

SALEM COUNTY IMPROVEMENT AUTHORITY

RESOLUTION 2018-65

November 8, 2018

**RESOLUTION OF THE SALEM COUNTY IMPROVEMENT
AUTHORITY AUTHORIZING THE ENTERING INTO OF A
SHARED SERVICES AGREEMENT WITH THE CUMBERLAND
COUNTY IMPROVEMENT AUTHORITY TO EXPLORE
OPPORTUNITIES FOR ECONOMIC DEVELOPMENT AND
REDEVELOPMENT**

WHEREAS, the Cumberland County Improvement Authority (“CCIA”) and the Salem County Improvement Authority (“SCIA”) desire to explore opportunities for economic development and redevelopment; and


WHEREAS, there is a need for affordable, reliable broadband internet connectivity in Salem County; and

WHEREAS, CCIA and SCIA desire to enter into an agreement to explore strategic planning and collaboration to bring affordable and reliable broadband internet connectivity to both Cumberland and Salem counties;

WHEREAS, a Motion permitting SCIA to enter into a Shared Services Agreement with CCIA for this strategic planning was duly made and seconded at the October 11, 2018, SCIA Board Meeting;

NOW, THEREFORE, BE IT RESOLVED by the governing body of SCIA that Julie Acton, Executive Director, is authorized to enter into a Share Services Agreement with CCIA (see attached Exhibit A).

ATTEST:


Barry Davis, Secretary


Cordy Taylor, Chairman

CERTIFICATION

I hereby certify the above to be a true copy of a resolution adopted by the Salem County Improvement Authority Board at their regular meeting held November 8, 2018.


Barry Davis, Secretary

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SHARED SERVICES AGREEMENT
BETWEEN
THE CUMBERLAND COUNTY IMPROVEMENT AUTHORITY
AND THE SALEM COUNTY IMPROVEMENT AUTHORITY

FOR THE SALEM COUNTY/CUMBERLAND COUNTY BROADBAND
CONNECTIVITY PROJECT

THIS AGREEMENT made this 12th day of October, 2018, ("Effective Date") by and between the Salem County Improvement Authority, having its principal offices located at 52 McKillip Road, Alloway, New Jersey 08001 ("SCIA") and the Cumberland County Improvement Authority, having its principal offices located at 2 North High Street, Millville, New Jersey 08332, ("CCIA"), collectively referred to individually as a "Party" or collectively as the "Parties."

WITNESSETH:

Whereas, the CCIA and SCIA desire to enter into a partnership to explore opportunities for economic development and redevelopment; and

Whereas, the CCIA and SCIA also desire to enter into a partnership to help bring affordable, reliable broadband internet connectivity to all residents of Salem and Cumberland Counties; and

Whereas, in order to accomplish these initiatives with respect to economic development and redevelopment, the parties seek to engage in strategic planning and collaboration, as described herein, once projects are identified; and

Whereas, in order to accomplish these initiatives related to broadband connectivity, the CCIA and the SCIA propose to seek and foster public/private partnerships, which will be able to create a regional network that will create technological advantages for various public sectors, including education, employment, economic development, and commercial business opportunity; and

Whereas, the CCIA is capable of acting as the lead agency to provide the services described herein and desires to do so; and

Whereas, in an attempt to identify cost saving measures, the SCIA and the CCIA have discussed specific areas where services can be shared; and

Whereas, to that end, the SCIA and the CCIA have negotiated this Shared Services Agreement between the Salem County Improvement Authority and the Cumberland County Improvement Authority ("Agreement") with respect to the services described herein; and

Whereas, the Parties have the legal authority to enter into this Agreement under the Uniform Shared Service and Consolidation Act, N.J.S.A. 40A:65 et seq. (the "Act"); and;

Now, Therefore, and in consideration of mutual promises, agreements and other considerations made by and between the Parties, the SCIA and the CCIA do hereby agree as follows:

AGREEMENT

I. BRIEF DESCRIPTION.

The Salem County Improvement Authority and the Cumberland County Improvement Authority desire to enter into a partnership to identify redevelopment and economic development opportunities and for the Salem County/Cumberland County Broadband Connectivity Project, with the CCIA acting as the lead agency.

