

MEMORANDUM OF UNDERSTANDING

Setting forth minimum conditions on the receipt of 2016 Calendar Year Transitional Aid to Localities

Borough of Seaside Heights, County of Ocean, New Jersey

WHEREAS, after reviewing an application submitted by the Borough of Seaside Heights, County of Ocean, New Jersey (the "Municipality"), the Director of the Division of Local Government Services (the "Director") has determined that the Municipality is in serious fiscal distress and an award of \$750,000 of Transitional Aid to Localities ("Transitional Aid") is appropriate, all in accordance with the criteria set forth in P.L. 2016, c.10 (the "State Budget"); and

WHEREAS, the State Budget and P.L. 2011, c.144 condition Transitional Aid on requirements, orders, and oversight that the Director deems necessary including, but not limited to, requiring approval by the Director of personnel actions, professional services and related contracts, payments in lieu of tax agreements, acceptance of grants from State, Federal or other organizations, and the creation of new or expanded public services;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

- (1) This Memorandum of Understanding (the "Memorandum") sets forth the minimum conditions, requirements, orders, and oversight required as a condition of receiving Transitional Aid; and
- (2) The Municipality shall comply with the conditions set forth below in addition to all laws, regulations, Local Finance Notices, and any government, administrative and oversight measure necessary for the fiscal recovery of the Municipality as the Director may order from time to time pursuant to the State Budget or any other law.

Definitions

As used herein the following words have the following definitions, unless the context otherwise indicates:

1. "Municipality" means: Borough of Seaside Heights, in the County of Ocean, New Jersey.
2. "Director" means: Director of the Division of Local Government Services.
3. "DLGS" means: Division of Local Government Services.
4. "Transitional Aid" means: Transitional Aid to Localities.
5. "State Budget" means: P.L. 2016, c. 10.
6. "Memorandum" means: Memorandum of Understanding.

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7. "State Fiscal Oversight Officer" means: Fiscal Monitor and/or the Director's designee.
8. "CMPTRA" means: Consolidated Municipal Property Tax Relief Aid.
9. "PILOT" means: Payment in Lieu of Taxes.

List of Attachments

- Attachment A** Request for Approval for Employees Requiring Advice and Consent of Governing Body
- Attachment B** Request for Approval for Senior Level Employees or Confidential Employees
- Attachment C** Request for Employment Approval
- Attachment D** Contract Request Form
- Attachment E** Creation/Extension of Services Form
- Attachment F** Out of State & Overnight Travel Request Form
- Attachment G** Grant Approval Form
- Attachment H** Bond Ordinance or Contract Request Form
- Attachment I** "Best Price Insurance Contracting" Model Ordinance
- Attachment J** Model Letter to Collective Bargaining Units and Arbitrators for Municipalities that Use the State Health Benefits Plan
- Attachment K** Model Letter to Collective Bargaining Units and Arbitrators for Municipalities that Do Not Use the State Health Benefits Plan
- Attachment L** Tax Exemption and Abatement Report
- Attachment M** Termination or Suspension without Pay Form
- Attachment N** Waiver Approvals List

Implementing Provisions and Flexibility

The Director shall be represented by an assigned DLGS State Fiscal Oversight Officer and/or any other person or persons designated by the Director who shall be authorized from time to time to act on the Director's behalf as State Fiscal Oversight Officer.

All requests, questions, issues and submission of any attachment referenced above, shall be first addressed to the State Fiscal Oversight Officer by contacting such person(s) at the DLGS. The Municipality shall provide reasonable office space, as needed, so that the State Fiscal Oversight Officer may conduct business within the municipality. Additionally, the Municipality shall provide the State Fiscal Oversight Officer with requested documents and records and shall allow him or her to meet with the Business Administrator, Chief Financial Officer, Registered Municipal Clerk, Tax Collector and any other department heads or supervisors. Additionally, the State Fiscal Oversight Officer shall be provided immediate access to view information on the Municipality's accounting system upon request.

Submission of a Transition Plan / Application for Shift in Portion of Transitional Aid to Consolidated Municipal Property Tax Relief Aid ("CMPTRA")

The Municipality shall submit a plan on or before December 31, 2016 detailing how it intends to reduce its reliance on Transition Aid (the "Transition Plan"). The Transition Plan may include a request to shift a portion of the award received in CY 2016 to an increase in regularly recurring State aid payments (CMPTRA.). Such a request will be reviewed by the Division.

