

**RESOLUTION**  
of the  
**BOROUGH OF NEW PROVIDENCE**  
Resolution No 2013-371

Council Meeting Date: 12-02-2013

Date Adopted: 12-02-2013

TITLE: RESOLUTION AUTHORIZING AGREEMENT BETWEEN THE BOROUGH OF NEW PROVIDENCE AND MORRIS-UNION JOINTURE COMMISSION TO EMERGENCY BUS SERVICES

Councilperson Galluccio submitted the following resolution, which was duly seconded by Councilperson Muñoz.

BE IT RESOLVED by the Mayor and Council of the Borough of New Providence, in the County of Union and State of New Jersey, that they do hereby approve and authorize an agreement between Morris Union Jointure Commission and the Borough of New Providence, in the form attached hereto, and they do further authorize and direct the Mayor and Borough Clerk to execute same on behalf of the Borough of New Providence.

APPROVED, this 2<sup>nd</sup> day of December, 2013.

## RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER			X	
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 2<sup>nd</sup> day of December, 2013.

Wendi B. Barry, Borough Clerk

## AGREEMENT FOR USE OF SCHOOL BUSES

This Agreement is entered into between the Morris-Union Jointure Commission, having principal offices at 340 Central Avenue, New Providence NJ 07974 (“MUJC”) and the Borough of New Providence, having principal offices at 360 Elkwood Avenue, New Providence, NJ 07974 (“Borough”).

### WITNESSETH

WHEREAS, the Borough has requested the use of the MUJC’s school buses for evacuation purposes in an emergency or disaster; and

WHEREAS, the MUJC may authorize the use of its property for civic purposes when the property is not in use for school purposes; and

WHEREAS, this Agreement is intended to set forth the terms and conditions upon which the Borough may use the MUJC’s school buses under the particular circumstances set forth above.

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

1. Term of Agreement. This Agreement shall be effective upon the day and date of the last signature affixed to it and shall continue for the next 24 consecutive months except that either party may terminate this Agreement by giving the other party 30 days written notice. If in effect at the end of the initial term, this Agreement will automatically renew for an additional two-year period.

2. Execution of Agreement. By signing this Agreement, each party represents and warrants that the Agreement has been approved by its governing body and that the person signing the Agreement on behalf of the governing body is authorized to do so.

3. Procedures for Requesting Use of Buses. When the Borough becomes affected by, or is under imminent threat of, an emergency or disaster and has officially declared an emergency, it may request the use of the MUJC’s buses by submitting a written request, or an oral request followed as soon as practicable by written confirmation, to the MUJC. The Borough shall not request assistance unless resources available to the Borough are deemed inadequate. Requests for assistance must be transmitted by the Mayor, the Chief of Police, or the official serving as the head of the Borough’s Office of Emergency Management to the MUJC’s Superintendent or Business Administrator.

4. Definitions. For purposes of this Agreement, “emergency” means an incident or situation that has occurred, is occurring, or will occur in the immediate future that poses a major threat to public safety and causes or threatens to cause loss of life, serious injury, or significant damage to property, or major harm to public health or the environment, as a result of an occurrence or imminent threat of widespread or severe damage or loss of life or property and

which the Borough has determined exceeds the capabilities of its Office of Emergency Management, or its constituent offices, and requires the evacuation of multiple persons. “Disaster” means any emergency which has been officially declared by the state governor or presidential executive order and which the Borough has likewise determined is beyond the capabilities of its Office of Emergency Management, or its constituent offices, and requires the evacuation of multiple persons.

5. Required Information. Each request for use of the MUJC’s buses shall include, to the extent known, an identification of the official who has declared the emergency or disaster, a description of the community affected by the situation and of any damage sustained to date, an identification of the person who shall serve as the point of contact between the Borough and the MUJC throughout the situation and until the return of the MUJC’s buses, the specific type and number of buses being requested, and the requested length of deployment.

6. Providing Buses. The Borough understands that the MUJC is not authorized to lend its buses to the Borough unless the MUJC determines that it can do so without interfering with the transportation of school pupils. As soon as reasonably possible after receipt of a request from the Borough, the MUJC will communicate the availability of buses to same.

7. Recall of Buses. The parties agree that the MUJC’s buses remain subject to recall at any time if the MUJC determines that it needs the buses for student transportation purposes. The MUJC will provide the most immediate and earliest possible notice of recall to the Borough.

8. Operation of Buses. During its use of a MUJC bus, the Borough agrees to comply with all applicable laws then in effect with regard to the operation of a motor vehicle and school bus. Except as otherwise provided by N.J.S.A. 39:3-10K1, the Borough shall not permit any person who does not have a valid commercial driver’s license with appropriate endorsement required by the New Jersey Motor Vehicle Commission to operate the MUJC’s buses. The Borough shall require the driver of a MUJC 24 passenger bus to hold a class B or class C CDL and a 54 passenger bus to hold a class B CDL with air brake endorsement unless the exemption provided by N.J.S.A. 39:3-10K1 applies. The Borough shall not permit the driver to use school bus warning lamps when transporting persons. The Borough shall require the driver to comply with applicable motor vehicle laws when operating a MUJC bus and to load and unload passengers off the public roadway so as not to interfere with traffic.

