

SHARED SERVICES AGREEMENT

THIS SHARED SERVICES AGREEMENT (the "Agreement"), made this _____ day of _____, 2012 by and between the Borough of Demarest, a public body corporate and politic of the State of New Jersey (the "Borough") duly created and organized pursuant to N.J.S.A. 40A:60-1 et seq. and the County of Bergen, a public body corporate and politic of the State of New Jersey (the "County") duly created and organized pursuant to N.J.S.A. 40:41A-31 et seq. (the Borough and the County may be referred to herein as a "Party" and, collectively, as the "Parties").

RECITALS

WHEREAS, pursuant to N.J.S.A. 40A:14-118 et seq., the Borough is empowered to create a municipal police department to provide law enforcement and other police services throughout the Borough; and

WHEREAS, pursuant to N.J.S.A. 40A:14-106, the County is empowered to create a county police department to provide law enforcement and other police services throughout the County; and

WHEREAS, the Uniformed Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq. authorizes local government units (i.e., the Borough and the County) to enter into shared services agreements with each other to provide or receive any service that each local unit is empowered to provide or receive within its own jurisdiction, and to do all acts and things which are necessary, convenient or desirable to carry out and perform the shared services agreed upon; and

WHEREAS, the County has entered into shared services agreements with various municipalities and government entities for the provision of services including but not limited to: the engineering and construction of ADA improvements along County roads; intersection, culvert and drainage improvements; stream clearance; the provision of road salt and snow plowing; the provision of public works equipment such as street sweepers, skid loader, etc.; various health services; the provision of police vehicles; policing services in Teterboro; services involving the Bergen County Vocational School; the reconstruction of the West Riser tide gate by and with the New Jersey Meadowlands Commission; the joint repair of the Kingsland Avenue Bridge in Lyndhurst with the County of Hudson; and

WHEREAS, the Borough has studied consolidation of Borough law

enforcement and other police services with the County, and has determined that consolidation is the most economically efficient manner in which to maintain or exceed the current level of police services to Borough taxpayers; and

WHEREAS, the County has determined that, due to economies of scale, it can provide law enforcement and other police services to the Borough at a significantly lower cost than currently incurred by the Borough; and

WHEREAS, the Borough and the County have each duly authorized their proper officials to enter into and execute this Shared Services Agreement under which all Borough law enforcement and other police services within the Borough shall be transferred to the County of Bergen,

NOW, THEREFORE, the Parties, intending to be legally bound hereby, agree as follows:

ARTICLE 1

DEFINITIONS

The following terms shall have the meanings specified below:

"Borough" means the Borough of Demarest.

"Borough Chief" means the Chief of Police of the Demarest Police Department serving in that position immediately prior to execution of this Agreement. Upon the commencement of this Agreement, the Borough Chief shall be assigned as the Station Commander/Officer in Charge.

"County Chief" means the Chief of Police of the Bergen County Police Department.

"County Police" means the Bergen County Police Department.

"Reasonable costs incurred by the Borough to re-establish a municipal police agency that provides the same level of Services existing prior to execution of this Agreement" means an amount not to exceed \$500,000.00, to be adjusted each year commencing on the first anniversary of this Agreement by the Consumer Price Index or a similar index in the event the CPI is no longer measured.

"Services" means all law enforcement and police services previously provided to the Borough of Demarest by the Demarest Police Department, whether or not specifically enumerated herein, and such additional related services as is required to be performed by the County hereunder.

"Special Officers" means those special law enforcement officers appointed pursuant to N.J.S.A. 40A:14-146.10.

ARTICLE 2

DURATION OF AGREEMENT AND RIGHT OF TERMINATION

Section 2.01 Duration of Agreement.

A. The term of this Agreement shall be for seven (7) years and shall become effective immediately upon execution (as authorized by resolution or ordinance, as appropriate) by the last (in time) of all Parties to this Agreement and the written approval of the Civil Service Commission, whichever date is later.

B. At the sole and exclusive option of the Borough, the Agreement may be extended for an additional seven (7) years ("Additional Term"), pursuant to the compensation terms set forth in Article 8 hereof. If the Borough elects to renew the Agreement for an Additional Term as provided in this Section 2.01B, it shall provide notice in writing to the County not less than 18 months prior to expiration of this Agreement.

C. At the sole and exclusive option of the Borough, the Agreement may be extended for a term beyond the Additional Term at terms and conditions to be negotiated by the Parties. If the Borough elects to renew the Agreement beyond the Additional Term as provided in Section 2.01C, above, it shall provide notice in writing to the County not less than 18 months prior to expiration of the Additional Term, at which time the Parties agree to commence good faith negotiations to extend the Agreement for an additional seven (7) years ("Extended Term").

D. In the event that the Parties cannot agree upon an Extended Term, then all obligations hereunder shall cease and the parties shall have no further rights and/or responsibilities.

E. This Agreement may be amended from time to time by agreement of the Parties hereto in the same manner as this Agreement was originally authorized and approved. Amendments to this Agreement shall become effective

immediately upon execution (as authorized by resolution or ordinance, as appropriate) by the last (in time) of all Parties to this Agreement.

Section 2.02 Right of Early Termination by the County

A. In the event the County intends to dissolve or merge the County Police Department so that it will no longer exist as a separate entity or division of the County, this Agreement may be terminated by the County upon eighteen (18) months prior written notice to the Borough (the "Notice Period").

B. During the Notice Period, this Agreement shall remain in full force and effect, and the County shall continue to provide the Services to the Borough in accordance with this Agreement.

C. During the Notice Period, the Borough shall continue to pay for such Services in accordance with the compensation provisions set forth in Article 6 hereof, except that any compensation due to the County for part of a calendar year shall be pro-rated.

D. If the County terminates the Agreement under this Section 2.02, the County shall be responsible for all reasonable costs incurred by the Borough to re-establish a municipal police agency that provides the same level of Services existing prior to execution of this Agreement. If the Parties cannot agree on such reasonable costs after mediation pursuant to Section 13.01 hereof, an arbitrator selected in the manner provided in Section 13.02 shall determine the reasonable costs to be incurred by the Borough to re-establish a municipal police agency that provides the same level of Services existing prior to the execution of this Agreement, and upon a determination by the arbitrator of such reasonable costs, the County shall pay such costs to the Borough.

