

AGREEMENT

THIS AGREEMENT dated this _____ day of _____, 2015, by and between the Borough of Metuchen (hereinafter “Borough”), a Municipal corporation of the State of New Jersey, and the Parking Authority of the Borough of Metuchen (hereinafter “Authority”), an autonomous public body corporate and politic created pursuant to N.J.S.A. 40:11A-1 et seq., is intended to memorialize the fiscal understanding between the Borough and the Authority.

WHEREAS, the Borough and the Authority have previously entered into agreements in 1966, 1989, 1994 and 2005 relating to annual payments made by the Authority to the Borough in lieu of taxes, as authorized by N.J.S.A. 40:11A-19; and

WHEREAS, the financial circumstances of the Authority have since changed, to wit; the Authority operating cash reserve has remained relatively constant; ; the market value of Authority land has appreciated since 2005; the Authority has leased a portion of the Pearl Street lot for construction of a new public parking deck; and the Authority has sold or is selling a portion of the Pearl Street Parking lot for mixed use residential/commercial development and a public plaza; and

WHEREAS, the Borough and the Authority desire to review the 2005 agreement and formula to provide a fair payment by the Authority in lieu of taxes to the Borough;

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the Parties hereby agree as follows:

1. The Borough agrees to continue to provide those services, support, tax exemption, fee waivers, and other aid described in paragraphs one through four of the 1990 agreement and ratified by the 1994 agreement. In addition, the Borough agrees that upon request of the Authority, it will cooperate in the purchase of capital improvements for the benefit of the Authority at the Authority’s expense consistent with N.J.S.A. 40A:11-11 or as otherwise permitted by law.
2. In consideration of the aforesaid services provided to the Authority by the Borough and for exempting the Authority’s properties from taxation, the Authority agrees to make an annual payment to the Borough in accordance with a revised formula described below. The formula has historically yielded an annual payment to the Borough, except in extraordinary years, in an amount between \$700,000.00 and \$750,000.00. Despite anticipating a downturn in revenue due to construction on the Pearl Street lot, the Authority will use proceeds of the sale to meet, or exceed if requested by the Borough, an annual payment of \$750,000 through 2018 or until final Borough approvals are granted for the Pearl Street development project, whichever is later, regardless of the formula in Section 4 of this agreement.

3. Definitions: For the purposes of this agreement, the following words and phrases shall have the meanings respectively ascribed to them by this paragraph, unless the context explicitly requires otherwise:

Annual payment – The amount of money to be paid to the Borough by the Authority within a calendar year computed in accordance with the revised formula contained in this agreement with the payments to be made in two equal installments no later than June 30th for the first half and October 1st for the second half.

Interest revenue – Interest income earned on the Authority’s cash assets.

Net property, building and equipment – The amount invested in the Authority’s lands, buildings, lots and equipment, net of related accumulated depreciation.

Operating cash expenses – The amount of the current year’s non-capitalized cash expenses directly related to the operations and administration of the Authority’s various parking facilities and meters.

Operating cash reserve – An amount equal to 25% of the budgeted operating cash expenses for the next succeeding year.

Capitalized costs – Any expenditure which has an estimated useful life of five years or more upon which depreciation can be taken in accordance with the rules and regulations of the Internal Revenue Service.

4. The Authority’s annual payment to the Borough will be made in accordance with the following revised two step formula, with the first step based on operating income and the second based upon available retained earnings.

(a) Operating income calculation: Operating revenues less operating expenses less debt service (none at this time as the Authority’s bonds have been retired) yields the Authority payment based upon operating income.

To the extent payment by the Authority based upon operating income exceeds \$450,000.00 in any year, the Authority shall pay to the Borough 80% of the amount in excess of \$450,000.00.

(b) Available retained earnings: An additional payment shall be made to the Borough (step two) based upon the following calculation to determine available retained earnings: retained earnings less net property, building and equipment less operating cash reserve yields available retained earnings for an additional payment by the Authority to the Borough which number shall then be multiplied by 65% to determine the contribution based upon available retained earnings.

Excluded from “available retained earnings” is cash derived from the sale of Authority owned property. Proceeds from the sale of the Pearl Street Parking Lot shall be available to the Authority to maintain the contribution to the Borough as described in Section 2. The remaining proceeds shall be held in a Capital Improvement Account. The expenditure of funds from the Capital Improvement Account shall be in cooperation with and at the direction of the Borough and shall require approval by resolution of the Borough Council. The funds may be used by the Authority for parking projects or projects to promote pedestrian safety, the free movement of traffic or relieve traffic congestion in the Borough, subject, however, to Council approval for projects that exceed \$50,000.00.

- 5. The Authority shall provide to the Borough, by April 1st of each succeeding year, an independent auditor’s report for the prior calendar year which report shall conform to the current reporting format for authorities by the local finance board. The Authority shall also provide to the Borough, within 20 days after adoption but no later than March 1st for each year, a copy of its duly adopted budget (preliminary or final) for the next succeeding year. To the extent practicable, the preliminary annual budget adopted by the Authority shall conform its statement of expenses and revenues to the definitions contained herein and shall not list as expenses those expenditures which are capable of being depreciated or amortized as capital assets.

By their signatures hereon, the signatories to this agreement certify that they have been expressly authorized by their respective entities to enter their assent to the terms of this agreement which shall be binding upon themselves, their successors and assigns.

ATTEST:

PARKING AUTHORITY OF THE
BOROUGH OF METUCHEN, NEW JERSEY

ANTHONY CAMPISI, Secretary

By: _____
LEONARD ROSEMAN, Chairman

Date: _____

BOROUGH OF METUCHEN

SUSAN JACKSON, Borough Clerk

By: _____
THOMAS VAHALLA, Mayor

Date: _____

