RESOLUTION NO. 2016063

RE: AUTHORIZING SHARED SERVICES AGREEMENT FOR AUTOMOTIVE REPAIR AND MAINTENANCE SERVICES AND FUEL STORAGE OFFERED THROUGH THE DUTCHESS COUNTY AUTOMOTIVE SERVICE CENTER TO REQUESTING MUNICIPAL CORPORATIONS

Legislators PULVER, FLESLAND, SAGLIANO, INCORONATO, BLACK, LANDISI, and TRUITT offer the following and move its adoption:

WHEREAS, General Municipal Law Section 119-o authorizes municipal corporations to enter into agreements for the performance among themselves or one for the other in their respective functions, powers and duties on an individual, cooperative, joint or contract basis, and

WHEREAS, the County operates an Automotive Service Center through its Department of Public Works that provides a wide variety of services including but not limited to brake repair, tire replacement and repair and preventative maintenance, and

WHEREAS, the Department of Public Works has offered to provide the aforementioned variety of services by its automotive maintenance facility to municipal corporations, and

WHEREAS, various municipalities have indicated a desire to purchase gasoline through a bid issued by New York State Office of General Services (NYSOGS), and

WHEREAS, various municipal corporations do not have any fuel tanks where the gasoline that it purchases through the NYSOGS bid can be stored, and

WHEREAS, the County operates a fuel farm system at several locations in various parts of the County, and

WHEREAS, the County can provide storage space in its fuel farm system so that the municipal corporation's gasoline can be stored and dispensed when needed, and

WHEREAS, the attached sample agreement is proposed to be used for those instances when a municipal corporation requests the above services, therefore, and

WHEREAS, it is necessary for the Legislature to approve the annexed sample shared services agreement and to authorize the County Executive or his designee to execute the agreement, now, therefore, be it

RESOLVED, that this Legislature hereby approves the proposed shared services agreement so that the Department of Public Works can provide automotive repair and maintenance services as well as fuel storage to those municipal corporations that request such services and authorizes the County Executive or his designee to execute such agreements in substantially the same form as attached hereto.

CA-025-16
CAB/kvh/G-0188
2/16/16
Fiscal Impact: None.

STATE OF NEW YORK
ss:
COUNTY OF DUTCHESS

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 14th day of March 2016, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 14th day of March 2016.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

FISCAL IMPACT STATEMENT

☐ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost $ _____

Total Current Year Revenue $ _____
and Source

Source of County Funds *(check one)*: ☑ Existing Appropriations, ☐ Contingency,
☐ Transfer of Existing Appropriations, ☐ Additional Appropriations, ☐ Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount $ _____
Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:
The 2016 budget includes anticipated appropriations and offsetting revenue related to these shared services agreements.

Prepared by: Rachel Kashimer, Budget Office Prepared On: 2/11/2016

SHARED SERVICES AGREEMENT

THIS AGREEMENT, made this day of , 2016, by and between the **COUNTY OF DUTCHESS**, a municipal corporation with offices at 22 Market Street, Poughkeepsie, New York 12601 (hereinafter referred to as the "COUNTY") and_____, a Municipality within the County of Dutchess, whose address is _____, mailing address P.O. Box ___; _____, NY ____ (hereinafter referred to as the "MUNICIPALITY").

WITNESSETH:

WHEREAS, the County operates an Automotive Service Center that provides a wide variety of services including but not limited to brake repair, tire replacement and repair and preventative maintenance, and

WHEREAS, the Municipality is interested in obtaining certain services from the County's automotive maintenance facility, and

WHEREAS, the County is willing to provide these services as outlined below: ***and/or***

WHEREAS, the Municipality purchases gasoline through a bid issued by New York State Office of General Services (NYSOGS), and

WHEREAS, the Municipality does not have any fuel tanks where the gasoline that it purchases through the NYSOGS bid can be stored, and

WHEREAS, the County operates a fuel farm system at several locations in various parts of the County, and

