

TOWNSHIP OF MOORESTOWN

RESOLUTION NO. 129-2015

**ADOPTING THE MUNICIPAL SHARED SERVICES DEFENSE AGREEMENT
TO RETAIN DR. ROBERT BURCHELL**

WHEREAS, the Township of Moorestown anticipates filing a Declaratory Judgment Action in the Superior Court of New Jersey, Burlington County in furtherance of the Supreme Court's March 10, 2015 decision captioned In re Adoption of N.J.A.C. 5:96 & 5:97 by N.J. Council on Affordable Housing, 221 N.J. 1 (2015) (the "Supreme Court Decision"); and

WHEREAS, Fair Share Housing Center ("FSHC"), through the services of David Kinsey, Ph.D., FAICP, has prepared what it considers to be the statewide fair share numbers (the "FSHC Numbers") for use by the Mt. Laurel Judges in the fifteen vicinages to calculate a municipality's affordable housing obligation pursuant to the Supreme Court Decision; and

WHEREAS, the Township of Moorestown desires to participate in the preparation of a statewide fair share analysis to be undertaken by Rutgers, The State University of New Jersey ("Rutgers"), through Dr. Robert W. Burchell, Principal Investigator, and various other experts employed by Rutgers in order to establish a rational and reasonable methodology (the "Burchell Fair Share Analysis") for determination of a municipality's obligation to provide a realistic opportunity through its land use ordinances for its fair share of the region's affordable housing needs in accordance with the Mount Laurel Doctrine as set forth in In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing, 221 N.J. 1 (2015) ("Decision") and prior decisions of the Courts of New Jersey, and the Fair Housing Act, N.J.S.A. 52:27D-301 et. seq.; and

WHEREAS, Rutgers, utilizing Dr. Burchell as the Principal Investigator and author has agreed to prepare the Burchell Fair Share Analysis within 90 days of being retained to establish his view of the proper way to determine each municipality's fair share obligation; and

WHEREAS, Dr. Burchell estimates the cost to prepare the initial Burchell Fair Share Analysis will be \$70,000; and

WHEREAS, it is anticipated that there will be a need for Dr. Burchell to analyze any challenges to his conclusions and prepare a rebuttal report to said challenges which is not included in the \$70,000; and

WHEREAS, it is anticipated that if each municipality contributes \$2,000.00, there will be sufficient monies to pay the cost to prepare the initial Burchell Fair Share Analysis, to analyze any challenges to the Initial Fair Share Analysis and to prepare a Rebuttal Report given the number of municipalities that have expressed an interest in retaining Dr. Burchell; and

WHEREAS, a Municipal Shared Services Defense Agreement (hereinafter “MSSDA”), has been prepared (a) so that monies can be collected to enter into an agreement with Rutgers (hereinafter “the Rutgers Agreement”) and so that Dr. Burchell, along with various other experts from Rutgers, can perform the tasks described above and (b) so that the rights and responsibilities of each municipality that wishes to sign the agreement to retain Rutgers are defined; and

WHEREAS, the MSSDA provides that the Law Offices of Jeffrey R. Surenian and Associates, LLC (“Surenian”) will serve as the administrative entity to sign the Rutgers agreement on behalf of the municipalities that signed the MSSDA and paid the \$2,000.00 fee; and

WHEREAS, it is imperative given the time constraints for municipalities that wish to retain Dr. Burchell to sign the MSSDA and pay the \$2,000.00 fee so that Dr. Burchell can conduct the necessary analysis; and

WHEREAS, notwithstanding the foregoing, it is possible that the MSSDA may need to be changed as a result of ongoing negotiations with the Rutgers agreement following execution of the MSSDA and the payment of the \$2,000.00 fee; and

WHEREAS, in such an event, any member that objects to the changes that Rutgers may require shall have the opportunity to relinquish membership in the Municipal Group and to receive back the \$2,000.00 payment as more specifically set forth in the MSSDA.

NOW, THEREFORE, BE IT RESOLVED, by the Township Council of the Township of Moorestown, as follows:

1. The terms and conditions of the MSSDA attached hereto are hereby approved, ratified and confirmed.
2. The amount of \$2,000.00 is hereby authorized to be expended by the Township of Moorestown for Rutgers through Dr. Robert Burchell, Principal Investigator to prepare the Burchell Fair Share Analysis.
3. A certification of funds authorizing the aforesaid expenditure has been signed by the Chief Financial Officer of the Township of Moorestown and is appended hereto.
4. The Mayor is hereby authorized to execute the aforesaid MSSDA to memorialize the participation of the Township of Moorestown in the preparation of the Burchell Fair Share Analysis and to take any and all actions reasonably required to effectuate said Agreement.
5. The Township of Moorestown hereby authorizes Jeffrey R. Surenian, Esq. to execute on behalf of the Township of Moorestown the Research Agreement with Rutgers to initiate and complete the Burchell Fair Share Analysis and to do such other actions to effectuate the purposes of said Research Agreement.

6. If further changes to the MSSDA are needed as a result of finalizing the Rutgers Agreement, within ten (10) days of notification by Surenian of the changes, the Township of Moorestown will inform Surenian if it objects to the changes and wishes to withdraw from the Municipal Group and obtain a refund of the \$2,000.00 it paid.
7. This Resolution shall take effect immediately.

Township of Moorestown

Victoria Napolitano, Mayor

Attest:

Patricia Hunt, RMC, Township Clerk

CERTIFICATION

The foregoing Resolution was duly adopted at a Meeting of the Township Council of the Township of Moorestown held on the 22nd day of June, 2015 at Town Hall, located at 111 West Second Street, Moorestown, New Jersey.

Patricia Hunt, RMC, Township Clerk