E. Except for the indemnification provisions in Article 12, this Agreement shall terminate and be of no further force and effect eighteen (18) months after written notice by the County to the Borough. The County shall pay to the Borough the costs described in paragraph D, above, within 30 days of termination of this Agreement or the arbitrator's decisions, whichever is applicable.

F. In the event the Borough has materially breached this Agreement, the County shall have the right to terminate this Agreement, subject to paragraph G, below. For purposes of this paragraph, a material breach on behalf of the Borough means the Borough's failure to pay the compensation as and when due in accordance with Article 8, which breach has not been cured by the Borough within fifteen (15) days of receipt by the Borough of written notice by the

County to the Borough that it is in breach, and which shall identify the exact amount of such non-payment in order that the Borough may cure such non-payment within the cure period.

G. Given the nature of the subject matter of this Agreement, the County understands and acknowledges that it shall continue to provide Services to the Borough until the Borough, at its sole cost and expense, re-establishes a municipal police agency or contracts for police services elsewhere, which in no event shall exceed eighteen (18) months. The County's sole remedy for such a breach by the Borough shall be a judgment for damages to make the County whole with respect to the amount of unpaid Services.

Section 2.03 Right of Termination for Cause by the Borough

A. The Borough shall have the right to terminate this Agreement if the County has materially breached the Agreement or fails to provide the Services in accordance with the terms of this Agreement. Termination under this Section shall be effected as follows:

1. The Borough shall provide written notice to the County describing the nature of the material breach.
2. Thereafter, the Parties will cooperate with each other to timely select a mutually agreed upon mediator, who shall be a retired New Jersey Superior Court judge or a member of the New Jersey Public Employment Relations Commission (PERC) panel or other professional with expertise in law enforcement, to act as mediator. The mediator shall be selected in the manner provided in Section 13.01 hereof.
3. If the Parties cannot agree upon the mediator's nonbinding recommendations, then the matter shall proceed to arbitration in accordance with Section 13.02 of this Agreement. The selected arbitrator shall determine (i) whether the County has materially breached the Agreement and failed to provide law enforcement and other police services in accordance with this Agreement and, if so, (ii) the reasonable costs to be incurred by the Borough to re-establish a police agency that provides the same level of Services that existed prior to this Agreement.

B. The County shall pay to the Borough the costs described in paragraph A3, above, within 30 days of the arbitrator's final determination. This Agreement shall remain in full force and effect, and the County shall continue to provide

the Services to the Borough in accordance with this Agreement until it terminates as set forth in paragraph C, below. Notwithstanding any prior material breach by the County, the County shall provide the Services in a manner consistent with this Agreement.

C. Except for the indemnification provisions in Article 12, this Agreement shall terminate and be of no further force and effect eighteen (18) months after a determination by the arbitrator that the County has materially breached this Agreement, or until such time as the Borough has re-established a police agency, whichever is sooner.

D. For purposes of this Section 2.03, material breach by the County means a breach of any of the following:

1. Section 4.03, Paragraphs A, B, C, D, E or F;
2. Section 5.01, Paragraphs A, B, or C; and
3. Section 5.02, Paragraph B.

ARTICLE 3

TRANSFER OF PERSONNEL

Section 3.01 Borough Police Personnel Transfer to County

A. On the effective date of this Agreement, all Borough Police personnel shown on the Employment Reconciliation Plan appended hereto as **Exhibit A** shall become employees of the County.

B. In accordance with the Shared Services Act, specifically N.J.S.A. 40A:65-11(a)(4), the Employment Reconciliation Plan (Exhibit A) has been filed with the New Jersey Civil Service Commission.

C. The determination of the New Jersey Civil Service Commission shall be final with regard to the Employment Reconciliation Plan.

D. On and after the effective date of this Agreement, the County shall be responsible for all payments to the New Jersey Police and Firemen's Retirement System for all Borough police personnel transferred to the County in accordance with paragraph A of this Section 3.01, and the Borough shall have no further obligations with respect to any pension payments for such transferred personnel. The County understands and acknowledges that, in accordance with

the State's accounting methodology, the County's pension obligations hereunder shall be based on the respective salaries of the transferred personnel as of 2011, when such personnel were Borough employees. The Borough affirms that it has paid current its pension payment obligations as of the effective date of this Agreement.

ARTICLE 4

SCOPE OF SERVICES

Section 4.01 Nature of Services

A. The County, through the County Police, shall perform all of the Services within the territorial boundaries of the Borough.

B. The County Chief of Police is the head of the County Police and is directly responsible to the County Executive for the efficient and routine day to day operations thereof, and he shall, pursuant to Title 40A:14-1 et seq. and the policies established by the County:

1. Administer and enforce rules and regulations and special emergency directives for the disposition and discipline of the County Police and its officers and personnel;

2. Have, exercise, and discharge the functions, powers and duties of the County Police;

3. Prescribe the duties and assignments of all subordinates and other personnel;

4. Delegate such of his authority as he may deem necessary for the efficient operation of the County Police to be exercised under his direction and supervision; and

5. Report as required by Statute and as further set forth herein.

Section 4.02 Demarest Police Station and Station Commander/Officer in Charge

A. Pursuant to a Lease between the Parties, appended hereto as **Exhibit B**, the County has leased the Demarest Police Headquarters for use by the County Police as the Demarest Police Station ("Demarest Station").

B. The Borough Chief shall serve as the Station Commander/Officer in Charge of the Demarest Station until his retirement or his inability or ineligibility to serve or termination. Upon the Borough Chief's retirement or inability/ineligibility or termination, the County Chief, in consultation and cooperation with the Borough, shall assign a full-time Station Commander/Officer in Charge of the Demarest Station in accordance with the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 et seq. If the County Chief fails to adequately consult with the Borough, the Borough shall have the right to submit the matter to Dispute Resolution in accordance with Article 13 hereof or, alternatively, request that the County Chief assign a new Officer in Charge who is reasonably acceptable to the Borough.

C. Prior to replacement of the Station Commander/Officer in Charge, other than for cause, the timing of such replacement shall allow a reasonable period of time for such replacement to work with the Station Commander/Officer in Charge to ensure a seamless transition.

