Commissioners and/or the Administrator as its representative for all communications with Cape May regarding the provision of law enforcement services under this Agreement. Nothing contained in this Section shall prevent the designated Commissioner from Cape May Point from contacting the Chief of Police or her

designee with information or suggestions regarding law enforcement problems so long as the Cape May Mayor or City Manager is made aware of such contacts and the substance thereof.

10. Choice of Law

Any dispute under this Agreement or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

11. Entire Agreement

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.

12. Severability

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.

13. Waiver

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.

14. Counsel Approval

The parties acknowledge that this Agreement has been approved in form, content and legality, by the respective solicitors for Cape May Point and Cape May.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date first above written.

ATTEST:

CITY OF CAPE MAY

Diane L. Weldon, City Clerk

By: _____
Dr. Edward J. Mahaney, Jr., Mayor

WITNESS:

BOROUGH OF CAPE MAY POINT

Constance Mahon, Municipal Clerk

By: _____
Carl F. Schupp, Mayor

**SCHEDULE A
SCOPE OF SERVICES
CAPE MAY POINT**

- 1) Cape May will institute coverage zones, which will encompass West Cape May and Cape May Point. The shift supervisor will overlap zones routinely to include West Cape May and Cape May Point. The coverage will be 24 hours per day, 7 days per week, and will be proportionate to the coverage in Cape May with consideration given to the geographic areas, populations, level of tourism and police related problems.
- 2) Any incident requiring more than one officer will be covered by the zone officer, and either the patrol supervisor, or an officer from another zone. The proper backup will always be provided.
- 3) In addition to routine patrol duties and response to calls for assistance, the City will provide all other patrol functions such as rescue assists, initial investigations of crimes and offenses, motor vehicle accident investigations and reporting, as well as enforcement of Borough ordinances, which are of the type that would be enforced by the Cape May Police Department in Cape May City.
- 4) Criminal investigations and crime scene processing will be conducted by Cape May Police Department detectives.
- 5) All educational services offered by Cape May Police Department will be extended to Cape May Point students attending Cape May Star of the Sea School and Cape May Elementary School including DARE and PAL.
- 6) Monthly reports submitted by Cape May to the West Cape May and Cape May Point Commissioners of Public Safety. Cape May Point may request a quarterly meeting with the Police Chief, Police Captain, and/or the City Manager to review and discuss services. Cape May when legally permitted will communicate matters of significant importance or emergency directly to the Cape May Point Mayor, or designated representative.
- 7) Upon request, Chief or Captain will attend Borough of Cape May Point and West Cape May meetings, depending on availability.
- 8) Request for special event coverage shall be submitted in writing to Cape May City Mayor at least four (4) weeks in advance.
- 9) During peak summer months, Special Police Officers will be assigned to the Borough of Cape May Point in addition to regular car patrols. During the period from June 15 to the day after Labor Day, Cape May will provide increased coverage between the hours of 7:00 PM and 3:00 AM.

- 10) No police vehicles will be allowed on Cape May Point beaches unless responding to an emergency. Police officers should make observations from designated areas, and walk the beach if needed. Use of an ATV is permitted.