

**WASHINGTON TOWNSHIP**  
**NORTHAMPTON COUNTY, PA**  
**ORDINANCE 273**

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF WASHINGTON TOWNSHIP, NORTHAMPTON COUNTY, PENNSYLVANIA, TO ADOPT AN INTERMUNICIPAL AGILITY AGREEMENT WITH THE TOWNSHIP OF UPPER MOUNT BETHEL, NORTHAMPTON COUNTY, PENNSYLVANIA.

WHEREAS, the Township of Washington, Northampton County, Pennsylvania, is a duly organized and existing Township of the Second Class within the County of Northampton, Commonwealth of Pennsylvania and is also referred to as a "local government" under the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2301 et seq.; and,

WHEREAS, the Township of Upper Mount Bethel, Northampton County, Pennsylvania, is a duly organized and existing Township of the Second Class within the County of Northampton, Commonwealth of Pennsylvania and is also referred to as a "local government" under the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2301 et seq.; and,

WHEREAS, the Townships of Upper Mount Bethel and Washington are adjacent to one another and the boundary lines of the municipalities pass through various roads, streets and villages; and,

WHEREAS, informal agreements between the road crews and employees from both municipalities have proved beneficial to both municipalities in the past; and,

WHEREAS, the municipalities, through their respective and duly elected officials, have determined that it is in the best interests of both municipalities to perform certain road work and maintenance operations as partners in an agile road maintenance enterprise similar to that recommended by the Pennsylvania Department of Transportation; and,

WHEREAS, the Second Class Township Code authorizes such agreements with other municipalities in performing governmental powers, duties and functions (53 P.S. Sec. 66507); and,

WHEREAS, pursuant to the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2301 et seq, two or more local governments can jointly cooperate with one another in the performance of respective governmental functions, powers and responsibilities; and,

WHEREAS, pursuant to the Second Class Township Code, the Board of Supervisors of a Township may construct, repair and maintain inter alia roads and streets within the Township (53 P.S. Section 67301); and,

WHEREAS, the Townships are desirous of memorializing that their respective municipalities are willing to undertake the duties and the responsibilities for the aforementioned.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Board of Supervisors of Washington Township, Northampton County, PA as follows:

SECTION 1: All recitals are herein incorporated by reference.

SECTION 2: The Townships hereby each authorize and agree to enter into a cooperative effort for the use of vehicles, equipment and/or labor to perform certain projects of mutual interest or projects primarily or solely benefiting one municipality provided that such projects are limited in scope and duration. Such projects are for road, street and/or highway construction, repair and maintenance. Further, such vehicles, equipment and labor services that shall be exchanged or rendered on a reciprocal basis shall be listed as an exhibit to a proposed written agreement to be entered into by both municipalities.

SECTION 3. A copy of the proposed Intermunicipal Agility Agreement as attached

hereto and marked Exhibit "A"; and, all of its terms, provisions and conditions are hereby made a part and parcel of this Ordinance.

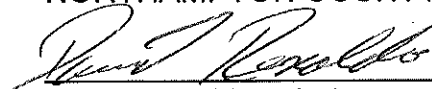
SECTION 4. The terms, conditions and provisions of this Ordinance are severable. If any such term condition or provision in this Ordinance is, for any reason, found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining terms, conditions or provisions in this Ordinance; and it is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid term, condition or provision not been included herein.

SECTION 5. The terms, conditions and provisions of any other ordinances which are inconsistent herewith shall be deemed vacated and/or repealed; but, any other terms, conditions and provisions of any such ordinances which are not inconsistent herewith shall remain in full force and effect.

SECTION 6. Pursuant to the Second Class Township Code, the ordinance takes effect five (5) days after its adoption as permitted by 53 P.S. Section 66601(a).

**THIS ORDINANCE**, being duly presented by motion, and duly seconded, was carried and adopted by the Board of Supervisors of Washington Township at a public meeting held on the 13th day of October 2010.

