



Township Council
1 Municipal Plaza
Bloomfield, NJ 07003

Louise M. Palagano
Municipal Clerk

<http://www.bloomfieldtwpnj.com>

Meeting: 12/14/15 07:30 PM

2015 RESOLUTION AGREEMENTS

AGREEMENT

WHEREAS, Bergen County Humane and the Township of Bloomfield entered into an agreement for animal shelter and animal control services that was executed by Bergen County Humane's Director of Animal Services on May 20, 2015 and by the Township on May 29, 2015 [hereinafter the "Services Agreement"]; and

WHEREAS, in accordance with the Parties' Services Agreement, on October 6, 2015, the Township provided Bergen County Humane with 90 days' notice that the Township was terminating the Services Agreement; and

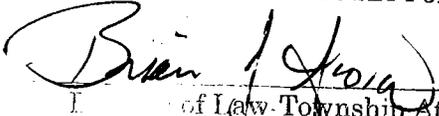
WHEREAS, the Parties' contractual relationship shall cease on Monday, January 4, 2016; and

WHEREAS, the Township has serious concerns about Bergen County Humane's ability to provide the necessary functions, duties and responsibilities outlined in the Services Agreement; and

WHEREAS, Bergen County Humane denies that it has done anything wrong, and opines that the Township's concerns are without merit; and

WHEREAS, the Parties desire to settle with prejudice all claims, disputes or causes of action which may exist between them, known or unknown, asserted or unasserted, based on any facts, events, acts or omissions, whether now known or unknown, occurring on or before the effective date of this Agreement, without any judicial, administrative, or arbitral resolution of

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Township of Bloomfield, New Jersey, this 14th day of December, 2015.



Brian J. Gioia
Township Attorney

them and without any admission with respect to any issues presented or capable of being presented.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Township of Bloomfield, County of Essex, State of New Jersey, that the Mayor is authorized to execute the attached Settlement Agreement and General Release with the Clerk attesting to his signature.

......*...*

I hereby certify that the above resolution was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on December 14, 2015.



 Municipal Clerk of the Township of Bloomfield



 Mayor of the Township of Bloomfield

✓ Vote Record – Resolution		Yes/Aye	No/Nay	Abstain	Absent
<input type="checkbox"/> Adopt	Elias N. Chalet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Deny	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Withdrawn	Carlos Bernard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Table	Wartyna Davis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Not Discussed	Joseph Lopez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> First Reading	Carlos Pomares	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Table with no Vote	Michael J. Venezia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input type="checkbox"/> Approve					
<input type="checkbox"/> Veto by Mayor					
<input type="checkbox"/> Discussion					
<input type="checkbox"/> Defeated					
<input type="checkbox"/> Discussion No Vote					

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Settlement Agreement and Release [hereinafter, the "Agreement"] is made by and between the Township of Bloomfield, Essex County, New Jersey and Bergen County Humane Enforcement with a mailing address to 302 2nd Street Cliffside Park, New Jersey, 07010.

PARTIES

"Bergen County Humane" as used herein shall mean Bergen County Humane Enforcement, with a mailing address to 302 2nd Street Cliffside Park, New Jersey, 07010, its employees, attorneys, affiliates, former or current directors, officers, officials, administrators, representatives, associates, partners, servants, agents, trustees, supervisors, legal representatives, insurers, and successors and assigns, and each of them and their successors, whether in their individual or official capacities, and all other persons, firms, corporations, associations, partnerships or any other entity connected therewith and all predecessors, successors and assigns of any and all of them.

"Bloomfield" as used herein shall mean the Township of Bloomfield, Essex County, New Jersey, its elected officials, employees, attorneys, affiliates, former or current directors, officers, officials, administrators, representatives, associates, partners, servants, agents, trustees, supervisors, legal representatives, insurers, and successors and assigns, and each of them and their successors, whether in their individual or official capacities, and all other persons, firms, corporations, associations, partnerships or any other entity connected therewith and all predecessors, successors and assigns of any and all of them.

Bergen County Humane and Bloomfield are collectively referred to herein as the "Parties."