D. The Station Commander/Officer in Charge shall be in charge of all police officers assigned to the Demarest Station, and shall operate out of the Demarest Station. The County Chief shall also designate a command level supervisor to cover the Demarest Station any time that the Station Commander/Officer in Charge is unavailable (e.g., on vacation).

E. The Demarest Station shall follow the Standard Operating Procedures (SOP) developed and adopted in coordination between the County Police and the Borough Police Chief prior to execution of this Agreement. The SOP is appended hereto as **Exhibit C**. Notwithstanding anything to the contrary, the County Chief may institute an emergency SOP, which shall thereafter be discussed with the Borough.

F. The Station Commander/Officer in Charge, under the Direction of the County Chief, shall prepare all press releases relating to incidents that occur within the Borough, in accordance with Bergen County Police Standard Operating Procedures, orders and/or notices, and the Borough Mayor shall receive a written copy prior to such release being provided to the public.

Section 4.03 Minimum Services. The Services to be provided shall, at a minimum, include the following:

A. The County Police shall assign not less than two (2) police officers, 24 hours per day, seven (7) days per week to uniformed patrol within the Borough. Each officer shall be assigned to a patrol unit. In the event that either or both of the assigned officers are needed elsewhere, replacement officers shall be

assigned to patrol the Borough as soon as practicable, but not later than 45 minutes after the officers regularly assigned to the Borough have been diverted from the Borough.

B. The County Police shall respond to 9-1-1 calls emanating from the Borough and received by the County's Communications System, 24 hours per day, seven (7) days per week.

C. The County Police shall perform complete investigative follow-up on all appropriate occasions, in cooperation and consultation with the Demarest Station Commander/Officer in Charge. A detective, whose primary responsibilities shall be investigations within the Borough, will be assigned to office hours at the Demarest Station not less than eight (8) hours per week, and as determined by the Station Commander/Officer in Charge.

D. The County Police Canine Unit shall be made available for primary patrol within the Borough, as determined by the Station Commander/Officer in Charge in consultation with the County Chief.

E. Enforcement of Borough ordinances and state statutes shall be carried out by the two patrol units assigned to the Borough, and by any additional patrol personnel or security officers as needed.

F. The County Police shall provide at least one School Resource Officer during all hours in which Borough schools are in session unless the School Resource Officer is required to be temporarily re-assigned for emergency purposes within the Borough.

G. The County Police shall provide monthly written reports to the Borough, substantially in the format attached hereto as **Exhibit D**. In addition, the County Police shall provide a written report on any other noteworthy police/community conditions.

H. The County Police shall provide a monthly written report of average monthly response time data in the same format as set forth in **Exhibit E** appended hereto. The average monthly response time shall be calculated using the software version of the Management System set forth on Exhibit E.

ARTICLE 5

OPERATIONAL REQUIREMENTS

Section 5.01 Staffing Levels

A. The County Police shall maintain the same level of police staffing as currently in effect within the Borough (i.e., prior to this Agreement), as set forth in Section 4.03. Additionally, the County Police shall provide a supervisor on every shift.

B. Former Borough Police Officers will be assigned to the Demarest Station, and will be utilized to patrol the Borough using patrol vehicles assigned to the Borough. The County may assign different or additional County Police personnel to the Demarest Station. The Station Commander/Officer in Charge shall have the responsibility for the selection of officers assigned to Demarest, with the final approval of the County Chief. The timing of such assignments shall, to the extent feasible, allow for a reasonable period of time for any replacement personnel to work with the former Borough Police Officers to become acclimated to the Borough's needs and ensure a seamless transition.

C. The Demarest Station shall have access to a minimum of five County Police Officers 24 hours per days, seven (7) days per week for police responsibilities as set forth in Article 4 of this Agreement, and a minimum of 15 Officers at any time for emergency situations, which officers may not be on duty but shall be called in.

Section 5.02 Response Time

A. The County Police shall respond to calls within the Borough at a level that does not deviate by more than five (5%) per cent from the average monthly response time for the last three (3) year period prior to the execution of this Agreement as set forth in Exhibit E.

B. In the event the County Police does not maintain average monthly response times within the 5% deviation allowance in any given month, the County Police shall correct the response times within the next calendar month. In the event that there is more than a 5% deviation during any four (4) months of any calendar year, or during two consecutive months during any calendar year, such greater deviation shall be deemed a material breach of this Agreement.

C. The Parties shall conduct monthly and quarterly reviews of the monthly average response times, and of other standards as may be agreed upon between the County and the Borough.

Section 5.03 Special Officers

All Borough Special Officers who hold such positions within the Borough at least three months prior to the execution of this Agreement shall be offered positions with the County and, if accepted by such officers, shall be hired as Bergen County Security Officers and shall be assigned to the Borough whenever feasible and practicable.

Section 5.04 Police Services to Borough Schools

A. Police services provided to the Borough High Schools (other than the School Resource Officer) will be billed to the High School on the basis of actual costs and not on a cost plus or County flat fee rate basis. This clause shall not prohibit the County from negotiating with the High School for enhanced services, e.g., security presence during after school hours.

B. The County shall not bill for police services at Borough elementary schools for normal police operations, e.g., traffic control for Back-to-School nights, graduation ceremonies, PTO meetings and functions, school fundraisers not in excess of three (3) per year, Halloween safety lectures, bicycle safety inspections, campus security survey and lectures, monitoring video surveillance equipment and snow emergencies.

Section 5.05 School Crossing Posts

A. All manned school crossing posts will be checked each day and any vacant post(s) will be manned by the County Police or a County Security Officer. There are thirteen (13) manned school crossing posts within the Borough that are currently located as set forth below. The Borough reserves the right to substitute different locations as may be required from time to time, but in no event shall the number of manned crossing posts exceed thirteen (13). Currently, the manned school crossing posts are as follows:

1. Knickerbocker Avenue and Hardenburg Avenue;
2. Knickerbocker Avenue in front of High School;
3. Knickerbocker Avenue in High School driveway;
4. Hardenburg Avenue and Columbus Road;
5. Hardenburg Avenue and Brookside Avenue;
6. Brookside Avenue and Lenox Avenue;

7. Hardenburg Avenue and park Street;
8. Hardenburg Avenue and County Road;
9. Hardenburg Avenue and Northwood Avenue;
10. Hardenburg Avenue and Lake Road;
11. Piermont Road and Northwood Avenue;
12. Piermont Road and Orchard Road;
13. County Road and Lake Road; and

B. The Station Commander/Officer in Charge shall manage and train the Borough school crossing guards, in compliance with all applicable law.