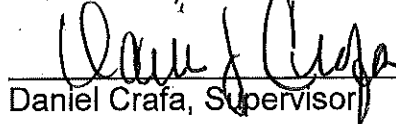
BOARD OF SUPERVISORS  
WASHINGTON TOWNSHIP  
NORTHAMPTON COUNTY, PA



David Renaldo, Chairman



David Hess, Vice Chairman



Daniel Crafa, Supervisor

ATTEST:

  
Gail Putvinski, Secretary/Treasurer  
(Impress Township Seal)

EXHIBIT "A"

## INTERMUNICIPAL SUBDIVISION MAINTENANCE AND AGILITY AGREEMENT

THIS AGREEMENT made this *11<sup>th</sup>* day of *October*, 2010 by and between the Township of Upper Mount Bethel, a Second Class Township and political subdivision of the Commonwealth of Pennsylvania with offices located at 387 Ye Olde Highway, Mt. Bethel, Northampton County, Pennsylvania (hereinafter referred to as "UMBT") and the Township of Washington, a Second Class Township and political subdivision of the Commonwealth of Pennsylvania, with offices at 1021 Washington Boulevard, Bangor, Northampton County, Pennsylvania (hereinafter referred to as "WASHINGTON"); and, further, the parties may also, whether either singularly or collectively, be referred to as "township(s)" or "municipality(ies)" or both.

### WITNESSETH

WHEREAS, UMBT and Washington are organized under the laws of the Commonwealth of Pennsylvania pursuant to the Second Class Township Code, as amended 53 P.S. Section 65101 et seq.); and,

WHEREAS, the two municipalities are adjacent to one another, share common boundary lines that intersect and cross, share various roads, streets and highways that pass through such municipalities and their villages and both municipalities are situate in the County of Northampton, Commonwealth of Pennsylvania; and,

WHEREAS, the Gibraltar Development Corp., Inc. a/k/a Gibraltar Development Corporation, a Pennsylvania corporation with address of 6 Mt. Bethel Plaza, Mt. Bethel, Northampton County, Pennsylvania 18343 constructed a residential development on a tract of land consisting of approximately 25.5 acres wherein said

project consists of a twenty-six (26) lot residential subdivision in which seventeen (17) lots are located in WASHINGTON, four (4) lots are located in UMBT and five (5) lots are located in both municipalities; and, said project is entitled "Subdivision of Land Record Plan for Jacob's Manor" (hereinafter referred to as "Jacob's Manor Development") and a copy of said recorded subdivision map is attached hereto and marked Exhibit "A" and is hereby made a part hereof; and,

WHEREAS, Village Properties, LLC, a Pennsylvania limited liability company with an address of 61 Seminole Terrace, Mt. Bethel, Northampton County, Pennsylvania 18343 constructed a residential development on a tract of land consisting of approximately one hundred three (103) acres wherein said project consists of twenty-four (24) residential lots of which eighteen (18) lots are located in UMBT and five (5) lots are located in WASHINGTON and six (6) lot are located in both municipalities; and, said project is entitled "Shepherds Hill – Final Plan" (hereinafter referred to as "Shepherds Hill") and a copy of said recorded subdivision map is attached hereto and marked Exhibit "B" and is hereby made a part hereof; and,

WHEREAS as a result of the above, UMBT and Washington entered into a Subdivision and Land Development Improvements – Installation, Maintenance and Security Agreement for both projects aforesaid whereby the Jacob's Manor Agreement was recorded on January 30, 2004 in the Office for the Recording of Deeds in and for the County of Northampton at Easton, PA in Record Book Volume 2004-1, Page 35392 et seq. and said Shepherd's Hill Agreement was recorded on April 18, 2007 in the same office in Record Book Volume 2007-1, Page 143758 et seq.; and,

WHEREAS and when the road, stormwater improvements and other required improvements are (or have been) offered for and accepted for dedication by

the municipalities, the maintenance responsibilities of WASHINGTON and/or UMBT need to be established for these two subdivisions by virtue of an Intermunicipal Agreement.

WHEREAS, Jacob's Manor and Shepherd's Hill have agreed to accept whatever maintenance arrangement is agreed between WASHINGTON and UMBT with respect to each municipality's maintenance responsibilities; and,

WHEREAS, the Second Class Township Code authorizes such agreements between municipalities in performing governmental powers, duties and functions. See 53 P.S. Section 66507; and,

WHEREAS and pursuant to the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2301 et seq., two or more local governments can jointly cooperate with one another in the performance of respective governmental functions, powers and responsibilities; and,

WHEREAS and pursuant to the Second Class Township Code, the Township Board of Supervisors may inter alia construct, repair and maintain roads and streets within the Township. See 53 P.S. Section 67301; and,

WHEREAS and pursuant to the Second Class Township Code, the Township Board of Supervisors may inter alia plan, design, construct, install and alter stormwater management facilities. See 53 P.S. Section 67703; and,

WHEREAS, UMBT and WASHINGTON are desirous of memorializing their respective duties and responsibilities and so as to outline the maintenance responsibilities regarding the offered and dedicated improvements of the aforesaid subdivisions.