In no case shall the Transition Plan provide for a phase out of the aid over a period of more than two years. The Transition Plan must set forth reasonable efforts to reduce or restrain costs in the CY2017 Budget. The Transition Plan shall discuss initiatives to bring structural balance to the Municipality's finances and shall include, but not be limited to, all of the following:

- An acknowledgement that the Municipality needs to reduce its reliance on Transitional Aid; and
- Efforts to bring economic development to the Municipality; and
- A plan to constrain or reduce staffing costs through aggressive collective negotiation agreements, attrition, consolidations, restructuring, or other personnel actions; and
- A plan to eliminate, reduce or constrain the costs of non-essential and low-priority services and activities; and
- A plan to maximize recurring revenues, including, as appropriate: updating fees, fines and penalties; maximizing enforcement of delinquencies; and selling surplus land and property; and
- A plan to address findings contained in various audits, investigations, and reports with respect to the Municipality, including municipal audits, applicable State Comptroller and State Auditor reports and audits, federal program audits, and other audits as identified by the Director

Authorities, Boards and Commissions

The Municipality shall enter into a Memorandum with all Boards, Agencies, Authorities or Commissions including, but not limited to, Historic Preservation Commission, Parking Authority, Housing Authority, Planning Boards, Zoning Boards, Alcohol Beverage Control Board, and the Redevelopment Agencies (collectively "entities"). The purpose of the Memorandum will be to have the "entities" agree to conduct ethics training, meet financial disclosure requirements and adhere to best practices, as to governance and procurement. Additionally, all entities must comply with the Local Public Contracts Law, state and local affirmative action regulations and laws, and statutory "pay to play" requirements to the extent applicable to each entity. Furthermore, all such entities of the Municipality shall collaboratively work together to advance the vision and mission of the Municipality. The term of the Memorandum shall cover each year that the Municipality receives Transitional Aid.

Restrictions on Hiring

- 1. Hiring Employees Requiring Governing Body Advice and Consent.** A "Request to Hire Employees Requiring Governing Body Advice and Consent Waiver Form" (Attachment A) shall be completed and submitted to the Director through the State Fiscal Oversight Officer prior to the Municipality advancing any candidate to the governing body for advice and consent. Senior level and confidential employees typically requiring Governing Body advice and consent may include but are not necessarily limited to city manager, business administrator, chief of staff, department directors (including the chief financial officer who is also the director of finance), municipal judges, the police chief, the fire chief, the tax assessor and the tax collector. The Municipality shall not submit the candidate to the governing body for advice and consent until DLGS has indicated it has completed a preliminary review of the candidate. Thereafter, the governing body may hold a meeting to consider its advice and consent. The Municipal Clerk shall return the waiver form indicating the results of said meeting. Upon its receipt of the waiver form, DLGS will make a final determination concerning approval or disapproval of the candidate. The Municipality shall not hire the candidate until it receives DLGS final written approval. Resumes must be submitted for each candidate being considered for employment with an annual salary in excess of \$37,500.
- 2. Hiring Senior Level and Confidential Employees Not Requiring Governing Body Advice and Consent.** A "Request to Hire Senior Level and Confidential Employees Not Requiring Governing Body Advice and Consent Waiver Form" (Attachment B) shall be completed and submitted to the Director prior to the Municipality hiring any such candidate for employment. (Senior Level and Confidential Employees shall include, but not be limited to: the City Manager, Business Administrator, Chief of Staff, Chief Financial Officer, Tax Collector, Chief of Police, Chief of Fire, Department Head, Division Director, and any aides to the Mayor or governing body, regardless of job title.) Any such senior level and confidential employees requiring advice and consent shall be subject to the approval process in #1, above. Nothing herein shall alter any State or municipal laws governing the necessity to obtain advice and consent. The Municipality shall not hire the candidate until it receives final written approval from DLGS. Resumes must be submitted for each candidate being considered for employment with an annual salary in excess of \$37,500.
- 3. Hiring All Employees Other Than Employees Requiring Governing Body Advice and Consent or Senior Level and Confidential Employees.** A "Request to Hire Employee Waiver Form" (Attachment C) shall be completed and submitted to the Director prior to the Municipality hiring any person who is not covered by either of the two processes described in the preceding paragraphs. Resumes must be submitted for each candidate being considered for employment with an annual salary in excess of \$37,500.

4. **Hiring part time, hourly and seasonal employees.** The hiring of part time, hourly and seasonal employees receiving no health benefits will be addressed by title in its entirety. The Municipality shall submit a Table of Organization and or request for the maximum number of employees in the title along with the budgetary impact for the title. DLGS will review the request and approve a total number of positions for that title for the purpose of hiring and replacing employees, as needed. Additionally, DLGS will review and approve the appropriate budgetary appropriation for said title. The Municipality must certify that the appropriate background checks were completed and remain in compliance with State and federal labor laws.