II. SCOPE OF SERVICES.

The CCIA shall provide the following services:

A. Ongoing strategic planning to determine the needs of the SCIA and Salem County with respect to economic development and redevelopment.

B. The initiation of collaborative planning projects between the SCIA and the CCIA to encourage economic development.

C. Consultation with public and private authorities to determine the availability of grants and other funding sources for economic, development and redevelopment projects and initiatives.

D. The development and implementation of both short-term and long-term strategic plans and projects for economic development and redevelopment to benefit both Parties.

E. To serve as a liaison between public and private economic development and planning organizations.

F. To coordinate and cooperate with SCIA staff to foster economic development through use of, but not limited to, the above described tasks.

III. FEE FOR SERVICES.

Any fees for services shall be determined and agreed upon in advance on a project by project basis.

IV. STANDARD OF CARE.

The Parties, their employees, agents and independent contractors shall at all times act and render Services utilizing reasonable business efforts. Nothing in this section shall be construed as to limit any higher standard of care that may be required by law.

V. TERM AND TERMINATION.

The Term of this Agreement shall be from September 19, 2018 until December 31, 2018.

VI. RENEWAL.

This Agreement shall automatically renew unless either party provides notice to the other party, within sixty (60) days of expiration of a term, that it no longer desires this Agreement to renew.

VII. MUTUAL COOPERATION.

The Parties agree to mutually cooperate with one another in performing the duties and responsibilities delineated herein.

VIII. INDEMNIFICATION.

A. The SCIA shall indemnify and hold the CCIA, its governing body, its officers, employees, and agents harmless against any and all liability, losses, costs, damages, claims, judgments or expenses, which shall be incurred by reason of any claim, suit or action which is based upon personal injury, death, or damage to property, whether real, personal or both, arising out of or in any way related to the negligent performance of or any act or omission of the SCIA or its employees under this Agreement.

B. The CCIA shall indemnify and hold the SCIA, its governing body, its officers, employees, and agents harmless against any and all liability, losses, costs, damages, claims, judgments or expenses, which shall be incurred by reason of any claim, suit or action which is based upon personal injury, death, or damage to property, whether real, personal or both, arising out of or in any way related to the negligent performance of or any act or omission of the CCIA, its employees, and its contractor(s) under this Agreement.

C. No Service providers subject to this Agreement shall be considered employees, agents or assigns of the SCIA.

IX. ASSIGNMENT.

This Agreement shall not be assignable by either Party, except upon written agreement signed by both Parties.

X. REMEDIES.

A. Controversies and Claims Subject to Mediation. Any controversy or claim arising out of or related to this Agreement, or the breach thereof, shall be addressed by mediation prior to either party bringing a claim in the Superior Court of New Jersey.

B. Performance Pending Mediation. During mediation proceedings, the CCIA and the SCIA shall continue to perform all duties and responsibilities described in this Agreement subject to the terms of Paragraph V herein.

C. When Mediation May be Demanded. Prior to either Party submitting a demand for mediation, the aggrieved Party shall attempt to resolve the problem directly with the other Party. The aggrieved Party shall submit a written notice of dispute to the other Party. The receiving Party shall respond in writing.

D. Demand for mediation of any claim shall not be made until the Party on notice has had an opportunity to discuss the dispute at its next regularly scheduled meeting, plus ten (10) days to prepare a response.

E. A Party who files a Mediation Demand shall assert all claims then known to that Party for which mediation may be demanded. Failure to assert a claim in the context of Mediation shall not be construed as a waiver.

F. Procedure to Request Mediation. Either Party may demand mediation by written notice to the other Party. The written notice shall contain at minimum (1) a brief statement of the nature of the dispute, and (b) the name, address and the phone number of that Party's designated representative(s) for purposes of mediation.

1. The other Party shall designate its representative(s) for mediation in writing no later than five (5) business days after receipt of the demand for mediation.

2. The respective designees shall thereupon promptly, and with due regard for the need for timely action, choose a mediator. If the Parties cannot agree on a mediator, they shall choose a reputable mediation firm.

3. Any mediation firm so chosen shall present a list of at least five (5) proposed mediators to the Parties and shall provide the Parties with a summary of each person's qualifications to serve as mediator. Each Party shall rank the proposed mediators in order of preference.