C. The services under this Section 5.05 are part of the Services covered by the compensation under this Agreement as set forth at Article 7, and the Borough shall not incur any additional charges for such services.

Section 5.06 Borough Events

A. All prior or existing annual Borough events, as set forth in paragraph B, below, will be staffed with adequate police coverage. The Borough reserves the right to substitute similar events for any of the twelve (12) annual events identified in paragraph B, below, as deemed appropriate by the Borough from time to time. However, in no event shall the number of annual events exceed (12). The County Police shall staff such events using former Borough Police Officers, whenever feasible and practicable.

B. The annual Borough events to be staffed, as set forth in paragraph A, are currently identified as follows:

1. Demarest Day;
2. 5K Run;
3. Triathlon;
4. Oktoberfest;
5. Demarest Library Bizarre;
6. Memorial Day Ceremony;
7. 911 Ceremony;
8. Tree-Lighting Ceremony;
9. Menorah Lighting Ceremony;
10. Rag-a-Muffin Parade;
11. Demarest Athletic Association Opening Day Parade and Ceremony;

and

12. Summer Series Concerts in the Park.

C. The services under this Section 5.06 are part of the Services covered by the compensation under this Agreement as set forth at Article 7, and the Borough shall not incur any additional charges for such services.

D. Any additional services for Borough events beyond those listed in Paragraph B, above, shall be evaluated by the Station Commander/Officer in Charge, in consultation with the County Chief, and the costs, if any, for such additional services for Borough events shall be subject to approval by the Borough before such services are provided.

Section 5.07 Public Works Projects

A. Provide uniformed police officers, at the County's sole expense, for the maintenance and protection of traffic when the Station Commander/Officer in Charge deems their presence necessary, either during construction or continued maintenance by the Borough or the County's contractors.

B. Whenever possible, traffic Control costs and overtime will be passed on to contractors or vendors performing the work.

C. In the event any such costs cannot be passed onto the contractor or vendor, the costs of County Police services for work on County roadways within the Borough shall be borne by the County, and the costs of County Police services for work on Borough streets shall be borne by the Borough notwithstanding anything to the contrary in this Agreement.

Section 5.08 Emergencies

All emergencies shall be staffed with adequate coverage. Emergency services are part of the Services covered by the compensation under this Agreement as set forth at Article 7, and the Borough shall not incur any overtime charges or additional staffing charges for such emergency services. Nothing herein shall prevent the County from applying for and receiving FEMA reimbursements for police services, and nothing herein shall prevent the Borough from applying for and receiving FEMA reimbursements for Borough services other than police services.

Section 5.09 Attendance at Council Meetings

The Station Commander/Officer in Charge, or his designee, shall attend all Council meetings and other Borough meetings as necessary. These services are part of the Services covered by the compensation under this Agreement as

set forth in Article 7, and the Borough shall not incur any additional charges for such services.

Section 5.10 Mutual Aid Agreements

The County Police shall honor the existing mutual aid agreement by and between the Borough and the County, appended hereto as **Exhibit F**. The County Police shall send only one (1) of the two (2) patrol units assigned to the Borough on any response to a mutual aid request.

Section 5.11 Security Patrols

The County Police shall continue security patrols for all non-residential buildings within the Borough at the existing levels of service, which are described in the SOP at Exhibit C. These security patrol services are part of the Services covered by the compensation under this Agreement as set forth in Article 7, and the Borough shall not incur any additional charges for security patrol services.

Section 5.12 Traffic-Related Incidences

The County Police will respond to and handle all traffic-related incidences within the Borough. These services are part of the Services covered by the compensation under this Agreement, as set forth in Article 7, and the Borough shall not incur any additional charges for such services.

Section 5.13 Delivery of Government Documents

From time to time, as requested by the Borough and provided that it does not interfere with public safety, the County Police will deliver government documents to public officials within the Borough. These services are part of the Services covered by the compensation under this Agreement as set forth in Article 7, and the Borough shall not incur additional charges for such services.

Section 5.14 Traffic Post at County Road and Hardenburg Avenue

The County Police shall staff the traffic post at County Road and Hardenburg Avenue at the existing levels of service, that is, from 8AM to 8:30 AM and from 3PM to 3:30 PM as set forth in the SOP (Exhibit C). These services are part of the Services covered by the compensation under this Agreement as set forth in Article 7, and the Borough shall not incur additional charges for such services.

Section 5.15 Staffing of Basic Calls

The County Police shall staff all basic calls such as general assistance, fire and ambulance by police officers assigned to the Demarest Station, subject to adjustment by mutual consent of the Station Commander/Officer in Charge and the Borough.

Section 5.16 Assistance to the Borough's Office of Emergency Management

The County Police shall assist in all matters involving the Borough's Office of Emergency Management, including but not limited to, responses to special needs persons in the Borough and assistance with completion of FEMA forms on behalf of the Borough.

Section 5.17 D.A.R.E. Program

The County Police shall restore and maintain the D.A.R.E. Program, or its equivalent, in Demarest elementary schools to include, at a minimum, all fifth grade students and a D.A.R.E graduation ceremony. The Program will follow the current recommended and approved curriculum established by D.A.R.E. America. The Program may be adjusted by mutual agreement of the County Chief, or his designee, and the Borough. Costs to the County to restore the D.A.R.E. Program were factored into the Fees for Services under Article 8 of this Agreement. Any reimbursement received by the Borough as a result of the D.A.R.E. Program or its equivalent shall be remitted to the County.

Section 5.18 In-Car Computers and Defibrillators

Every patrol car assigned to the Borough shall have an MICV, in-car computer and a defibrillator.