5. **Anti-Nepotism Policy.** The Municipality shall adopt and maintain an anti-nepotism policy. The policy should be reflected in the municipal personnel manual. Family members/relatives of municipal officials and employees may be eligible for employment with the Municipality only if individuals involved do not work in a direct supervisory relationship, or in job positions in which a conflict of interest could arise. The term "family member/relatives" should be defined to include but not necessarily be limited to spouses, children, siblings, parents, in-laws, and step-relatives. Current employees who marry will be permitted to continue working in the job position held only if they do not work in a direct supervisory relationship with one another or in job positions involving conflict of interest. Barring no conflicts of interest, the Municipality may "grandfather" employees from this policy that were hired prior to the date of the original Memorandum, with the understanding that if an employee is separated and re-hired, they must adhere to the new policy.

Restriction on Terminations and Suspensions without Pay

The Municipality shall be required to notify the State Fiscal Oversight Officer of a decision to terminate or suspend without pay any officer or employee or, request that an employee resign. No employee requiring governing body consent, the business administrator or a DLGS licensed official may be terminated by the Municipality or asked to resign without the Municipality first submitting a "Termination Form" (Attachment M) for approval to DLGS. The State Fiscal Oversight Officer in his or her sole discretion, shall be permitted to, but shall not be required to, prohibit or postpone such a termination for any the following reasons: retaining a qualified and conscientious employee; ensuring an appropriate transition to a qualified replacement; concerns that termination is not consistent with law. Prior approval to terminate an officer or employee is not needed upon an officer or employee being criminally convicted or indicted.

Restrictions on Longevity Pay, Assignment of Individuals in Acting Capacities, Overtime, Salary Increases, Promotions and Transfers

- 1. Elimination of Ordinances Allowing for Future Increases in Longevity Pay or other Forms of Increases for Elected Officials and Non-Contractual Employees:** The Municipality shall immediately freeze supplemental pay provided to elected officials and non-contractual employees, including but not limited to "longevity pay" at the rates that existed prior to the effective date of this Memorandum (or in the case of a Municipality that received Transitional Aid or a State Loan from DLGS in CY 2014, prior to the effective date of the 2014 Memorandum). Stated differently, supplemental pay for elected officials and non-contractual employees shall not be increased on or after the effective date of this Memorandum (or the 2014 Memorandum if applicable). Any applicable ordinances and policies shall be amended accordingly.
- 2. Assignment of Individuals to Acting Positions:** The Municipality shall not assign any person to work in an "acting capacity" in regard to positions permanently vacated through death, retirement, termination or resignation if the vacant position is covered by the process for either a "Request to Hire Employees Requiring Governing Body Advice and Consent Waiver Form" or a "Request to Hire Senior and Confidential Employees Not Requiring Governing Body Advice and Consent Waiver Form." In such cases, the process for assigning a person to work in an "acting capacity" shall follow the process for permanently filling the vacancy.
- 3. Employee Primary Functions:** The Municipality shall prescribe all municipal employees service functions that directly relate to the service responsibilities of the department and division to which they are assigned. No municipal employee may have as their primary function the performance of union functions.
- 4. Salary Restraints for Elected Officials and Non-Contractual Employees:** On and after the effective date of this Memorandum, the Municipality shall not increase the salaries or compensation of elected officials, non-contractual employees, and contractual employees who are not otherwise entitled to increases under the terms of a negotiated contract. Elected officials shall not be entitled to accrue sick or vacation time and shall not be entitled to receive payouts for said time.
- 5. Overtime Compensation:** The Municipality shall not authorize any employee, including but not limited to any management employee, to earn or be paid for overtime unless Federal or State law expressly requires overtime to be earned or paid. Any applicable

ordinances and policies shall be amended accordingly. Elected officials are not eligible for overtime.

6. **Renewal, Extensions, and Changes to Individual Employment Contracts:** No new or renewed individual employment contracts, extension of terms of an individual employment contract, or any other change to an individual employment contract shall be executed without the prior written approval of the Director.
7. **Promotions, Transfers, and Title Changes:** Absent approval by DLGS, the Municipality shall not approve any promotions, transfers, and/or title changes resulting in a salary increase or other subsequent personnel actions including but not limited to "backfilling" unless required to do so by contractual obligations.
8. **Exceptions for Good Cause:** The Director may authorize salary increases or promotions for good cause upon the Municipality's written request. Good cause may include salary increases or promotions that are part of a plan to restructure personnel or service delivery in a manner that is intended to achieve cost reductions.
9. **Elected Officials:** The Municipality acknowledges it is inappropriate for an elected official to receive payment for vacation, sick, compensatory, or overtime relating to his or her elected position. To the extent any ordinance contains provisions expressly allowing for such forms of compensation to elected officials, the provisions shall be considered inoperative. Any such inoperative provisions remaining on the books shall be deleted by the governing body within 60 days of being notified by DLGS.
10. **Sick Time Policies:** The Municipality acknowledges it is inappropriate for employees to be rewarded for not being sick and shall adopt an ordinance disallowing compensation for unused sick time to the extent such an ordinance would not violate a contractual entitlement existing prior to enactment.
11. **Compensatory Time:** The Municipality acknowledges that compensatory time can be an appropriate means by which to manage human resources within flexible time schedules that may require work at unusual times, but should not be a form of compensation for employees whose positions require unusual work hours and who not

