

**TOWNSHIP OF LOWER NAZARETH
NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. 226-07-18

AN ORDINANCE OF THE TOWNSHIP OF LOWER NAZARETH, NORTHAMPTON COUNTY, PENNSYLVANIA, TO ADOPT AN INTERGOVERNMENTAL COOPERATION AGREEMENT FOR ROAD, STREET AND/OR HIGHWAY CONSTRUCTION, REPAIR AND MAINTENANCE PROJECTS, WITH THE TOWNSHIP OF BUSHKILL, NORTHAMPTON COUNTY, PENNSYLVANIA, AND THE TOWNSHIP OF UPPER NAZARETH, NORTHAMPTON COUNTY, PENNSYLVANIA, AND TO PROVIDE FOR A GENERAL REPEALER, SEVERABILITY CLAUSE AND EFFECTIVE DATE.

WHEREAS, the Township of Lower Nazareth, Northampton County, Commonwealth of Pennsylvania (hereinafter referred to as "**Lower Nazareth**"), 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 Bushkill, Northampton County, Commonwealth of Pennsylvania (hereinafter referred to as "**Bushkill**"), 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 Nazareth, Northampton County, Commonwealth of Pennsylvania (hereinafter referred to as "**Upper Nazareth**"), 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, each Township, through their respective and duly elected officials, has determined that it is in the best interests of Lower Nazareth, Bushkill, and Upper Nazareth to enter into an agreement to perform certain road work and maintenance; and

WHEREAS, the Second Class Township Code authorizes such agreements amongst municipalities for the purpose of 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, among other things, construct, repair and maintain roads and streets within the township (53 P.S. Section 67301); and

WHEREAS, Lower Nazareth, Bushkill and Upper Nazareth are desirous of memorializing that their respective municipalities are willing to undertake the duties and the responsibilities for projects as outlined in this Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Lower Nazareth Township, Northampton County, Pennsylvania, as follows:

Section 1. Recitals. All recitals are herein incorporated by reference.

Section 2. Intergovernmental Cooperation Agreement. Lower Nazareth hereby agrees to enter into a cooperative effort with Upper Nazareth and Bushkill for the use of vehicles, equipment and/or labor to perform certain projects of mutual interest or projects primarily or solely benefitting any of the townships provided that such projects are limited in scope and duration. Projects subject to the townships' agreement will be those for road, street and/or highway construction, repair and maintenance purposes. The vehicles, equipment and labor services that shall be exchanged or rendered pursuant to the Intergovernmental Cooperation Agreement shall initially be listed as an exhibit to the Intergovernmental Cooperation Agreement, subject however to amendment and revision as shall be from time to time necessary on a project by project basis and memorialized in writing by the parties.

Section 3. Signature Authorization. The Chair of the Board of Supervisors of Lower Nazareth, or the Vice-Chair in the Chair's absence, is authorized and directed to sign the Intergovernmental Cooperation Agreement attached hereto and marked as Exhibit "A."

Section 4. Repealer. All inconsistent provisions of all other Ordinances, Resolutions and/or other regulations of Lower Nazareth Township, Northampton County, Pennsylvania, are hereby repealed to the extent of the inconsistency. All other provisions of the Ordinances, Resolutions, and/or other regulations of Lower Nazareth Township, Northampton County, Pennsylvania, shall remain in full force and effect.

Section 5. Severability. The provisions of this Ordinance are declared to be severable. If any article, section, subsection, paragraph, clause, phrase, or provision of this Ordinance shall be held invalid and/or unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any other part or provisions hereof, other than the part so judged to be invalid or held unconstitutional.

Section 6. Effective Date. This Ordinance shall become effective five (5) days after adoption, as required by law.

DULY ENACTED AND ORDAINED by the Board of Supervisors of Lower Nazareth Township this 25 day of July, 2018.