BACKGROUND

WHEREAS, Bergen County Humane and the Township of Bloomfield entered into an agreement for animal shelter and animal control services that was executed by Bergen County Humane's Director of Animal Services on May 20, 2015 and by the Township on May 29, 2015 [hereinafter the "Services Agreement"]; and

WHEREAS, in accordance with the Parties' Services Agreement, on October 6, 2015, the Township provided Bergen County Humane with 90 days' notice that the Township was terminating the Services Agreement; and

WHEREAS, the Parties' contractual relationship shall cease on Monday, January 4, 2016; and

WHEREAS, the Township has serious concerns about Bergen Humane's ability to provide the necessary functions, duties and responsibilities outlined in the Services Agreement; and

WHEREAS, Bergen County Humane denies that it has done anything wrong, and opines that the Township's concerns are without merit; and

WHEREAS, the Parties desire to settle with prejudice all claims, disputes or causes of action which may exist between them, known or unknown, asserted or unasserted, based on any facts, events, acts or omissions, whether now known or unknown, occurring on or before the effective date of this Agreement, without any judicial, administrative, or arbitral resolution of them and without any admission with respect to any issues presented or capable of being presented.

NOW, THEREFORE, in consideration of the mutual promises contained herein and for other good and valuable consideration, and intending to be legally bound, the Parties agree as follows:

1. **Non-Admission.** This Agreement is not, and shall not in any way be considered or construed as an admission by Bergen County Humane or Bloomfield of discrimination, retaliation, tortious conduct, or of any violation of any law, common law, or federal, state or local statute or regulation, or of any employment policy, practice, contract or agreement, or of any alleged duty owed by Bloomfield or Bergen County Humane to one another, or of any unlawful or wrongful acts whatsoever by either of the Parties. The payments and acts described hereunder are made solely to avoid the inconvenience and cost of litigation and to resolve completely all of Bergen County Humane's claims against Bloomfield, and Bloomfield's claims against Bergen County Humane, known or unknown, asserted or unasserted, as more fully detailed in Paragraph 8, below. The Parties understand and agree that neither party will be considered a prevailing party under any statute, common law, or otherwise as a result of this Agreement.

2. **Cooperation.** The Parties agree to cooperate fully with each other in connection with any steps required to be taken as part of their obligations under this Agreement and to act in good faith toward the other in light of their ongoing employment relationship.

3. **Dismissal of Claims and Agreement not to Sue.** Bergen County Humane agrees that it shall not, nor shall any person, organization, agency, or other entity on its behalf, will file, charge, claim or sue, or cause to be filed, charged, claimed or sued, any lawsuit, legal proceeding, grievance, administrative complaint, action or claim of any nature with any court,

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administrative agency, judicial or quasi-judicial forum (including any action for damages, attorney's fees, injunction, declaratory, monetary, equitable or other relief) against Bloomfield, based on any matter, fact or event occurring prior to the effective date of this Agreement, whether now known or unknown, or involving any continuing effects of any acts or practices which may have arisen or occurred prior to the effective date of this Agreement, whether now known or unknown.

4. **Caldwell Animal Control.** Bergen County Humane shall continue to provide animal control services to the Township of Caldwell up to and including January 4, 2016.

5. **Payments.** Subject to the conditions set forth in paragraph 4 above, the duties and responsibilities outlined in paragraph 7 below, and the promises and consideration outlined within this Agreement and in exchange for the promises, agreements, and legal releases stated herein, and other good and valuable consideration, the Parties agree and acknowledge as follows:

- a. The Township agrees to pay Bergen County Humane within 5 business days of the expiration of the revocation period \$40,000.00; and
- b. The Township agrees to pay \$10,000.00 on or before January 5, 2016
- c. Any and all taxes or other withholdings created by the payments made as described herein shall be the sole responsibility of Bergen County Humane.
- d. The Township agrees to pay Bergen County Humane employees Karen Damico, Nicole Stewart, Henry Escobar, Rebecca Rodriguez, and Elias Argabrite, for all hours they worked at the Bloomfield Animal Shelter from November 5, 2015 to December 18, 2015 at the following rates: Karen