entitled by law or contract to receive pay for compensation time. Therefore, while the Municipality may establish compensatory time policies for such employees, the policies shall contain a requirement to "use it or lose it" quarterly.

- 12. Direct Deposit of Net Pay:** The Municipality shall adopt a resolution or ordinance requiring mandatory direct deposit of net pay for all employees. Exemptions may be granted for seasonal and temporary employees. Additional information regarding direct deposit can be found in LFN 2015-14 on the DLGS website at <http://www.nj.gov/dca/divisions/dlgs/lfn/15/2015-14.pdf>

Restrictions on Public Contracting

1. A "Contract Request Form" (Attachment D) shall be submitted to and approved by the Division prior to the Municipality authorizing the services of any consultant or professional, regardless of contract value, or any amendments with respect thereto. This condition applies to legal services, insurance brokerage services, risk management, grant writing, public relations, government affairs, engineering and public works, accounting and financial services, public safety and health services, management services, and without any exceptions, services of any type or description, regardless of contract value, that are procured as professional services and/or extraordinary unspecifiable services under the Local Public Contracts Law.
2. A Contract Request Form" (Attachment D) shall be submitted to and approved by the Director prior to the Municipality authorizing services of any kind that exceeds the bid limits of QPA (currently \$40,000) and non-QPA (currently \$17,500) municipalities. All contracts exempt from public bidding shall be procured pursuant to the "fair and open" process described in N.J.S.A. 19:44A-20.4 et seq., unless the Director approves an alternative procurement process that is necessary under the circumstances or that provides greater transparency and competition than the minimum requirements of the "fair and open" process.
3. The "Contract Request Form" shall be accompanied by the Request for Proposal, the list of all bidders and their bid amounts, and the evaluation memorandum or worksheet.
4. Unless ordered to the contrary, the Division's pre-approval is not required in cases where the Municipality intends to award a contract to a vendor that was approved by DLGS

during the previous budget year and if all of the following conditions are present: (i.) the Municipality has complied with this Memorandum and laws relating to the procurement process, and (ii.) the scope of services, rates (or total contract value), caps on payment, and other terms are the same or better than the previous budget year, and (iii.) any conditions imposed by DLGS in the previous year's approval are retained in FY 2016.

5. The Municipality may retain consultants and professionals without the Division's pre-approval in cases of emergency, provided however, that the engagement is promptly reported to the State Fiscal Oversight Officer, a Contract Request Form is submitted and the scope of the engagement is limited to meeting the requirements created by the emergency.
6. The Municipality shall include a disclosure form in their bid package for bidders to disclose any prior or pending ethics complaints against them or their company.
7. The Municipality shall include in each contract for professional services the requirement that each vendor provide monthly billing statements that include a brief statement showing the original amount of the Contract, any increases established by amendment to the Contract, the amount previously billed under the Contract, and the total amount of unbilled funds remaining available under the Contract, and the total amount of unbilled funds remaining available under the Contract after deduction of the most recent amount billed. A copy of each billing statement shall be made available to the State Fiscal Oversight Officer upon request.

Restrictions on Hiring Firms or Individuals to Perform Audit and Non-Audit Accounting Services

1. The Municipality's contracting agent shall use the Division's approved Request for Proposal package when procuring audit services (preparing the municipal audit) and when procuring non-audit accounting services (assisting with the development of the annual financial statement and/or municipal budget).
2. The Municipality shall establish an evaluation committee to review proposals received for these services, one of which members shall be the State Fiscal Oversight Officer or his/her designee (assigned from among DLGS staff).