WHEREAS, the County can provide storage space in its fuel farm system so that the Municipality's gasoline can be stored and dispensed when needed, now, therefore, it is mutually agreed by and between the parties hereto as follows:

1. SERVICE TO BE PROVIDED BY COUNTY.

(a) Fuel Farm Storage Services: The County agrees to provide storage space in its fuel farm located at the County's DPW Highway Outpost facility in the Town of _____ in strict compliance with all applicable federal, state and local laws, regulations and procedures. The Municipality shall order gasoline from the authorized NYSOGS vendor and request delivery to be made to Dutchess County's fuel farm at the _____ DPW Highway Outpost. The Municipality shall be responsible to pay for all gasoline it orders from the NYSOGS fuel vendor. Dutchess County shall use its automated fuel management system to track the amount of gasoline delivered on behalf of the Municipality and track the amount of gasoline dispensed into Municipality vehicles. Dutchess County shall provide an annual report to the Municipality that summarizes both gasoline delivered on

behalf of, and gasoline used by the Municipality. Municipality vehicles are only authorized to use gasoline up to the amount paid for by, and delivered on behalf of the Municipality.

(b) Automotive Maintenance Facility Services: The County agrees to provide any of the services outlined in Exhibit A annexed hereto.

2. TERM OF AGREEMENT. This Agreement shall be effective _____, 20__ and shall terminate on _____, 20__, unless otherwise terminated as set forth herein.

3. PAYMENT.

(a)Fuel Farm Storage Fee: The Municipality agrees to pay to the County, as a rental fee, the sum of and no/100 ($ .00) Dollars per year due at the beginning or renewal of the contract term for the storage space in the County's facility for the Municipality's gasoline. The rental fee may increase at renewal of the contract term.

(b)Automotive Maintenance Facility Services: The charges for these services are also outlined in Exhibit A. The Municipality agrees to pay to these charges to the County within thirty (30) days of receipt of an invoice. The charges for these services may increase at renewal of the contract term.

4. DEFENSE AND INDEMNIFICATION:

GENERAL LIABILITY: The Municipality agrees to the fullest extent permitted by law to defend, indemnify and hold the County and its employees harmless from any and all such losses, claims, liens, demands and causes for action, including but not limited to, judgments, penalties, interest, court costs, and legal fees incurred by the County on behalf of any party, in connection with or arising directly or indirectly from this Agreement. The Municipality shall investigate, handle, respond to and defend any such claims, demands or suits at its sole expense, and shall bear all other related costs and expenses even if such claims, demands or suits are groundless, false or fraudulent. This indemnification section shall survive the expiration or termination of this Agreement.

In any matter in which indemnification hereunder for either professional or non-professional services would violate Section 5-322.1 of the New York General Obligations Law or any other applicable legal prohibition, the foregoing provisions shall not be construed to indemnify the County for damage arising out of bodily injury to persons or to property caused by or resulting from the sole negligence of Dutchess County employees. The term "employee" shall include all officers, advisory board members and/or volunteers serving the County.

5. INSURANCE REQUIREMENTS. At all times during the term of this Agreement, the Municipality, if any, shall maintain at its own cost the following insurance and shall provide proof thereof to the County, in the form of a Certificate of Insurance, prior to commencing work under this Agreement:

Worker's Compensation Employer's Liability (statutory limits). In compliance with the Workers' Compensation Law of the State of New York, each contractor shall provide:

a. a certificate of insurance on an Acord form indicating proof of coverage for Worker's Compensation, Employer's Liability, **OR**

b. a New York State Workers Compensation Notice of Compliance (Form C-105, Form U-26.3, Form SI-12 or Form SI-105.2P).

c. In the event that the Contractor is exempt from providing coverage, he must provide a properly executed copy of the Certificate of Attestation of Exemption from NYS Workers' Compensation Board, Form CE-200.

Commercial General Liability Insurance coverage including blanket contractual coverage for the operation of the program under this Agreement with limits not less than $1,000,000 per occurrence and $2,000,000 in the aggregate. This insurance shall be written on an occurrence coverage form and include bodily injury and property damage liability. The County must be listed as additional insured. The additional insured endorsement for the Commercial General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations.