Section 5.19 Reports and Permits Available in Borough

A. All incident reports of incidents occurring within the Borough shall be available at the Demarest Station.

B. All handicap parking permits and other special permits shall be on file and available at the Demarest Station.

Section 5.20 Marked Patrol Unit at Demarest Station

At all times, at least one marked surplus patrol unit shall be parked at the Demarest Station for crime prevention purposes. This vehicle shall be in addition to the marked patrol units assigned to the Borough.

Section 5.21 Bergen County Security Officers

Bergen County Security Officers or County Police Officers shall be assigned to the Demarest Station at the current schedule of Borough Special Police Officers, that is, Monday through Friday from 8AM to 4PM.

Section 5.22 Street Light Outages

To the extent feasible, County Police assigned to the Borough shall report any public safety concerns they encounter, e.g., downed trees, street light outages and/or non-functioning street light equipment, etc., so that the appropriate utility may be notified.

Section 5.23 Telephone System

The County Police shall continue to maintain the police telephone system through the County Public Safety Operations Center, and shall maintain the existing Demarest Station police telephone lines and circuits, as listed on **Exhibit G**. This service is part of the Services covered by the compensation under this Agreement as set forth in Article 7, and the Borough shall not incur additional charges for such services.

Section 5.24 Processing Arrests

The County Police shall process arrests arising within the jurisdiction of the Borough at the County Police Headquarters, except that this shall not prevent the Station Commander/Officer in Charge or supervisor from directing officers to accept bail or to process an arrest at the Demarest Station for a minor criminal or motor vehicle violation or other situation where expediency and practicality dictate such action.

ARTICLE 6

LOCAL COURT

6.01 County Police Use of Borough Court Facilities

A. Upon the commencement of the Agreement, violations and summonses previously adjudicated by the Demarest Municipal Court will be adjudicated by the Bergen County Central Municipal Court ("BCCMC") which will supersede the Demarest Municipal Court.

B. The County shall utilize the Borough's Municipal Court facilities at Borough Hall for adjudication of all violations and summonses issued by the County Police within the Borough.

C. The BCCMC shall lease Central Municipal Court space from the Borough of Demarest for no less than one (1) court session every month, which is the same as the current court schedule, in the amount of \$500.00 per session payable by the County.

D. The BCCMC may increase the amount of court sessions to ten (10) sessions per month on the explicit condition that such additional sessions do not interfere with Borough meetings which shall take precedence. In the event additional sessions are added to the BCCMC court schedule, the Borough lease payments shall be increased one for one for each additional per court session.

E. BCCMC shall provide a service window in Demarest for the same amount of hours as is currently provided by the Borough of Demarest.

F. All court costs and fines will go to BCCMC except for fines associated with violations of municipal ordinances, which fines shall be transmitted to the Borough in the ordinary course of administration.

ARTICLE 7

COMMUNITY POLICING

Section 7.01 County Obligations Regarding Community Relations

A. The County Police Department will listen to, to advocate for, and serve and protect Borough residents and businesses.

1. In-depth knowledge. In addition to visible patrol functions, the

County Police Department offers a wide range of specialties which can be used to enhance the quality of life for Borough residents and businesses.

2. Survey. At least once every two (2) years, the County Police will send a survey to every Borough resident and business. The results of this voluntary survey will help the Department by eliciting emergency contact numbers, special precautions and concerns. This data will be kept for emergency purposes only.

3. Sponsorship. The County Police Department will sponsor community meetings with the residents and businesses. These meetings will be used for a needs assessment and to share information between the community and the Department. The Borough community will be made aware of ways that they can voice their concerns to the County Police and how to access its problem resolution procedures.

4. Community Functions. Members of the County Police will be available for community functions – either in regular patrol duties or community outreach functions.

5. Educational Services and Public Information. Residents of the Borough will be able to avail themselves of educational services and public information services on topics of community safety, crime prevention, traffic safety and emergency preparedness. Demonstrations by the SWAT Team, K-9 Unit, Bomb Squad, Water Search and Recovery Unit, etc. are available to enhance community functions such as Demarest Day and other special events.

6 Community Partnership. As the Borough's community partner, the County Police Department's service to the Borough will be integrated into the Department's efforts at continuous quality improvement. A Station Commander/Officer in Charge will be designated for the patrol and emergency management divisions where residents can express their concerns and participate in professional problem resolution. The County Police will continue the community policing philosophy followed by the Borough Police Department by assigning officers to the Demarest Station on a regular basis who will report directly to the Station Commander/Officer in Charge.

ARTICLE 8

COMPENSATION

Section 8.01 Fees for Services

Subject to annual appropriation, the Borough agrees to pay the County for the Services hereunder in accordance with the Fee Schedule appended hereto as **Exhibit H**.

ARTICLE 9

EQUIPMENT REIMBURSEMENT

9.01 Transfer of Vehicles and Assets to County; Payment

Upon execution of this Agreement, the Borough shall transfer title to all vehicles and assets listed on **Exhibit I**, appended hereto. Upon transfer, the County shall pay the Borough the fair market value thereof as set forth on Exhibit I.

ARTICLE 10

EXECUTIVE BOARD

10.01 Executive Board

In the event an Executive Board is established for the operations of the Bergen County Police in the regional area encompassing the Borough of Demarest, the Borough shall have a permanent seat on the Board. Notwithstanding the foregoing, the Parties agree that, if in the future the County intends to expand operations at the Demarest Station to serve municipalities other than the Borough, the Parties will enter into good faith negotiations to amend this Agreement upon mutually-acceptable terms and conditions.

ARTICLE 11

COUNTY FUELING SITE

11.01 Lease to County for Fueling Site

In the event that the County requires a fueling station site for fueling County vehicles, the Borough agrees to lease to the County a secured area at the

Borough DPW yard sufficient to site two (2) above-ground fuel storage tanks, one (1) each for diesel and gasoline, and two pumps to dispense diesel and gasoline. Such lease shall be for one dollar per year, provided however, that the County permits the Borough's DPW vehicles to use the refueling site at no cost except for payment by the Borough of actual fuel used by its vehicles.