3. The qualified person or firm that is engaged to perform audit services shall be ineligible to perform non-audit accounting services

Restrictions on Tax Exemptions and Abatements and the Collection of Related Payments in Lieu of Taxes

1. In no case shall a redeveloper agreement or PILOT payment schedule be approved by the governing body that requires an up-front, one-time, or short term payment that leaves the Municipality with a structural revenue loss in the ensuing year or later years without prior approval.
2. A "Contract Request Form" (Attachment D) shall be submitted to and approved by the Director prior to the Municipality authorizing any proposed PILOT Redevelopment Plan, or Redeveloper Agreement (or amendments thereto), or any ordinance authorizing same. The State Fiscal Oversight Officer shall meet with the Municipality and determine whether the development plan has been established through a reasonable process and that tax exemptions and PILOTs have been reviewed in the context of gap financing to ensure they are not being awarded without good cause. Such notification shall not be required when: (1) any proposed PILOT contained in the Redevelopment Plan or Redeveloper Agreement is allocated to the county, school district(s), and other applicable local government jurisdictions in the same proportion as ordinary taxes are allocated to those taxing district; (2) any amendment to a Redevelopment Plan or Redeveloper Agreement maintains or increases a PILOT previously set forth in a Redevelopment Plan or Redeveloper Agreement; or (3) any Redeveloper Agreement that is required or approved by the New Jersey Housing and Mortgage Finance Agency. To request approval of tax exemptions and PILOTs pursuant to this section, the Municipality shall submit Attachment D and provide information containing: a cost benefit discussion of the project; assurances that the project would not move forward but for the existence of a PILOT; the taxes that would be collected if the project were subject to ordinary taxation; and the proposed PILOT.

Regular Meetings with DLGS on Economic Development Efforts and Reporting Requirements Pertaining to Tax Exemptions and Abatements

In recognition that special tax exemptions or abatements should be granted only where essential to ensure economic development, the Municipality shall complete and return to DLGS a completed "Tax Exemption and Abatement Report" (Attachment L) along with its 2017 application estimated due date in March 2017). The report is an electronic fillable spreadsheet

which is located on the Division's website under the Municipal State Aid section. The following documents must accompany the report and be delivered in PDF format: a map of all areas within municipality classified as Redevelopment Areas; a map of all areas within municipality classified as Areas in Need of Rehabilitation; and any current ordinance(s) allowing taxpayers to obtain tax exemptions or abatements as a matter of right. This report does not replace any similar filing requirements that may be required pursuant to State statute. It will be necessary for the Tax Collector, Chief Financial Officer, and Tax Assessor to collaborate in preparing the form and certifying to the accuracy of the data submitted.

Restrictions on the Creation or Expansion of Services

A "Creation/Extension of Services Form" (Attachment E) shall be submitted to and approved by the Director before the Municipality creates or expands municipal services. This condition extends to the creation of new programs and increases in funding or expansion of eligibility of existing programs. By way of example only, the following actions would need pre-approval from the Director: creating a new recreational program; expanding the total number of enrollees in a particular service; establishing a new regulatory program in the area of code enforcement; establishing or increasing funding for a grant or loan program.

Restrictions of Miscellaneous Nature A "Travel Approval Form" (Attachment F) shall be submitted to and approved by the Director before the Municipality expends funds for out-of-state travel and overnight stays within New Jersey, which shall include attendance at the annual convention of the New Jersey League of Municipalities. The Municipality shall explain good cause for the expenditure, which may include, but is not limited to, a need to: maintain licensure or certification of statutory employees; essential training for elected officers in areas concerning finance, budget, procurement and ethics; and essential training for public safety employees. Travel for executive protection will generally not be approved absent a compelling reason. The Director may, at his or her discretion, consider requests for executive protection upon request of the Municipality. These requests must follow the same procedure as all other travel requests and must be accompanied by a completed "Travel Approval Form" (Attachment F) along with a significant justification for the need for executive protection. Requests must be submitted in advance of the requested travel dates. Failure to obtain prior written approval may result in a reduction in Transitional Aid.

1. Expenditures and reimbursements for travel mileage to and from meetings for the purpose of day to day municipal business shall be restricted to the State reimbursement rate of no more than .31 cents per mile.
2. Expenditures and reimbursements from any municipal funds for food/meals (other than food/meals required by contracts in effect on the date of this Memorandum), entertainment, and receptions are prohibited.

3. A "Grant Approval Form" (Attachment G) shall be submitted to and approved by the Director before the Municipality accepts or executes any grant agreement requiring current or long-term matching public funds, a commitment of municipal resources or minimum staffing levels.
4. No public funds shall be paid or distributed in any manner to non-profit organizations, including but not limited to, charitable organizations, unless the expenditure of funds is expressly authorized by statute. No public funds shall be expended for non-statutory charitable Contributions, bereavement, or celebratory purposes, for individuals or organizations.
5. No fees established by ordinance adopted by the governing body shall be waived, reduced or otherwise revised without prior approval of the Director.
6. The Municipality shall not assign active duty police officers as security for the Municipal Court but shall hire retired police officers or special law enforcement officers at an hourly rate not to exceed \$25 per hour.