NOW, THEREFORE, in consideration for the mutual promises and covenants to be hereinafter made and hereinafter kept by and between the parties hereto and for other good, valuable, mutual and sufficient consideration, the receipt of which is hereby acknowledged, and intending to be legally bound thereby, the municipalities hereto agree as follows:

1. All of the above recitals are herein incorporated by reference.
2. Washington Township will conduct all routine and preventive maintenance (on an annual basis) for the Jacob's Manor Development including those roads, or portions thereof, located in Upper Mount Bethel Township.
3. Upper Mount Bethel Township will conduct all routine and preventive maintenance (on an annual basis) for the Shepherd's Hill Development including those roads, or portions thereof, located in Washington Township.
4. "Routine and preventive maintenance" includes, but is not limited to, mowing, sweeping, snow and ice removal, crack sealing, signage and other road maintenance items. However, re-paving of the road surface, line painting, stormwater facilities repair shall be considered major repairs are not to be considered routine and preventative maintenance.
5. The municipalities agree to conduct a joint annual inspection of the roads in each development to determine if any major repairs will be required. Unless otherwise agreed to in writing and approved by the respective Township Board of Supervisors, major repairs are the responsibility of the Township that owns the road. The Townships agree to work together to complete any necessary major repairs and the specifics for the repairs will be agreed to upon a case-by-case basis.



6. Maintenance and repair of detention basins (and related stormwater facilities) are the responsibility of the lot owners upon which the basins and/or facilities are situate. However, the municipalities agree to include inspection of these basins and facilities during the annual road inspection. Any required notice to lot owners regarding the maintenance and/or repair of a detention basin (or related stormwater facilities) will be issued by the municipality who has jurisdiction over that lot owner. It will be the responsibility of that municipality to insure that any repairs, maintenance or reconstruction required to be made by the lot owner are completed in a good and workmanlike fashion and approved by the respective Township Engineer.

7. In case of emergencies, both municipalities agree to resolve any issue, whether together or separately. Each municipality will attempt to contact the owner of the road prior to emergency work; however, it is understood that safety of the residents of either municipality will take priority.

8. In order to proceed in an orderly fashion under this Agreement, it may also be in the best interests of both municipalities to perform certain roadwork and maintenance operations as partners in an agile road maintenance enterprise (similar to the Agility Program recommended by the Pennsylvania Department of Transportation). Whether under this Agreement or pursuant to an agility program, the parties hereto agree as follows:

(a) UMBT and WASHINGTON hereby each authorize and agree to enter into a cooperative effort for the use of vehicles, equipment and/or labor to perform certain projects of mutual interest or projects primarily or solely benefiting one municipality provided that such projects are limited in scope and duration. Such projects are for road, street and/or highway construction, repair and maintenance. Further, the

vehicles, equipment and labor services that shall be exchanged or rendered on a reciprocal basis shall be noted in writing and attached to this Agreement and hereby made a part hereof.

(b) Both UMBT and WASHINGTON shall keep their respective employees insured for liability and shall be responsible for the actions of their respective employees. An employee of the respective municipalities shall remain the employee of that municipality for all workers' compensation purposes and/or other employee benefits (including Social Security) provided he/she is acting pursuant to the terms of this Agreement, regardless of where he/she is performing that service or under whose direction the project is proceeding.

(c) Any vehicles or equipment owned or leased by one municipality shall be operated exclusively by an operator supplied by that municipality. Each municipality reserves to such operator the right to refuse any direction given by the other municipality to perform any act with the said vehicle or equipment which, in the judgment of the operator, is unsafe, unwise, negligent or otherwise a potential danger to persons, property or the equipment. Any damages caused as the result of operation of the vehicle or equipment shall be the sole responsibility of the municipality owning or leasing the vehicle or equipment, who shall hold the other municipality harmless from any liability therefore provided the vehicle or equipment has been operated in conformance with this Agreement.