4. The fifth and any lower ranked persons on each list will be excluded from further consideration.

5. The chosen mediator shall be the remaining person who is the combined highest ranking mediator on both preference lists, after deleting all excluded persons.

6. In the event of a tie, the mediator shall be chosen by lot.

G. Procedures at Mediation. The mediation shall be conducted in such reasonable and efficient manner as may be agreed between the Parties and the mediator or, if the Parties cannot agree, as may be determined by the mediator. The Parties will not be bound by the Rules of Evidence in presenting their positions before the mediator. The confidentiality and privilege provisions of R. 1:40-4 shall apply.

H. Cost of Mediation. Each Party will bear its own cost of participation in the mediation. The mediator's fee will be divided equally between the Parties.

I. Failure of Mediation. If a good faith effort to resolve the dispute through mediation is unsuccessful, either Party may terminate the mediation by written notice to the mediator and to the other party. Thereafter, any Party may submit the dispute to the Superior Court of New Jersey, Cumberland County or Salem County, for adjudication, which court shall have exclusive original jurisdiction over the dispute.

XI. INSURANCE.

At all times during the term of this Agreement, the Parties shall maintain or cause to be maintained with responsible insurers who are authorized to do business in the State of New Jersey, or in such other manner as may be required or permitted by law, casualty, all-risk and comprehensive general liability insurance.

XII. WAIVER.

In the event that any provision which is contained in this Agreement shall be breached by either Party and thereafter such breach shall be waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be a waiver of any other breach hereunder.

XIII. NO PERSONAL LIABILITY.

No covenant, condition or agreement contained in this Agreement shall be deemed to be the covenant, condition or agreement of any past, present or future officer, agent or employee of either the SCIA or the CCIA, in his or her individual capacity, and neither the officers, agents or employees of the SCIA and the CCIA, nor any official executing this Agreement shall be liable personally on this Agreement by reason of the execution hereof by such person or arising out of any transaction or activity relating to this Agreement.

XIV. MISCELLANEOUS.

A. Relationship Between the Parties. Pursuant to the Act, any Party performing a service under this Agreement is the general agent of any other Party on whose behalf that service is performed, and that agent-Party has full powers of performance and maintenance of the service contracted for, and full powers to undertake any ancillary operation reasonably necessary or convenient to carry out its duties, obligations and responsibilities under the agreement. These powers include all powers of enforcement and administrative regulation which are, or may be, exercised by the Party on whose behalf the agent-Party acts pursuant to the Agreement, except as the powers are limited by the terms of the Agreement itself.

B. Either Party may freely enter into another agreement or agreements with any other eligible entities for the performance of any service or services pursuant to the Act. The participation in one agreement shall not bar participation with the same or other parties in any other agreement.

C. Amendment. This Agreement may not be amended or modified for any reason without the express prior written consent of the Parties hereto. Any amendment to this Agreement must be signed by both Parties and attached hereto.

D. Successors and Assigns. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

E. Severability. In the event that any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

F. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall constitute an original document and all of which shall constitute but one and the same instrument.

G. Entire Agreement. This Agreement sets forth all the promises, covenants, agreements, conditions and undertakings between the Parties hereto with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and undertakings, inducements, or conditions, express or implied, oral or written between the parties hereto.

H. Further Assurances and Corrective Instruments. Each Party shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Services or to correct any inconsistent or ambiguous term hereof.

I. The Paragraph and Section headings in this Agreement are included herein for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

J. Non-Waiver. It is understood and agreed that nothing which is contained in this Agreement shall be construed as a waiver on the part of the Parties, or any of them, of any right which is not explicitly waived in this Agreement.

K. Governing Law. The terms of this Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New Jersey.

XV. COMPLIANCE WITH THE UNIFORM SHARED SERVICES AND CONSOLIDATION ACT.

In accordance with N.J.S.A. 40A:65 *et seq.*, this Agreement shall be filed with the Division of Local Government Services.

ATTEST

SALEM COUNTY
IMPROVEMENT AUTHORITY

Glenn C. Beckwith

Dated: 10/12/18

Julie A. Arto

ATTEST

CUMBERLAND COUNTY
IMPROVEMENT AUTHORITY

Heidi L. Grieff

Dated: 10/17/18

[Signature]