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Damico, Nicole Stewart, Rebecca Rodriguez and Elias Argabrite at \$10.00 per hour and Henry Escobar at \$15 per hour; and

- e. On or before December 18, 2015, the Township agrees to offer Bergen County Humane employees Karen Damico, Nicole Stewart, Henry Escobar, Rebecca Rodriguez, and Elias Argabrite part time employment, not to exceed 25 hours per week, without health benefits, at the following rates: Karen Damico, Nicole Stewart, Rebecca Rodriguez and Elias Argabrite at \$10.00 per hour and Henry Escobar at \$15 per hour. This Agreement does not provide the employees with any employment guarantee or benefit and is simply a promise to offer at will employment to the employees as described herein. Said employment with the Township will only begin if the Mayor and Council of the Township of Bloomfield approve said hiring by passage of Resolution at a public meeting of the Council.
- f. Notwithstanding any offer of employment by the Township or acceptance of same by the prospective employee, Bergen County Humane understands, recognizes, acknowledges and agrees that Bergen County Humane employees Karen Damico, Nicole Stewart, Henry Escobar, Rebecca Rodriguez, and Elias Argabrite are and shall remain Bergen County Humane employees until their employment is terminated by Bergen County Humane or the employee.

6. Tax Indemnification. Bergen County Humane represents and warrants that neither Bloomfield nor counsel to the Parties provided any advice regarding the taxability of the settlement amount paid pursuant to Paragraph 5. Bergen County Humane acknowledges and agrees that Bergen County Humane is solely responsible for payment of any and all federal, state and local taxes which may be due from the settlement sum in the event that it is determined that any taxes are owed based on the taxation laws in effect on the date of execution of this Agreement or become due at any time in the future because of a change to the laws governing the taxation of such settlement proceeds. Bergen County Humane agrees to indemnify and hold Bloomfield and counsel to this Agreement harmless from any and all federal, state and local tax liabilities, deficiencies, levies, interest and penalties that may be assessed should Bergen County Humane fail to properly make any payments, including state and federal taxes, to which the Payment may be subject.

7. The Parties duties and responsibilities. Effective immediately Bergen County Humane shall be relieved from providing supervisory Animal Shelter Services to the Township of Bloomfield. Bergen County Humane Enforcement shall not use the shelter facility for any purpose and all property of Bergen County Humane Enforcement shall be removed on or before December 21, 2015, under supervision of the Township. Bergen County Humane shall make arrangements with the Township before removing any property and said property shall only be removed during the hours of 9:00 am to 4:00 pm. Furthermore, any animals that are not Township of Bloomfield or Caldwell animals shall also be removed from the shelter under the same conditions.

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Bergen County Humane Enforcement will no longer provide Animal Control Officer Services to the Township of Bloomfield. However, Bergen County Humane Enforcement will continue to cover the Borough of Caldwell until January 4 (or on such earlier date that Caldwell and Bloomfield agree to terminate their agreement). Any animals collected in Caldwell may be brought to the Bloomfield Shelter where the Township will take possession of the animals.

8. **Full and Complete Settlement.** The Parties agree that the Payment, the duties and responsibilities of each party as described herein, and other consideration described in this Agreement will be received by Bergen County Humane in full and complete settlement, as more fully described in Paragraph 8 below (subject to Paragraph 10), of all known or unknown claims, asserted or unasserted, by Bergen County Humane allegedly arising out of any and all conduct or actions of Bloomfield and/or allegedly arising out of Bergen County Humane's Service Agreement or relationship with Bloomfield from the beginning of time up to and including the effective date of this Agreement.