(d) UMBT and WASHINGTON hereby agree to keep all vehicles and equipment to be utilized in the cooperative effort in good repair, properly inspected and certified by the appropriate agencies; and, that all employees who are to be supplied by the respective municipality to be operators of vehicles and equipment

shall have the proper current certifications and licenses. Copies of such documents shall be made available upon request.

(e) Under normal circumstances, the Road Foreperson of the respective municipality shall be the individual who is the manager of the project when such project is in his/her respective municipality and/or pursuant to this Agreement. Nevertheless, the Board of Supervisors of UMBT and the Board of Supervisors of WASHINGTON each reserve the right to designate a different project manager in particular circumstances for particular projects under this Agreement. The Road Foreperson shall develop a plan of cooperation of identifiable projects under this Agreement which will be submitted to the respective municipality which plans shall be deemed approved by the municipality unless specifically changed, altered or rejected (in whole or in part) by the Township Supervisors at a public meeting.

(f) Employees' wages shall be based upon the hourly rate per their respective municipality. Work done in conformance with this Agreement on the various projects shall not be calculated separately but shall be considered as part of the regular performance of the employees' duties to their respective municipality.

(g) The effectiveness of this Agreement and the cooperative agreement between UMBT and WASHINGTON is contingent upon assurance from their respective insurance carriers that this agreement in no way jeopardizes insurance coverage for either municipality.

(h) The term of this Agreement shall be considered to be perpetual unless amended, modified, revised, cancelled or terminated pursuant to an order of a court of competent jurisdiction.

9. General Provisions:

(a) This agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania without regard to its laws regarding conflict of laws.

(b) This agreement constitutes the entire agreement between the parties hereto. It supersedes all prior or contemporaneous communications, representations, or agreements, whether oral or written, with respect to the subject matter hereof and has been induced by no representations, statements, or agreements other than those herein expressed.

(c) This agreement or any section thereof shall not be construed against any party due to the fact that said Agreement or any section thereof was drafted by said party.

(d) This agreement may not be changed, amended or modified by the parties hereto unless the parties mutually agree to such and such change, amendment or modification is placed, in writing, and signed with the same formalities as the instant agreement.

(e) The parties hereto acknowledge that this agreement contains the implied covenant of good faith and fair dealings in the performance under this contract. The parties hereto covenant, warrant and represent to each other good faith, complete cooperation, due diligence and honesty in fact in the performance of all obligations of the parties pursuant to this Agreement. All promises and covenants are mutual and dependent.

(f) This agreement is a contract that either party may enforce. The failure of either party, at any time, to require performance by the other of any

provision of this agreement shall not affect or impair the right of that party to enforce the same at a subsequent time. The waiver, by either party, of any breach of any provision of this agreement shall not be deemed a waiver of any succeeding breach of such provision or a waiver of the provision itself. Unless stated otherwise, all rights and remedies contained in this agreement are cumulative and are in addition to any other rights or remedies at law or in equity.

(g) It is understood and agreed by the parties that if any part, term, or provision of this agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the state where made, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular part, term or provision held to be invalid.

(h) The parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

(i) Except as may be otherwise provided herein, this agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, designated representatives and assigns of the parties hereto.

(j) All notices, requests, demands, consents, approvals or other communications required or permitted to be given under any provision of this Agreement shall be in writing and shall be deemed given upon either personal delivery or the mailing thereof by certified, first class mail, return receipt requested, postage prepaid, addressed to each party at the following addresses:

If to Washington Township:

Township of Washington  
Attn: Township Manager  
1021 Washington Boulevard  
Bangor, PA 18013

With copy to:

(Solicitor at the time)

If to Upper Mount Bethel Township:

Township of Upper Mount Bethel  
Attn: Township Manager  
387 Ye Olde Highway  
Mt. Bethel, PA 18343

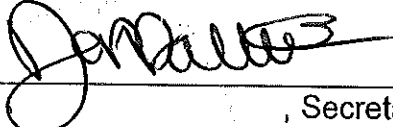
With copy to:

(Solicitor at the time)

IN WITNESS WHEREOF, the parties have hereunto executed this  
agreement the day and year first above written and intending to be legally bound  
hereby.

UPPER MOUNT BETHEL TOWNSHIP

By:   
Chairman, Board of Supervisors

By: , Secretary

(Impress Township seal)

WASHINGTON TOWNSHIP

By:   
Chairman, Board of Supervisors

By: , Secretary

(Impress Township seal)