

**UPPER DARBY TOWNSHIP
DELAWARE COUNTY, PENNSYLVANIA**

RESOLUTION NO. 36-20

A RESOLUTION OF UPPER DARBY TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, APPROVING AN INTERMUNICIPAL SERVICES AGREEMENT BETWEEN UPPER DARBY TOWNSHIP AND MILLBOURNE BOROUGH PROVIDING FIRE PROTECTION SERVICES FOR MILLBOURNE BOROUGH; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Upper Darby Township currently provides fire protection to Millbourne Borough on a per call basis; and

WHEREAS, Upper Darby Township Council deems that the continuation of such fire protection service is necessary for the protection of the health, welfare and safety of its residents; and

WHEREAS, Upper Darby Township Council desires to enter into an Intermunicipal Agreement (the "Agreement") to provide Millbourne Borough with fire protection service on terms as set forth in the Agreement attached hereto as Exhibit A; and

WHEREAS, the Intergovernmental Cooperation Act, 53 Pa.C.S. §2301, et seq. allows intergovernmental agreements to be approved by Resolution; and

NOW, THEREFORE, it is hereby **RESOLVED** by the Upper Darby Township Council that the following shall govern the Intermunicipal Cooperation Agreement between Upper Darby Township and Millbourne Borough, and it is hereby **ADOPTED** and **RESOLVED** by authority of same as follows:

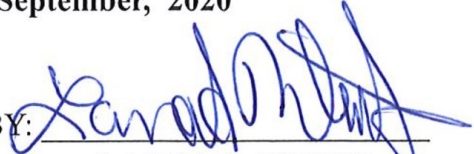
SECTION 1. The Township is hereby authorized to enter into an Intermunicipal Agreement with Millbourne Borough for Fire protection upon the terms set forth in the Agreement attached hereto as Exhibit A, the form and substance of which is incorporated in this Resolution by reference hereto.

SECTION 2. The Mayor, or her designee, is hereby empowered to take all actions and execute all documents which she deems necessary or convenient toward achieving the purpose of this Resolution.

SECTION 3. SEVERABILITY. If any provision of this Resolution is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Resolution.

SECTION 4. EFFECTIVE IMMEDIATELY. This Resolution shall become effective immediately following its legal enactment and shall remain in effect hereafter until revised, amended, or revoked by action of the Upper Darby Township Council.

ADOPTED and RESOLVED this 16th day of September, 2020

BY: 
LAURA A. WENTZ
President of Council

ATTEST: 
MICHELLE BILLUPS
Secretary of Council

Resolution No. 36-20 is hereby approved this 16th day of September, 2020

BY: 
BARBARANN KEFFER
Mayor

ATTEST: 
VINCENT A. RONGIONE, ESQ.
Chief Administrative Officer

**INTER-MUNICIPAL SERVICE AGREEMENT BETWEEN MILLBOURNE BOROUGH
AND UPPER DARBY TOWNSHIP**

This Inter-Municipal Service Agreement (the "Agreement"), is made this - day of _____, 2020 by and between Upper Darby Township ("Upper Darby"), 100 Garrett Road, Upper Darby, Pennsylvania 19082 and Millbourne Borough ("Millbourne") 9 Park Avenue, Millbourne, Pennsylvania 19082. _

BACKGROUND

WHEREAS, Upper Darby is a Pennsylvania home rule municipality and First Class Township;

WHEREAS, Upper Darby maintains a Fire Department which is a combination fire department consisting of career and volunteer firefighters and personnel;

WHEREAS, Millbourne is a Pennsylvania Borough located immediately adjacent to Upper Darby Township;

WHEREAS, the Upper Darby Fire Department owns and/or controls and maintains equipment and retains and/or supports personnel who are trained to provide various levels of service in the control of fire, fire prevention, emergency medical service equipment and personnel, hazardous materials control and/or other emergency support; and

WHEREAS, Millbourne does not have an active Volunteer Fire Department to provide services and as a result is desirous of establishing a Mutual Aid Agreement for the provision of fire protection services to the Borough by Upper Darby.

WHEREAS, the Pennsylvania Intergovernmental Cooperation Law permits two or more local governments in the Commonwealth to enter into agreements to jointly cooperate in the exercise or performance of governmental functions, powers and responsibilities (53 Pa. C.S. §2303); and

WHEREAS, the parties hereto seek to enter into an Inter-Municipal Service Agreement ("Agreement") to formally provide for services to Millbourne Borough for the control of fire, fire prevention, emergency medical services, hazardous materials control and/or other emergency support in the event of a major fire, disaster, or other emergency by the Upper Darby Township Combination Fire Department, subject to any and all necessary approvals from the appropriate governmental entities; and

NOW, THEREFORE, intending to be legally bound and in consideration of the mutual covenants contained in this Agreement, the parties, their respective successors and assigns, hereby agree as follows:

TERMS AND CONDITIONS

I. COMPENSATION AND INSURANCE

1. The Borough of Millbourne shall compensate Upper Darby Township at an annual rate of forty thousand dollars (\$40,000.00) for Upper Darby Township providing all fire protection services to Millbourne Borough. The annual compensation shall be paid on a monthly basis in the amount of \$3,333.33/per month for Workers Compensation Insurance and automobile insurance coverage. The monthly compensation shall be provided on the 1st day of each month and made payable to Upper Darby Township. Within ten (10) days of the execution of this Agreement, Millbourne shall remit payments for September through December in the amount of \$13,333.33.