ARTICLE 12

INDEMNIFICATION

Section 12.01 Mutual Responsibility and County Indemnification

A. Bergen County. Between the County and the Borough of Demarest, the County, pursuant to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act, shall, from the effective date of this Agreement, be responsible for, and shall at its own expense, defend itself and the Borough, and shall indemnify and hold harmless the Borough, against any and all suits, claims, losses, demands or damages of whatsoever kind or nature, arising out of or in connection with any act or omission of the County, its employees, agents or contractors, in the performance of the obligations assumed by the County pursuant to this Agreement. The County hereby releases the Borough of Demarest from any and all liabilities, claims, losses, costs, expenses and demands of any kind or nature whatsoever, arising under state or federal law, solely out of or in connection with the County's performance of the obligations assumed by the County pursuant to this Agreement.

B. Borough of Demarest. Between the Borough of Demarest and the County, the Borough of Demarest, pursuant to the provisions of the New Jersey Tort Claims Act and the New Jersey Contractual Liability Act, shall, from the effective date of this Agreement, be responsible for, and shall at its own expense, defend itself and the County, and shall indemnify and hold harmless the County, against any and all suits, claims, losses, demands or damages of whatsoever kind or nature, arising out of or in connection with any act or omission of the Borough of Demarest, its employees, agents or contractors, in the performance of the obligations assumed by the Borough of Demarest pursuant to this Agreement. The Borough of Demarest hereby releases the County from any and all liabilities, claims, losses, costs, expenses and demands of any kind or nature whatsoever, arising under state or federal law, solely out of or in connection with the Borough of Demarest's performance of the obligations assumed by the Borough of Demarest pursuant to this Agreement.

C. Indemnification - Shared Services Act or Other Claims Related to Benefits

to Borough Under Agreement. Notwithstanding anything to the contrary, in the event that any action is brought against either Party alleging that this Agreement is inconsistent with the Uniform Shared Services Act (N.J.S.A. 40A:65-1 et seq.) or any law dealing with a similar subject matter, or otherwise challenging the benefits, financial or otherwise, to the Borough derived or to be derived from this Agreement, the County shall indemnify, defend, save and hold the Borough harmless from and against any claims, liabilities, damages, losses, costs, penalties or judgments and expenses (including reasonable attorney's fees and expenses) arising from or relating in any way to the Uniformed Shared Services Act or any law dealing with a similar subject matter, or any claims arising out of or in connection with the benefits (financial or otherwise) to the Borough derived or to be derived from this Agreement.

D. Prior Acts. Notwithstanding anything to the contrary, the Borough of Demarest shall be responsible for, and shall at its own expense, defend itself, and the County of Bergen, against any and all suits, claims, losses, demands or damages of any kind or nature, arising out of, or in connection with, any acts or omissions against the Borough of Demarest, its employees, agents or contractors alleged to have occurred prior to the effective date of this Agreement, whether known or unknown to the Borough of Demarest, its employees, agents or contractors on the effective date of this Agreement. The County of Bergen shall neither defend, nor indemnify, the Borough of Demarest, its current or former employees, agents or contractors for any acts or omissions alleged to have occurred prior to the effective date of this Agreement. Where the Borough of Demarest maintains Claims-Made insurance coverages, the Borough of Demarest will be solely responsible for securing a Supplemental Extended Reporting Period Endorsement sufficient to address any Prior Acts exposures.

E. In the event the Borough receives a notice of a claim or complaint against it which would be covered or apparently covered by this Article 12, it shall provide notice to the County and the County shall confirm the indemnification within five (5) business days of receipt of such notice from the Borough.

ARTICLE 13

DISPUTE RESOLUTION

Section 13.01 Non-Binding Mediation Mandatory

A. Non-Binding Mediation Mandatory. In the event of any dispute relating to the meaning or intent or performance of any of the terms of this Agreement, whether technical or otherwise, the objecting Party shall be required to request

mediation in writing, which mediation shall be non-binding (hereinafter "Non-Binding Mediation"), in an attempt to resolve the dispute. The non-objecting Party shall be required to consent to and shall participate in such Non-Binding Mediation. The costs of such Non-Binding Mediation shall be divided equally between the Parties, and each Party shall be responsible for their counsel fees and associated costs. Submission to mediation shall be a condition precedent to arbitration.

B. Time for Mediation. The mediation process shall not extend beyond sixty (60) days from the written notice under paragraph A, above, unless otherwise agreed upon by the Parties. Mediation shall terminate sooner if the mediator finds that there is no reasonable possibility of settlement.

C. Selection of a Mediator.

1. A retired Judge of the Superior Court of New Jersey or a member of the New Jersey Public Employment Relations Commission (PERC) panel or other professional with expertise in law enforcement who is mutually-acceptable to the Parties and who has no current or on-going relationship to either Party shall serve as mediator (hereinafter "Mediator"). The Mediator shall have full discretion as to the conduct of the mediation.

2. The Parties shall have ten (10) days from the written request for mediation within which to select a Mediator. During that time, each Party shall propose a Mediator, and the Parties shall agree to utilize one of the proposed mediators.

3. If the Parties cannot agree on one of the two proposed mediators, one or both Parties shall notify the two proposed mediators, and the two proposed mediators shall, within five (5) days of notification of the Parties' failure to agree, select a third mediator who shall serve as Mediator.

D. Conduct of Mediation. Each Party shall prepare a mediation statement setting forth its understanding of the factual and legal issues in dispute. These mediation statements shall be provided to the Mediator and other Party, and shall be deemed confidential settlement negotiations. The Parties shall participate in at least three (3) sessions with the Mediator. Mediation shall take place within Bergen County, unless the Parties agree otherwise. Except as provided herein, the Mediator shall have full discretion as to the conduct of the mediation. Subject to the Time for Mediation, each Party shall participate in the Mediator's program to resolve the dispute until and unless the Parties reach agreement with respect to the disputed matter or the Mediator finds that there is no reasonable possibility of settlement.

E. Confidentiality of Mediation. The Parties recognize that mediation proceedings are settlement negotiations, and that all offers, promises, conduct and statements, whether written or oral, made in the course of the proceedings, are inadmissible in any litigation or arbitration of their dispute, to the extent allowed by New Jersey law. The Parties agree not to subpoena or otherwise require the Mediator to testify or produce records, notes or work product in any future proceedings, and no recording or stenographic record will be made of the mediation session. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or nondiscoverable as a result of its use in the mediation session. In the event the Parties do reach a settlement agreement, that settlement agreement will be admissible in court or arbitration proceedings to enforce it, unless the Parties agree otherwise. Any information disclosed to the mediator in a private caucus shall remain confidential unless the Party agrees that it may be disclosed.