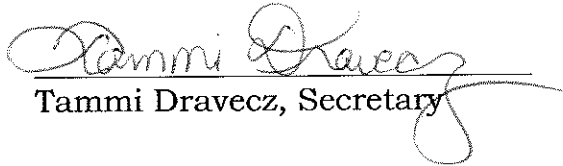
**TOWNSHIP OF LOWER NAZARETH
BOARD OF SUPERVISORS**

ATTEST:

By:



JAMES PENNINGTON, Chair



Tammi Dravec, Secretary

Lower Nazareth Township
Bushkill Township
Upper Nazareth Township

Intergovernmental Cooperation Agreement

THIS AGREEMENT, made and entered into this 2 day of August, 2018, by and between the **Township of Lower Nazareth**, a Second Class Township and political subdivision of the Commonwealth of Pennsylvania, with offices at 623 Municipal Drive, Nazareth, Northampton County, Pennsylvania, hereinafter referred to as “Lower Nazareth”; the **Township of Bushkill**, a Second Class Township and political subdivision of the Commonwealth of Pennsylvania with offices at 1114 Bushkill Center Road, Nazareth, Northampton County, Pennsylvania, hereinafter referred to as “Bushkill”; and, the **Township of Upper Nazareth**, a Second Class Township and political subdivision of the Commonwealth of Pennsylvania, with offices at 100 Newport Avenue, Nazareth, Northampton County, Pennsylvania, hereinafter referred to as “Upper Nazareth.”

WHEREAS, the Municipalities are closely situated to one another and are all located within Northampton County; and

WHEREAS, informal agreements between and among **Bushkill, Lower Nazareth, and Upper Nazareth** have proved beneficial to all three Municipalities in the past; and

WHEREAS, Bushkill, Upper Nazareth and Lower Nazareth, through their respective and duly elected officials, have determined that it is in the best interests of the three Municipalities to enter into an agreement to cooperate in the performance of certain road work and maintenance projects; and

WHEREAS, the Second Class Township Code authorizes such agreements amongst municipalities for the purpose of performing governmental powers, duties and functions (53 P.S. Sec. 66507); and

WHEREAS, each Municipality is a “local government” under the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2301, et. seq.; 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, among other things, construct, repair, and maintain roads and streets within the township (53 P.S. Section 67301); and,

WHEREAS, the Municipalities are desirous of memorializing that their respective municipalities are willing to undertake the duties and the responsibilities for the projects as outlined in this Agreement.

NOW, THEREFORE, for good, valuable, mutual and sufficient consideration, and intending to be legally bound hereby, and pursuant to the applicable provisions of the Pennsylvania Second Class Township Code, the Intergovernmental Cooperation Act and applicable Pennsylvania law, it is hereby agreed as follows:

(1) **LOWER NAZARETH, BUSHKILL and UPPER NAZARETH** hereby 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 benefitting any of the Municipalities, provided that such projects are limited in scope and duration as reasonably determined by the Municipalities. Projects subject to this Agreement are those for road, street and/or highway construction, repair and maintenance. The vehicles, equipment and labor services that shall be exchanged or rendered on a reciprocal basis by each Municipality pursuant to this Agreement shall initially be listed as Exhibit “A” hereto, subject however to amendment and revision as shall be from time to time necessary on a project by project basis and memorialized in writing by the parties.

(2) **LOWER NAZARETH, BUSHKILL and UPPER NAZARETH** shall maintain insurance coverage for their respective employees insuring for commercial general liability,

workers' compensation and employer's liability. Each Municipality shall be responsible for the actions of their respective employees. An employee of the respective Municipalities shall remain an employee of that Municipality for all worker's compensation purposes and/or other employee benefits (including Social Security), provided that 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. Each Municipality shall name the other as an additional insured on its commercial general liability insurance policy and provide proof thereof to the other Municipality.

(3) 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 another 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 or property, including the vehicle or piece of equipment itself. Any damages caused as the result of the 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.

(4) **LOWER NAZARETH, BUSHKILL** and **UPPER NAZARETH** 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.

(5) The **LOWER NAZARETH** Township Manager, the **BUSHKILL** Township Manager, or the **UPPER NAZARETH** Township Manager shall be the Project Director when such project is in his/her respective Municipality. The Board of Supervisors of **LOWER NAZARETH TOWNSHIP**, the Board of Supervisors of **BUSHKILL TOWNSHIP**, and the Board of Supervisors of **UPPER NAZARETH TOWNSHIP** each reserve the right to designate a different Project Manager in particular circumstances for particular projects. The **LOWER NAZARETH** Township

Manager, the **BUSHKILL** Township Manager, and the **UPPER NAZARETH** Township Manager, or their designees, shall develop a plan of cooperation identifying projects within his/her respective Municipality which may be pursued under this Agreement. Implementation of any projects hereunder shall receive the approval of the Board of Supervisors of participating Municipalities.