Requirement for Copy of Agenda Prior to Governing Body Meetings

Immediately upon publication, prior to any regular or special meeting by the governing body, the municipal clerk, or his or her designee, shall provide a copy of each agenda to the State Fiscal Oversight Officer.

Requirements for Approval of Bond Ordinances and Contract Request Forms

1. A "Bond Ordinance or Contract Request Form" (Attachment H) shall be submitted to and approved by the Director before the governing body introduces any proposed bond ordinance exceeding \$1 million or authorizes any proposed contract exceeding \$1 million.
2. The Municipality shall file with the Director prior to closing, a copy of any Offering Statement prepared in relation to any financing.

Requirement to Have a Pay to Play Ordinance

The Municipality shall have a "pay to play" ordinance pursuant to P.L. 2005, c.271 limiting the awarding of public contracts by the Municipality or its agencies to business entities that have made a contribution pursuant to N.J.S.A. 19:44A-I, et seq. and limiting the contributions that any business entity can make during the term of their contract with the Municipality. The ordinance shall not be repealed or amended for so long as this Memorandum is in effect. The ordinance shall be substantively identical to the provisions of the "pay to play" model ordinance which can be found at [http://www.state.nj.us/dca/lgs/muniaid/pay to play ordinance-contractor.doc](http://www.state.nj.us/dca/lgs/muniaid/pay%20to%20play%20ordinance-contractor.doc).

Requirement to Consider a Model Insurance Brokerage Ordinance

Insurance costs, especially health care and prescription benefits are very costly for municipalities. In an effort to obtain the lowest possible price for insurance, whenever the Municipality desires to retain the services of an insurance consulting service (e.g. broker), the Municipality shall consider and discuss the "Best Price Insurance Contracting" model ordinance (Attachment I) at a public hearing of the governing body.

Individual and Collective Negotiation Agreements

1. The Municipality acknowledges that the State will not provide Transitional Aid in cases where the Municipality allows or approves compensation increases that are not sustainable. The Municipality understands that if it approves any individual employment contract or any collective negotiation agreement that increases annual compensation for the employee or group of employees by more than 2% annually, on average during the term of the agreement, the Municipality may become ineligible for future aid.

For the purpose of calculating the 2% annual increase referenced above (specifically for those contracts subject to binding interest arbitration) the Municipality shall provide an analysis guided by recent decisions of the New Jersey Public Employment Relations Commissions (see Borough of New Milford, PERC No. 2012-53 and City of Atlantic City, PERC No. 2013-82). Prior to commencing negotiations of any Collective Negotiations Agreement (CNA) or of any Memorandum of Understanding/Agreement (MOU/A) the Municipality shall meet with the State Fiscal Oversight Monitor who shall determine the methodology is consistent.

2. The Municipality acknowledges that the State Fiscal Oversight Officer or designee has the right to be present during collective bargaining negotiations/mediation/arbitration as an observer who may offer comments or recommendations to the negotiation team in closed session. The Municipality shall provide a copy of any proposed employment contract, collective bargaining agreement, or settlement agreement to the Division for review at least ten days prior to ratification. A "Contract Request Form" (Attachment D)

shall be submitted to and approved by the Director prior the Municipality authorizing execution of the Collective Negotiations Agreement.

3. The Municipality acknowledges that the State does not provide Transitional Aid for the purpose of subsidizing health and prescription benefits that are more expensive than the health and prescription benefits available through the State Health Benefits Program. The Municipality understands that pending rules prohibit the execution of new collective negotiation agreements that provide health insurance more expensive than the State Health Benefits Plan. The Municipality shall provide a plan to take all steps necessary to enroll in the State Health Benefits Plan should their health care insurance costs exceed that of the State Health Benefits Plan.
4. The Municipality will provide the Director with copies of letters substantially similar to the model letters set forth on Attachment (J) (for municipalities participating in the State Health Benefits Program) or Attachment (K) (for municipalities not participating in the State Health Benefits Program) that it has delivered to each of the collective bargaining units representing the Municipality's employees. Furthermore, in the event that any collective negotiation is submitted to binding arbitration in the case of police and fire employees or fact-finding in the case of all other bargaining unit employees, the Municipality will deliver to the arbitrator or fact-finder, with a copy to the Director, a letter that is substantially similar to the model letter set forth on Attachment J or Attachment K, whichever is applicable).
5. The Municipality acknowledges that the State does not provide Transitional Aid for the purpose of providing health and prescription benefits to part-time elected officials, part-time appointed officials and part-time employees and agrees that it shall eliminate such benefits unless said benefits are contractually required.

Miscellaneous Reporting Requirements

1. The Municipality shall promptly submit to the Director, upon the Director's request, a list of all employees containing their name, salary, title, department or organizational unit, and date of hire, together with information identifying which employees were direct appointments of the Mayor.