2. Non-Binding Effect. Mediation is intended to assist the Parties in resolving disputes over the correct interpretation of this Agreement. No Mediator shall be empowered to render a binding decision.

Section 13.02 Binding Arbitration

A. Binding Arbitration. Any controversy or claim arising out of or relating to this Agreement or the breach thereof that cannot be resolved between the Parties through non-binding mediation, which is a pre-requisite to filing for arbitration, shall be resolved by binding arbitration.

B. Selection of Arbitrator. A retired Judge of the Superior Court of New Jersey or a member of the New Jersey Public Employment Relations Commission (PERC) panel or other professional with expertise in law enforcement who is mutually-acceptable to the Parties and who has no current or on-going relationship to either Party shall serve as arbitrator (hereinafter "Arbitrator"). A Party desiring to invoke this arbitration provision shall serve written notice upon the other of its intention to do so ("Demand for Arbitration"). Within fifteen (15) days of the date of receipt of the Demand for Arbitration, each Party shall serve upon the other the name of a proposed arbitrator. The Parties shall then agree on one of the two proposed arbitrators. If either Party fails to propose an arbitrator and notify the other Party of that proposal within such fifteen (15) day period, the Party failing to propose an arbitrator shall be deemed to have consented to the arbitrator proposed by the other Party. If the Parties cannot agree on one of the two proposed arbitrators, then the two arbitrators so proposed shall, within 15 days of the Parties' failure to agree on an arbitrator, select a third arbitrator to serve as the Arbitrator to

arbitrate the dispute.

C. Conduct of Arbitration. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association then prevailing, and shall be conducted in Bergen County, New Jersey, unless the Parties agree otherwise. Discovery shall be made available in accordance with the procedures set forth in the Rules Governing the Courts of the State of New Jersey ("NJ Court Rules") at the time of the submission of the dispute to arbitration, but to a degree limited by the Arbitrator as he or she deems appropriate to render the proceedings economical, efficient, expeditious and fair. Interest at the rates provided in the NJ Court Rules for prejudgment and post-judgment interest shall be added to any monetary award for sums found to have been due under this Agreement. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law.

D. Arbitration Award. The Arbitrator's award shall be final and binding, and a judgment may be entered upon it by any court having jurisdiction. The prevailing Party shall be entitled to attorneys' fees and costs of the arbitration, including that Party's share of the Arbitrator's fees.

E. Time for Arbitration. The Arbitrator shall complete the arbitration and issue a decision within 180 days of the Demand for Arbitration. If the Arbitrator fails to render a decision within that time, either Party may seek judicial relief limited to an order directing the Arbitrator to render a decision. This provision shall be included in any contract with the Arbitrator.

Section 13.03 Judicial Relief

Notwithstanding the foregoing, nothing herein shall prevent a Party from seeking injunctive relief in the appropriate division of the Superior Court of New Jersey venued in Bergen County or in federal court, as appropriate. In the event of such litigation, each Party waives whatever rights it may have to trial by jury in order to prevent irreparable harm from occurring that may arise from a breach or threatened breach of this Agreement; however, any damage claim that may be associated therewith shall first be submitted to Dispute Resolution in accordance with this Article XIII.

ARTICLE 14

MISCELLANEOUS

Section 14.1 Parties Bound

All Parties hereto have the requisite power and authority to enter into this Agreement and it is the intention of the Parties to be bound by the terms hereof. On December ____, 2012, the County of Bergen Board of Chosen Freeholders adopted Resolution No. _____ (**Exhibit J**), and on December 31, 2012, the Borough of Demarest Mayor and Council adopted Ordinance No. 1002 (**Exhibit K**), each of which, among other things, authorizes this Agreement by the respective Parties. The execution and delivery of this Agreement is valid and binding upon the Parties hereto and any and all resolutions or ordinances are assumed by the Parties in receipt thereof to be genuine. This Agreement shall be binding upon the County and the Borough, and their respective successors and assigns. Certain provisions of this Agreement, as set forth below, are also binding on the Demarest Unit of PBA Local 350, Police Chief James Powderly and Deputy Chief David Hoagland.

Section 14.2 Severability

The provisions of this Agreement are intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Agreement.

Section 14.3 Headings

The section headings provided within this Agreement are for reference only and not intended to be relied upon for construction or interpretation hereof.

The parties executing this Agreement represent and warrant, upon which representation and warranty the other party is materially relying, that they have all rights, power, and authority to enter into this Agreement and bind their respective entity.

Section 14.4 Compliance with Law

All provisions of law that are not enumerated in the Agreement, but which are required to be made a part of this Agreement, are hereby deemed incorporated herein. The Parties' performance hereunder shall be subject to and in conformance with all applicable local, county, state and federal laws, rules and regulations.

Section 14.5 Notices

When notice is given, required or permitted to be given by any Party or to any Party, such notice shall be deemed to have been sufficiently given, if written, deposited in the certified or registered mail, return receipt requested. Any Party may change its respective address by written notice in accordance with this Section. Notice may be communicated via fax, email or regular mail.

A. If to County: County of Bergen
One Bergen County Plaza
Hackensack, New Jersey 07601
Att: County Administrator

With copy to: Office of County Counsel
One Bergen County Plaza
Hackensack, New Jersey 07601
Att: County Counsel

B. If to Borough: Borough of Demarest
118 Serpentine Road
Demarest, New Jersey 07627
Att: Borough Clerk

With copy to: DeCotiis, FitzPatrick & Cole, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, New Jersey 07666
Att: Douglas Doyle, Esq.

Section 14.6 Assignment

No Party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other Party and any such attempted assignment shall be void.