The Acord form certificate of insurance must contain the following provisions:

(A) The County of Dutchess must be listed as certificate holder and additional insured on the commercial general. In addition, the commercial general liability policy must include the additional insured endorsement forms cg 2037 July 2004 edition and the cg 2010 April 2013 edition or their equivalent.

(B) The commercial general is primary and noncontributory.

(C) The commercial general liability and workers compensation policies must contain a waiver of subrogation in favor of the County of Dutchess.

(D) If the workers compensation Notice of Compliance is used instead of the Acord certificate of insurance, the Notice of Compliance must indicate that a waiver of subrogation in favor of the County of Dutchess is provided.

All policies of insurance referred to above shall be underwritten by companies authorized to do business in the State of New York with an A.M. Best financial strength rating of A- or better. In the alternative, the policies of insurance referred to above may be underwritten by Non-Admitted companies with an A.M. Best financial strength rating of A+ or higher. In addition, every policy required above shall be primary and noncontributory. Any insurance carried by the County, its officers, or its employees shall be excess and noncontributory insurance to that provided by the Contractor. The Municipality, shall be solely responsible for any deductible losses under each of the policies required above.

Prior to cancellation or material change in any policy, a thirty (30) day notice shall be given to the County Attorney at the address listed below:

Dutchess County Attorney
County Office Building
22 Market Street
Poughkeepsie, New York 12601

On receipt of such notice, the County shall have the option to cancel this Agreement without further expense or liability to the County, or to require the Municipality to replace the cancelled insurance policy, or rectify any material change in the policy, so that the insurance coverage required by this paragraph is maintained continuously throughout the term of this Agreement in form and substance acceptable to the County. Failure of the Municipality to take out or to maintain, or the taking out or the maintenance of any required insurance, shall not relieve the Municipality from any liability under this Agreement nor shall the insurance requirements be construed to conflict with or to limit the obligations of the Municipality concerning indemnification.

All losses of County property shall be adjusted with and made payable directly to the County. All Certificates of Insurance shall be approved by the County's Director of Risk Management or designee prior to commencement of any work under this Agreement.

6. NON-ASSIGNMENT. (a) This Agreement may not be assigned by the Municipality nor its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous written consent of the County.

7. TERMINATION. Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party of its intent to terminate.

8. EXTENSION. This contract may be extended for additional periods of one year each, not exceeding in total five (5) years, upon such terms and conditions as may be agreed between the parties.

9. ENTIRE AGREEMENT. The terms of this Agreement, including its attachments and exhibits, represent the final intent of the parties. Any modification, rescission or waiver of the terms of this Agreement must be in writing and executed and acknowledged by the parties with the same formalities accorded this basic Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

APPROVED AS TO FORM:

_____
County Attorney's Office

APPROVED AS TO CONTENT:

_____
Department of Public Works

ACCEPTED: COUNTY OF DUTCHESS

BY: _____
Marcus J. Molinaro,
County Executive

ACCEPTED: (MUNICIPALITY)

BY: _____
Print Name_____
Title _____

EXHIBIT "A"

Automotive Maintenance Services
Offered by the Dutchess County Automotive Service Center

Services offered by the Automotive Service Center include:

- Preventative maintenance
- Brake system maintenance and repair
- Tire replacement and repair
- Electrical system maintenance and repair
- Engine maintenance and repair
- Air conditioning maintenance and repair
- Belt replacement
- Fuel system maintenance and repair
- Heating repair
- Steering system repairs
- Battery replacement
- Light bulb replacement
- Suspension system maintenance and repair
- Coolant system maintenance and repair
- Law enforcement vehicle accessory installation
- Exhaust system maintenance and repair

Other repairs and maintenance services may be available as needed. There is a mark-up on all parts and supplies. Labor rates are established through the county's annual budget approval process.