2. The Municipality shall promptly notify the Director of all future findings, decisions, penalties, orders and requirements resulting from complaints, investigations, and reports issued by State and Federal regulatory agencies including, but not limited to, the Department of Labor, Civil Service Commission, and the Public Employment Relations Commission.
3. The Municipality shall promptly submit to the Director a copy of all judgments or settlements in excess of \$100,000 rendered or executed on and after the date of this Memorandum. The Director may, at the Director's discretion, request copies of any other judgments or settlements involving the Municipality or its employees regardless of the date of same.
4. The Municipality shall immediately provide the Director with a copy of any complaint filed with the Superior Court or the Government Records Council against the Municipality or its officers with respect to a request for government records.
5. The Municipality shall make available to the Director, upon the Director's request, any of the Municipality's records, including but not limited to: bill lists, vouchers, active litigation files, etc.
6. The Municipality shall maintain a list of all waiver approvals and make it available to the Director, upon the Director's request and shall contain the information provided in Attachment (N).

Meeting Requirements

The Municipality's representatives shall meet with the Director or his staff at a time scheduled by the Director, to discuss budgetary, fiscal, operations and any other matters.

The State Fiscal Oversight Officer, as designated by the Director, may contact the Municipality to schedule meetings with the Auditor, Chief Financial Officer and the Mayor and/or designee to discuss the latest audit findings.

Good Faith Exceptions

The Municipality may apply in writing to the Director for a good cause exception of any condition or requirement contained in this Memorandum.

Disbursement of Award

Provided the Legislature has appropriated, and the Governor has approved; sufficient Transitional Aid funding, an amount not to exceed 75% of the applicant's total Transitional Aid award shall be disbursed upon execution of the Memorandum. The balance of Transitional Aid shall be disbursed on a timetable consistent with approval by the Director provided the Municipality is in substantial compliance with this Memorandum and all laws, regulations, Local Finance Notices, and any government, administrative and operational efficiency, and oversight measures necessary for the fiscal recovery of the Municipality as the Director may order from time to time pursuant to the State Budget or any other law. Other than purposeful withholding of funds due to non-compliance with this Memorandum, all moneys will be transferred by year end. The Municipality may be deemed not to be in substantial compliance if it has hired personnel without appropriate approvals or otherwise knowingly violates any provision of the Memorandum. Additionally, the Municipality may be deemed not to be in substantial compliance if the Municipality or its officials have failed to attend meetings or produce documents as directed by DLGS.

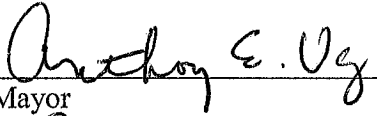
DLGS may, at its sole discretion, withhold funds from the final payment, where the Municipality is in substantial compliance, but has otherwise violated certain terms of the Memorandum. For example, in addition to any other sanctions, DLGS may withhold aid in an amount equal to no less than the amount of funds expended in support of hires or activities not approved in strict compliance with the terms and timeframes set forth in this Memorandum.

Duration

The provisions of the Memorandum shall remain in force and effect until a successor MOU is executed. Provided, however, if the Municipality adopts a budget for CY 2017 that leaves a structural imbalance heading into 2018 that is greater than 5% of their levy as determined by the Director, the Memorandum shall remain in force and effect until such time as a budget is adopted for 2018 or a subsequent year that is free of such a structural imbalance in the sole discretion of the Director. The Director's determination to extend the provisions of the MOU can be appealed to the Local Finance Board, but the Director's decision shall remain final unless and until a majority of appointed members vote to overturn the Director's decision. If the Municipality adopts a budget for Calendar Year 2017 that does not rely on Transitional Aid, the State may offer early termination.

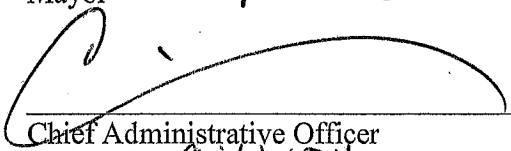
Governing Body Acknowledgement

The Municipal Governing Body shall review this Memorandum and approve a resolution stating its awareness and acknowledging its contents.