2. For tax year 2020, Millbourne shall remit the fire tax proceeds for September through December of 2020 within ten (10) days of full execution of this Agreement. For tax year 2021 and subsequent tax years subject to this Agreement, the parties further agree that the Borough of Millbourne Fire Tax or the equivalent millage collected by the Borough shall be provided in full and directly to Upper Darby Township no later than fifteen (15) days after the Tax Collector's Report is submitted. Moreover, Millbourne shall provide a copy of the Tax Collector's Report to the Upper Darby Township Chief Administrative Officer on or before the fifteenth of each month.

3. The parties also agree that the Borough of Millbourne Firefighters Relief Association funds which are distributed by the Commonwealth of Pennsylvania on an annual basis will be paid to Upper Darby Township. The Borough of Millbourne will take whatever steps that are necessary to redirect the funds that are otherwise allocated to the Borough by the Commonwealth including passing a separate Resolution for this purpose and directing said Resolution to the Pennsylvania Auditor General's Officer.

II. COMMAND AUTHORITY

4. The Upper Darby Fire Chief and/or the most senior Upper Darby Fire Department Officer providing assistance to Millbourne under this Agreement shall be in complete and total charge of all fire emergency operations, fire scenes, the fire run card, and the fire radio. Within sixty (60) days of the execution of this Agreement, Millbourne shall name Upper Darby as the primary fire company of Millbourne.

III. BREACH OF AGREEMENT

5. In the event of the breach of this Agreement, Upper Darby shall notify Millbourne of the breach of this Agreement. Millbourne shall be responsible for the immediate remedying of any breach to the satisfaction of Upper Darby. If said breach is not sufficiently cured within ten (10) days of the notice of the breach, the Agreement shall be immediately terminated.

IV. TERM OF AGREEMENT

6. The Parties hereto agree to bind themselves to the terms of this Agreement. This Agreement shall only become effective upon approval, as evidenced below, by the authorized officials of the respective Parties and shall continue in full force and effect until terminated.

This Agreement shall terminate on 12/31/2022 (Date of Termination). This Agreement may thereafter be renewed on a yearly basis provided that the parties mutually agree to extend the terms of the Agreement for another year. The parties shall determine on or before September 15th of each year whether they desire to extend the terms of the Agreement for the subsequent year and shall thereafter communicate in writing their final determination.

If any party wishes to terminate its participation in this Agreement it must do so in writing of its intent to withdrawal at least thirty (30) days prior to the Date of Termination. Upon termination, either for cause or by election of the parties, no mutual aid shall be provided thereafter.

V. MISCELLANEOUS

7. Background. The Background recitals referenced at the beginning of this Agreement are incorporated in this Agreement by reference as if fully set forth at length.

8. Assignment. This Agreement shall not be assignable by any party to this Agreement except upon the written consent of all parties hereto, which consent shall not be unreasonably withheld.

9. Modification. This Agreement may be modified, amended or supplemented only by the written agreement of all the parties hereto.

10. Mutual Cooperation. Millbourne and Upper Darby agree to execute all documents and to take all action necessary to effectuate the terms and conditions of this Agreement.

11. Captions. The captions in this Agreement are for convenience only and are not part of the Agreement. The captions do not in any way define, limit, describe or amplify the provisions of this Agreement or the scope or intent thereof.

12. Entire Agreement. This Agreement represents the entire agreement of the parties hereto and there are no collateral or oral agreements or understandings. This Agreement may be amended or modified only in writing signed by Upper Darby and Millbourne Borough.

13. Severability. In the event any provision hereof is held illegal or invalid, no other provision of this Agreement shall be affected and this Agreement shall then continue in full force as if such illegal or invalid provision had not been contained herein.

14. Notices. All notices, payments and communications required to be given in writing under this Agreement shall be sent by certified United States mail, postage prepaid and by email communication or delivered by hand delivery with receipt obtained, to the addresses below or at other such addresses as Upper Darby and Millbourne Borough may designate in writing from time to time:

Upper Darby Township
Attention: Chief Administrative Officer
100 Garrett Road
Upper Darby, PA 19082

Millbourne Borough
Attention: Borough Manager
9 Park Avenue
Millbourne, PA 19082

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same Agreement. Each counterpart Agreement that is signed by a party shall indicate the date that the counterpart was approved and signed.

IN WITNESS WHEREOF, the parties hereto, being authorized to do so, set their hand and seals below, as of the date written.

UPPER DARBY TOWNSHIP

By: _____
Barbarann Keffer, Mayor

Attest/
Witness: _____

MILLBOURNE BOROUGH

By: _____
Justin Skariah, Council President

Attest/
Witness: _____