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated
General Municipal Law (Refs & Annos)
Chapter 24. Of the Consolidated Laws
Article 5-G. Municipal Cooperation (Refs & Annos)

McKinney's General Municipal Law § 119-o

§ 119-o. Performance of municipal cooperative activities; alternative powers; alternative assignment of responsibilities

Effective: July 12, 2013
Currentness

1. In addition to any other general or special powers vested in municipal corporations and districts for the performance of their respective functions, powers or duties on an individual, cooperative, joint or contract basis, municipal corporations and districts shall have power to enter into, amend, cancel and terminate agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service or a joint water, sewage or drainage project. Notwithstanding the foregoing grant of authority, the temporary investment of moneys by more than one municipal corporation or district pursuant to a municipal cooperation agreement which meets the definition of "cooperative investment agreement" as set forth in article three-A of this chapter shall be in compliance with all of the requirements of that article. Any agreement entered into hereunder shall be approved by each participating municipal corporation or district by a majority vote of the voting strength of its governing body. Where the authority of any municipal corporation or district to perform by itself any function, power and duty or to provide by itself any facility, service, activity, project or undertaking or the financing thereof is, by any other general or special law, subject to a public hearing, a mandatory or permissive referendum, consents of governmental agencies, or other requirements applicable to the making of contracts, then its right to participate in an agreement hereunder shall be similarly conditioned. Municipal corporations and districts shall also have the power to enter into, amend, cancel and terminate agreements with a soil and water conservation district established under the soil and water conservation districts law for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service or a joint project; provided, however, that the exercise of any powers and duties under this article by a soil and water conservation district shall be subject to the powers, duties and limitations in section nine of the soil and water conservation districts law.

2. An agreement may contain provisions relating to:

a. A method or formula for equitably providing for and allocating revenues and for equitably allocating and financing the capital and operating costs, including payments to reserve funds authorized by law and payments of principal and interest on obligations. Such method or formula shall be established by the participating corporations or districts on a ratio of full valuations of real property, or on the basis of the amount of services rendered or to be rendered, or benefits received or conferred or to be received or conferred, or on the increase in taxable assessed value attributable to the function, facility, service, activity or project which is the subject of an agreement, or on any other equitable basis, including the levying of taxes or assessments to pay such costs on the entire area of the corporation or district, or on a part thereof, which is benefited or which receives the service.

b. The manner of employing, engaging, compensating, transferring or discharging necessary personnel, subject, however, to the provisions of the civil service law where applicable; the making of employer's contributions for retirement, social security, health insurance, workmen's compensation and other similar benefits; the approval of attendances at conventions, conferences and schools for public officials and the approval and payment of travel and other expenses incurred in the performance of official duties; the bonding of designated officers and employees; the filing of oaths of office and resignations consistent with general laws applicable thereto; provisions that for specific purposes designated officers or employees of the joint service or a joint water, sewage or drainage project shall be deemed those of a specified participating corporation or district; and provisions that personnel assigned to a joint service or a joint water, sewage or drainage project shall possess the same powers, duties, immunities and privileges they would ordinarily possess (1) if they performed their duties only in the corporation or district by which they are employed or (2) if they were employed by the corporation or district in which they are required to perform their duties.

c. Responsibility for the establishment, operation and maintenance of the joint service or joint water, sewage or drainage project and the officers responsible for the immediate supervision and control thereof; the fixing and collecting of charges, rates, rents or fees, where appropriate, and the making and promulgation of necessary rules and regulations and their enforcement by or with the assistance of the participating corporations and districts; the conduct of hearings and the determination of issues raised thereat; the making of necessary inspections; the keeping of records and the making of reports including those required by article three of the general municipal law; and limitations or restrictions on individual participating corporations and districts from providing or undertaking similar or competing facilities, services, activities, projects, or undertakings.

d. Purchasing and making of contracts subject to general laws applicable to municipal corporations and school districts.

e. Acquisition, ownership, custody, operation, maintenance, lease or sale of real or personal property.