9. **General Release and Waiver.** In consideration for the Payment and promises described in this Agreement, the Parties fully release and forever discharge the other of and from any and all claims, actions, causes of action, back pay, front pay, contracts, agreements, compensation, pay, promises, charges, judgments, grievances, obligations, rights, demands, debts, sums of money, salaries, wages, benefits, physical injury, pain, suffering, emotional distress, compensatory damages, or accountings of whatever nature, whether known or unknown, disclosed or undisclosed, asserted or unasserted, in law or equity, contract or tort or otherwise [herein collectively designated "Claim" or "Claims"] through the effective date of this Agreement, including, but not limited to, any and all Claims of retaliation, and any and all tort

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Claims or contract Claims or Claims for general damages, and any and all Claims arising under, made, regarding, or invoking: any federal, state or local laws or under the common law, violations of any federal, state or local fair employment practices or civil rights laws or ordinances, Claims for personal injury, defamation, wrongful conduct, or wrongful discharge, the Civil Rights Acts of 1866 and 1871, as amended; 42 U.S.C. §§1981 -1988; the Civil Rights Act of 1964, as amended, including Title VII, the Americans with Disabilities Act ("ADA"); the Age Discrimination in Employment Act ("ADEA"), as amended; the Older Workers Benefit Protection Act ("OWBPA"); the Employee Retirement Income Security Act ("ERISA") (except for any claim for vested pension or savings plan benefits); the Fair Labor Standards Act ("FLSA"); the Rehabilitation Act of 1973; Executive Order 11246; the Family and Medical Leave Act ("FMLA"); the National Labor Relations Act, as amended; the Immigration Reform and Control Act, as amended the Worker Adjustment and Retraining Notification Act ("WARN"); the Occupational Safety and Health Act, as amended; the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); the Rehabilitation Act; the Uniformed Services Employment and Reemployment Rights Act of 1994; the Sarbanes-Oxley Act of 2002; the Fair Credit Reporting Act; the Equal Pay Act; the False Claims Act, 31 U.S.C. §3729; the Employee Polygraph Protection Act; the New Jersey Law Against Discrimination ("LAD"); the Conscientious Employee Protection Act ("CEPA"); the New Jersey Family Leave Act ("NJFLA"); New Jersey Wage Payment Law ("NJWPL"); New Jersey Wage and Hour Law ("NJWHL"); the New Jersey Temporary Disability Benefits Law ("NJTDB"); the New Jersey Civil Rights Act ("NJCRA"); the New Jersey Computer Related Offenses Act ("CROA"), and the United States and New Jersey Constitutions; collective bargaining agreements, contracts,

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benefits or understandings; any Claims arising out of any relationship, including employment relationship, between Bergen County Humane and Bloomfield predating the effective date of this Agreement; any and all grievances, or demands for mediation or arbitration; or Claims or demands under Bloomfield's policies and procedures; and any and all Claims asserted, or which could have been asserted, in the NOTC referenced above, including any Claims against any current or former agents or employees of Bloomfield.

Bergen County Humane hereby specifically waives, releases, and gives up all Claims and rights, as described in the preceding Paragraph, whether now known or unknown, which he has or may have, against Bloomfield based on any fact, act, event or omission, whether now known or unknown, occurring before the effective date of this Agreement. Bergen County Humane understands that Bergen County Humane is waiving, releasing and giving up all Claims and rights about which Bergen County Humane knows and all Claims and rights about which Bergen County Humane may not know. This release does not apply to Claims based on facts occurring after the effective date of this Agreement nor does it affect Bergen County Humane's right to sue to enforce any term of this Agreement or for a breach of any term of this Agreement.

10. EXCEPTIONS TO GENERAL RELEASE AND WAIVERS. The General Releases and Waivers provided by Bloomfield to Bergen County Humane do not apply to any action for public records including, but not limited to the matter entitled Patricia Gilleran v. Township of Bloomfield, Docket No.: ESX-L-8-075-15. Furthermore, the General Releases and Waivers have no effect on any criminal actions filed or to be filed in the future by any party. Bloomfield has no intention of filing any complaints alleging a violation of the criminal law against Bergen County Humane.

11. Applicable Law and Severability. This Agreement shall be governed by and construed in accordance with the laws of New Jersey, except where federal law controls. Should any provision of this Agreement be declared or determined by any Court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall deemed not to be a part of this Agreement.