Mayor

Date: Oct. 15, 2016



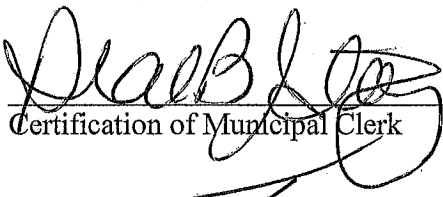
Chief Administrative Officer
Christopher J. Vaz

Date: 10/5/16



Governing Body President

Date: 10/5/16



Certification of Municipal Clerk

Date: 10/5/16



Director, DLGS

Date: 10/18/18

RESOLUTION NO. 16-248

RESOLUTION OF THE BOROUGH OF SEASIDE HEIGHTS, COUNTY OF OCEAN, STATE OF NEW JERSEY, ACKNOWLEDGING AND ACCEPTING A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOROUGH AND THE STATE OF NEW JERSEY DIVISION OF LOCAL GOVERNMENT SERVICES FOR TRANSITIONAL AID

WHEREAS, the Borough of Seaside Heights (the 'Borough'), has submitted an application to the State of New Jersey Division of Local Government Services ('DLGS') for transitional aid funding; and

WHEREAS, the DLGS has determined that an award of \$750,000 in transitional aid funding to the Borough is appropriate, subject to certain conditions; and

WHEREAS, one of the conditions is for the Borough to acknowledge and accept a Memorandum of Understanding which sets forth all of the terms and conditions associated with the distribution of said transitional aid funding to the Borough by the DLGS; and

WHEREAS, a copy of the proposed Memorandum of Understanding is attached hereto and incorporated herein, as Schedule A.

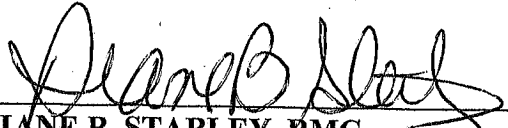
NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the governing body of the Borough of Seaside Heights, in the County of Ocean and State of New Jersey, as follows:

1. That the Borough hereby acknowledges and accepts the terms of the attached Memorandum of Understanding and the Borough hereby agrees to abide by the terms and conditions stated therein.
2. That on behalf of the Borough of Seaside Heights, the Mayor, Council President, and Borough Administrator are hereby authorized to execute, and the Borough Clerk to attest to, respectively, a Memorandum of Understanding in the form attached hereto and incorporated herein as Schedule A.
3. That a certified copy of this Resolution, along with the Memorandum of Understanding shall be provided to the Director of the Division of Local Government Services, the Borough Auditor and the Chief Financial Officer.
4. That this resolution supersedes Resolution No. 16-106 adopted on March 16, 2016.

CERTIFICATION

OCT 7 2016

I, Diane B. Stabley, do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body of the Borough of Seaside Heights at a meeting held on the **5th day of October, 2016**.


DIANE B. STABLEY, RMC
Borough Clerk, Borough of Seaside Heights

RESOLUTION NO. 16-248

RESOLUTION OF THE BOROUGH OF SEASIDE HEIGHTS, COUNTY OF OCEAN, STATE OF NEW JERSEY, ACKNOWLEDGING AND ACCEPTING A MEMORANDUM OF UNDERSTANDING BETWEEN THE BOROUGH AND THE STATE OF NEW JERSEY DIVISION OF LOCAL GOVERNMENT SERVICES FOR TRANSITIONAL AID

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WHEREAS, one of the conditions is for the Borough to acknowledge and accept a Memorandum of Understanding which sets forth all of the terms and conditions associated with the distribution of said transitional aid funding to the Borough by the DLGS; and

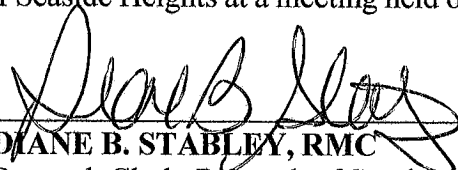
WHEREAS, a copy of the proposed Memorandum of Understanding is attached hereto and incorporated herein, as Schedule A.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the governing body of the Borough of Seaside Heights, in the County of Ocean and State of New Jersey, as follows:

1. That the Borough hereby acknowledges and accepts the terms of the attached Memorandum of Understanding and the Borough hereby agrees to abide by the terms and conditions stated therein.
2. That on behalf of the Borough of Seaside Heights, the Mayor, Council President, and Borough Administrator are hereby authorized to execute, and the Borough Clerk to attest to, respectively, a Memorandum of Understanding in the form attached hereto and incorporated herein as Schedule A.
3. That a certified copy of this Resolution, along with the Memorandum of Understanding shall be provided to the Director of the Division of Local Government Services, the Borough Auditor and the Chief Financial Officer.
4. That this resolution supersedes Resolution No. 16-106 adopted on March 16, 2016.

CERTIFICATION

I, Diane B. Stabley, do hereby certify that the foregoing is a true copy of a resolution adopted by the Governing Body of the Borough of Seaside Heights at a meeting held on the **5th** day of **October, 2016**.



DIANE B. STABLEY, RMC
Borough Clerk, Borough of Seaside Heights