f. Acceptance of gifts, grants or bequests.

g. Making of claims for federal or state aid payable to the individual or several participants on account of the joint service or a joint water, sewage or drainage project.

h. Custody by the fiscal officer of one participant of any or all moneys made available for expenditure for the joint service or a joint water, sewage or drainage project and authorization to such fiscal officer to make payments on audit of the auditing official or body of the participating corporation or district of which he is the fiscal officer.

i. Manner of responding for any liabilities that might be incurred in the operation of the joint service or a joint water, sewage or drainage project and insuring against any such liability.

j. Procedure for periodic review of the terms and conditions of the agreement, including those relating to its duration, extension or termination. The duration of an agreement hereinafter entered into, unless otherwise provided by law, may extend up to a maximum term of five years. With respect to agreements, the performance of which involves the issuance by the participants of indebtedness, either joint or several, the term of the agreement may extend up to a maximum period of time equal to the period of probable usefulness established by section 11.00 of the local finance law in connection with the object or purpose for which the indebtedness was issued. Nothing herein contained shall prevent or prohibit either the renewal of agreements

upon conclusion of the terms established, or amendments, modifications, clarifications, or cancellations of agreements prior to conclusion of the terms established.

k. Adjudication of disputes or disagreements, the effects of failure of participating corporations or districts to pay their shares of the costs and expenses and the rights of the other participants in such cases.

l. Other matters as are reasonably necessary and proper to effectuate and progress the joint service or a joint water, sewage or drainage project.

m. A municipality may contract with another municipality or with a municipal housing authority of another municipality, for the construction, maintenance, operation or management of a public housing project.

3. Municipal corporations are authorized as provided herein to adopt a mutual sharing plan in order to undertake or receive any joint service on behalf of or by another municipal corporation which has adopted a mutual sharing plan. Services provided pursuant to such mutual sharing plan shall be subject to the alternative assignment of responsibility for certain expenses and liabilities relating to such joint service as provided by this subdivision.

a. A governing body may adopt a mutual sharing plan by local law, resolution or bylaw to confer the benefits of this section upon the employees of such municipal corporation and to be held liable for the costs incurred in the event of participation in a joint service with another municipal corporation which has adopted a mutual sharing plan. Such plan shall describe the officers or employees authorized to undertake or authorize receipt of a joint service pursuant to the mutual sharing plan, any limitations upon joint services which may be rendered or received pursuant to it, and how and when notice of joint services rendered or received pursuant to it shall be provided to the governing body.

b. Upon adoption of a mutual sharing plan, a municipal corporation may undertake or receive a joint service with another municipal corporation which has adopted a mutual sharing plan. The municipal corporation requesting the assistance of another municipal corporation pursuant to a mutual sharing plan shall be liable and responsible to the assisting municipal corporation for any loss of or damage to equipment employed in provision of such joint service or use of supplies upon provision of such joint service. Each municipal corporation shall be liable for salaries and other compensation due to their own employees for the time the employees are undertaking the joint service pursuant to a mutual sharing plan, however the municipal corporation receiving the service shall reimburse the assisting municipal corporation for actual and necessary expenses upon written notice of such claim.

c. The authority to adopt a mutual sharing plan and to undertake joint services pursuant to it shall be in addition to any other power or authority conferred on municipal corporations pursuant to this article or any other general or special law. A joint service may not be rendered pursuant to a mutual sharing plan where another agreement has been entered into pursuant to this section for such service between the assisting and receiving municipal corporations.

Credits

(Added L.1960, c. 102, § 1, eff. Feb. 23, 1960. Amended L.1961, c. 681, § 3; L.1971, c. 62, § 1; L.1972, c. 407, § 1; L.1974, c. 236, § 2; L.1993, c. 605, § 8; L.1996, c. 620, § 4; L.1998, c. 623, § 7, eff. Oct. 20, 1998; L.2003, c. 62, pt. X, § 33, eff. May 15, 2003; L.2013, c. 150, § 5, eff. July 12, 2013.)