Section 14.7 Cooperation of Parties

In performing any services pursuant to this Agreement, the performing Parties will act in a reasonably prudent manner to accommodate the common goals of the Parties toward implementation and effectuation of the stated purposes of this Agreement. No Party hereto shall be liable for failure to advise another Party of any adverse impact from action taken hereunder, unless such failure to

advise shall be the result of bad faith or willful concealment of an impact actually known to the Party taking the action or omitting to take such action to be substantially adverse to the other Parties. The fact that any act or omission should subsequently be determined to have an adverse impact shall not in itself be evidence of bad faith or willful concealment, and the Party bringing an action shall be required to affirmatively establish, by independent sufficient evidence, that such Party acted in bad faith or willfully concealed an adverse impact of which it had actual knowledge.

Section 14.8 Benefit; No Third Party Beneficiaries

This Agreement shall inure to the benefit of the Parties hereto and their successors and permitted assignees. Other than the Additional Signatories to this Agreement, as set forth below, no other person, corporation, company, partnership or other entity shall be deemed a third party or other beneficiary of this Agreement.

Section 14.9 Complete Agreement

This Agreement sets forth the entire understanding of the Parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral and written, between the Parties relating to the subject matter hereof, and may not be modified except in a writing executed by all Parties.

Section 14.10 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. An executed copy of the Agreement shall have the same effect as the original.

Section 14.11 Entire Agreement

This Agreement, including any Exhibits and Addenda attached hereto, contain the sole and entire Agreement between the Parties and supersedes all negotiations and prior agreements or understandings between the Parties, whether oral or written. The Parties acknowledge and agree that they have not made any representations, including the execution and delivery hereof, except such representations as are specifically set forth herein.

Section 14.12 Catastrophic Event

Neither Party shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a catastrophic event beyond the reasonable control of such Party. For purposes of this Section 14.12, a "catastrophic event" shall include but not be limited to a national or State emergency similar in scope to the events of September 11, 2001 that, through disruption of communication or travel, through destruction of infrastructure or of equipment necessary for performance hereunder, or as a result of mass injury, loss of life or other cataclysmic event, or as a result of the diversion of resources by virtue of lawful orders issued by the federal or state governments during a national or state emergency, affect the ability of either Party to perform its obligations in the manner and time required by this Agreement. The Parties acknowledge that this Agreement is for police services and, accordingly, the usual force majeure events are not applicable.

Section 14.13 Governing Law

A. General. This Agreement shall be construed and enforced in accordance with the laws of the State of New Jersey, including the New Jersey Tort Claims Act, N.J.S.A. 59:1-2 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13 et seq., without regard to its conflict of law principles. Subject to the Dispute Resolution provisions of Article XIII, all disputes arising out of this Agreement shall be resolved in the Courts of the State of New Jersey venued in Bergen County or in federal court, as appropriate. In the event of any conflicts between this agreement and State of New Jersey's Attorney General's Opinions and Directives and/or N.J.S.A. 40A:14-1 et seq., the Opinions and Directives of the Attorney General and N.J.S.A. 40A:14-1 et seq. shall supersede this agreement.

B. Venue: Construction. This Agreement and all amendments hereof shall be governed by and construed in accordance with the laws of the State of New Jersey applicable to contracts made and to be performed therein and all actions shall be venued in Bergen County or in federal court, as appropriate. The Parties acknowledge that they have been represented by counsel with respect to the negotiation and preparation of this Agreement and that, accordingly, this Agreement shall be construed in accordance with its terms and without regard to or aid of cannons requiring construction against the drafting Party.

Section 14.14 No Waiver

The failure of a Party to insist on strict performance of any or all of the terms of this Agreement or to exercise any right or remedy under this Agreement shall not constitute a waiver or relinquishment of any nature regarding such right or remedy or any other right or remedy. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

Section 15.14 Further Assurances

The County and the Borough shall execute any further documents, and take any further action, as reasonably required to effectuate the intent and purposes of this Agreement including, but not limited to appointment resolutions to effectuate the personnel transfers to the County pursuant to this Agreement, resolutions required by law to consolidate the municipal court, resolutions authorizing the execution of the appropriate ownership documents, and to take all other actions, legislative and otherwise, to complete the transaction contemplated by this Agreement.

ARTICLE 16

BOROUGH AND COUNTY ANNUAL FINANCIAL ANALYSIS

Section 16.01 Goal. The mission of both the Borough and the County in this Agreement is to maintain and improve the police services to be provided to the Borough by the County in an efficient cost effective manner that provides cost and tax savings for both Borough and County Taxpayers.

Section 16.02 Annual Review. In order to achieve the Goal set forth in Section 16.01, the Borough and the County (and its agents, representatives and professionals as appropriate) shall meet each and every year during the term of this Agreement and any extensions hereto, to analyze the services being provided by the County and the costs associated with those services, in order to determine if further cost savings to the Borough and the County can be achieved with no diminution in the quality or quantity of services required under this Agreement.

Section 16.03 Annual Report. The County and the Borough may issue a joint report on their findings, recommendations and conclusions of the Annual Review.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute this Agreement and to affix their respective corporate seals on the day and year first above written.

ATTEST:

BOROUGH OF DEMAREST

Borough Clerk

By: _____
Raymond J. Cywinski, Mayor

ATTEST:

COUNTY OF BERGEN

By: _____
Kathleen A. Donovan,
County Executive

Fee for Services

The annual fees shall be paid on a quarterly basis with payments due on March 15th, June 15th, September 15th and December 15th of each year of the term or extension(s) thereof.

First Seven (7) Year Term

2012-2013	\$2,737,595.00	
2013-2014	\$2,737,595.00	
2014-2015	\$2,737,595.00	
2015-2016	\$2,737,595.00	
2016-2017	\$2,764,972.00	(1% increase)
2017-2018	\$2,820,271.00	(2% increase)
2018-2019	\$2,876,676.00	(2% increase)

Second Seven (7) Year Term at the Borough's sole and exclusive option with a 2% capped increase on fees (or the statutory budget cap which may be amended from time to time), whichever is higher, based on the Consumer Price Index ("CPI") for Urban Wage Earners and Clerical Workers for New York, New York using year 2018 to 2019 as the base year. In the event the CPI is no longer measured, a similar index shall be utilized as agreed to by the parties. In the event a similar index cannot be agreed to by the parties the determination of the index to be utilized shall be submitted by the parties to the mediator and arbitrator as prescribed in this Agreement.