12. Bergen County Humane's Certification. Bergen County Humane agrees, certifies, acknowledges, and represents: (a) that Bergen County Humane has been and is hereby advised in writing to consult with an attorney of Bergen County Humane's choice and at Bergen County Humane's expense, prior to signing this Agreement; (b) that Bergen County Humane has had adequate time and opportunity to review and discuss, and has reviewed and discussed, all of the terms and sections of this Agreement thoroughly with Bergen County Humane's attorney; (c) that Bergen County Humane's attorney has explained this entire Agreement to Bergen County Humane; (d) that Bergen County Humane does not waive any rights or claims that may arise after the date this Agreement becomes effective; (e) that Bergen County Humane shall have and was given at least twenty-one (21) days to consider the terms and conditions of this Agreement before signing it; (f) that Bergen County Humane's waiver of Claims and this Agreement shall not become effective until the effective date of this Agreement; and (g) that, in accordance with the Older Workers Benefit Protection Act, Bergen County Humane understands that Bergen County Humane will have an additional seven (7) day period following the date of the signing of this Agreement by all Parties to revoke or cancel this Agreement. To be effective, any such revocation must be in writing and delivered to Bloomfield's attorney, Brian Aloia, Esq., by hand or by mail within the seven-day period. If sent by mail, the revocation must be (1) postmarked

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within the seven (7) day period; (2) properly addressed; and (3) sent by certified mail, return receipt requested. Bergen County Humane understands that, if Bergen County Humane revokes this Agreement, Bloomfield will not be required to make any payments hereunder to Bergen County Humane, and the Parties will be placed back into the same position as they were prior to the drafting and execution of this Agreement as though the Agreement did not exist.

If Bergen County Humane decides to sign this Agreement before the expiration of the 21-day period, Bergen County Humane specifically acknowledges that Bergen County Humane has had sufficient time and opportunity to review and understand the terms of this Agreement and specifically waives and gives up any rights for additional time or opportunity to review it.

13. **Breach of Agreement/Attorneys' Fees.** In the event that either party brings an action to enforce the terms of this Agreement or as a result of a breach of the Agreement by the opposite party, in addition to any remedies available at law or in equity, the non-breaching party shall be entitled to an award of reasonable attorneys' fees and costs incurred in connection with that enforcement or breach action in the event that any such breach is found by a court of competent jurisdiction.

14. **Full Knowledge.** Bergen County Humane further warrants, represents, and agrees that, in signing this Agreement, that Bergen County Humane does so with full knowledge of any and all rights which Bergen County Humane may have with respect to Bloomfield.

15. **Headings.** The headings of the Paragraphs in this Agreement are for convenience only and shall not control or affect the meaning or construction of, or limit the scope or intent of, any of the provisions of this Agreement:

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16. Effective Date. The effective date of this Agreement shall be the next day following the end of the seven (7) day revocation period, unless this Agreement is revoked properly within such revocation period.

BERGEN COUNTY HUMANE FURTHER CERTIFIES, ACKNOWLEDGES, AND REPRESENTS THAT BERGEN COUNTY HUMANE AGENT THAT EXECUTED BELOW IS ABLE TO READ AND UNDERSTAND ENGLISH, THAT HE UNDERSTANDS ALL OF THE PROVISIONS HEREIN, WITH THE ADVICE AND ASSISTANCE OF HIS ATTORNEY, AND THAT HE MAKES THIS AGREEMENT ON BEHALF OF BERGEN COUNTY HUMANE KNOWINGLY AND VOLUNTARILY. HE ACKNOWLEDGES THAT HE HAS NO PHYSICAL OR MENTAL PROBLEMS, CONDITION, OR IMPAIRMENT OF ANY KIND WHICH HAS INTERFERED WITH HIS ABILITY TO READ AND UNDERSTAND THE MEANING OF THIS AGREEMENT OR ITS TERMS. BERGEN COUNTY HUMANE FURTHER REPRESENTS THAT, IN ENTERING THIS AGREEMENT, HE DOES NOT RELY ON ANY PROMISES OR REPRESENTATIONS MADE BY ANYONE OTHER THAN THOSE STATED SPECIFICALLY HEREIN.

[SIGNATURE LINES NEXT]

Witness: James Lee
12/9/15

BERGEN COUNTY HUMANE

Dated: 12/9/15

Witness: Louise K. Paley
12/14/15

TOWNSHIP OF BLOOMFIELD

By

Dated:

[Signature]