9. Replacement/Reimbursement of Supplies Used or Damaged. Before returning a bus to the MUJC, the Borough shall replace used fuel with the class/type of fuel that meets the specific bus manufacturer specifications. Upon initial use of a MUJC bus and again upon return of the vehicle to the MUJC, the Borough shall record the mileage rates of each bus. The Board shall provide a copy of the record to the MUJC. The Borough shall replace any materials or supplies used or damaged by the Borough with like kind and quality as determined by the MUJC or, at the MUJC’s option, shall reimburse the MUJC for the cost of same. In the latter event, the MUJC shall submit invoices for reimbursement to the Borough in accordance with MUJC policies and practices, and the Borough shall pay the bill within 60 days of receipt. The Borough shall be responsible for making sure that the MUJC has the information, directions and

assistance necessary to meet any specific recording keeping needs, including such record keeping required to seek state or federal reimbursement assistance.

10. Return of Buses; Condition; Damage to Bus. Borough shall return each bus to the location it was received, or other return point designated by the MUJC, at the conclusion of the evacuation activity and shall hand over the keys to the supervisory personnel designated by the MUJC or on site at the time of return. The Borough shall record the name of the person to whom the keys were returned and upon request, shall furnish the MUJC with a copy of the record. The condition of the bus upon return shall be the same condition as when the Borough took possession. The Borough shall be responsible for any damage to or destruction of the bus during its use and until return to the MUJC. The Borough shall reimburse the MUJC for the cost of repairing any bus damaged during Borough use of the vehicle within 60 days of receipt of invoice. In the event that the bus is beyond repair, as reasonably determined by the MUJC, the Borough shall reimburse the MUJC for the cost of a new bus, provided the destroyed bus was five years old or less, but if the destroyed bus was over five years old, the Borough shall instead reimburse the MUJC the market value of the vehicle.

11. Indemnification. The Borough will indemnify and hold harmless the MUJC, its agents and employees from and against all claims, damages, losses and expenses, including reasonable attorney's fees, arising out of or resulting from the Borough's use or possession of a MUJC bus, provided that any such claim, damages, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property and (b) is caused in whole or in part by a negligent act or omission of the Borough, its subcontractors or their agents, servants or employees, regardless of whether or not it is caused in part by the MUJC; and provided further that the rights of the Borough with respect to any obligations arising out of or in connection with this indemnification shall not extend to any liability with respect to or arising out of any loss determined by a court of competent jurisdiction to be attributable solely to the negligence of the MUJC, its agents, or employees, or to a violation of any duty imposed by law upon the MUJC.

12. Insurance. The Borough shall provide and maintain throughout the term of this Agreement general liability insurance that affords coverage of no less than \$5,000,000 personal injury each occurrence and \$5,000,000 bodily injury and property damage in the event persons are injured or their property damaged during the use of the MUJC's buses or grounds. The coverage shall provide that the coverage is primary and without right of contribution from insurance carried by the MUJC. The Borough shall name the "Morris-Union Jointure Commission, its officials and employees" as "additional insureds" on the Borough's general liability coverage. Prior to using a bus, the Borough shall furnish the MUJC with a copy of the general liability endorsement conferring the "additional insureds" status and the certificate of insurance reflecting such coverage. The Borough agrees not to use a MUJC bus without first delivering these documents to the MUJC. The Borough shall also provide and maintain during the term of this Agreement workers' compensation insurance in the amount required by law with respect to the bus operator and any Borough employee who will ride a MUJC bus during the Borough's use.

13. Damages. The Borough shall be solely responsible for any damage or injury of any kind resulting to a MUJC bus and to any passenger or property resulting from the Borough's use of a bus. The Borough shall notify the MUJC immediately, in writing, and not later than 24 hours after the occurrence of any accident, injury or damages arising from the use of a MUJC bus.

14. Condition of Property. The MUJC buses and their contents are accepted by the Borough in "as is" condition. The MUJC makes no representations as to the condition of same.

15. No Assignment. This Agreement may not be assigned.

16. Counterparts. This Agreement may be executed in counterparts.

IN WITNESS WHEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the date so indicated below.

Attest:

Morris-Union Jointure Commission

By: \_\_\_\_\_  
Michael Davison, Business  
Administrator/Bd. Secretary

\_\_\_\_\_  
René T. Rovtar, Board President

Date: \_\_\_\_\_, 2014

Attest:

Borough of New Providence:

By: \_\_\_\_\_  
Wendi B. Barr, Borough Clerk

By: \_\_\_\_\_  
J. Brooke Hern, Mayor

Date: \_\_\_\_\_, 2014