(6) Employees' wages shall be based upon the hourly rate per their respective Municipality and shall include the costs of all benefits accruing to the employee above the employee's actual hourly wage. Each Municipality shall be responsible for payment of its own employee's wages for any project undertaken pursuant to this Agreement. Each Municipality shall provide the other with a list of employees and their wages calculated pursuant to this Agreement upon request of the other Municipality. Work done in accordance with this Agreement on the various projects shall be kept separately for record keeping purposes and determining the benefit to the other Municipality hereunder but shall otherwise be considered as part of the regular performance of the employees' duties to their respective Municipality. The rates for equipment used under this Agreement shall be based upon the then-current FEMA Schedule of Equipment Rates. If a particular piece of equipment is not one that is specifically listed in the then-current FEMA Schedule of Equipment Rates, the rate shall be based upon the piece of equipment that is most similar and listed on FEMA's Schedule of Equipment Rates. The requesting Municipality shall bear the burden of calculating the costs for projects undertaken and shall remit the final costs to the assisting Municipality or Municipalities. It is the intention of the parties that the cooperative activities undertaken pursuant to this Agreement shall benefit each Municipality roughly equally.

(7) This Agreement and the cooperative efforts to be performed between **LOWER NAZARETH, BUSHKILL** and **UPPER NAZARETH** are contingent upon: (a) assurance from their respective insurance carriers that this Agreement in no way jeopardizes insurance coverage; and (b) each Municipality being provided with a certificate of insurance in a form satisfactory to counsel.

(8) This Agreement shall continue to be effective until terminated upon thirty (30) days' advance written notice by any Municipality to the other Municipalities, at which time all rights and

obligations arising hereunder shall cease. If one Municipality chooses to withdraw from the Agreement, it shall have no bearing on the continued participation in the Agreement of the other two participating Municipalities.

(9) An Ordinance authorizing this Agreement has been duly advertised and properly adopted by the Municipalities pursuant to the Intergovernmental Cooperation Act, 53 Pa. C.S.A. Section 2305.

(10) This Agreement, together with the Exhibit, represent the final and entire agreement between the parties hereto. The recitals set forth in the beginning of this Agreement are incorporated in and made a part of this Agreement. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto.

(11) The parties hereto acknowledge that this Agreement contains the implied covenant of good faith and fair dealings in the performance under this Agreement. 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.

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

(13) 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. Jurisdiction and venue for any legal proceedings pursuant to this Agreement shall be with the Court of Common Pleas of Northampton County, Pennsylvania.

(14) This Agreement is a contract that any party may enforce. The failure of any 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 any 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.

(15) 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 mail, return receipt requested, postage prepaid, addressed to each party at the addresses recited above.

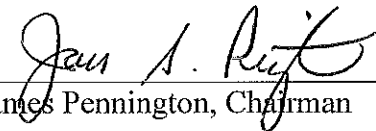
IN WITNESS WHEREOF, the parties have hereunto executed this Agreement the day and year first written and intending to be legally bound hereby.

ATTEST:



Tammi Dravec, Secretary

LOWER NAZARETH TOWNSHIP

By: 

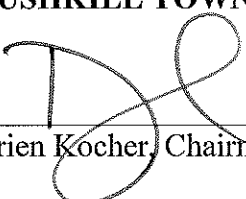
James Pennington, Chairman

ATTEST:



Brian Harris, Secretary

BUSHKILL TOWNSHIP

By: 

Brien Kocher, Chairman

ATTEST:



Kim Mutarelli, Secretary

UPPER NAZARETH TOWNSHIP

By: 

Michael Rinker, Chairman

LOWER NAZARETH TOWNSHIP

EXHIBIT A

Personnel

Operations Coordinator (Road Foreman)
Assistant Operations Coordinator / MS4 Technician
Second Assistant Operations Coordinator / Equipment Technician
Six (6) Laborer / CDL

Equipment:

1998 Mack Tandem Dump Truck
2002 Mack Tandem Dump Truck
2005 Mack Tandem Dump Truck
2018 Mack Tandem Dump Truck

2008 International Single Axle Dump Truck (2)
2013 International Single Axle Dump Truck
2013 9 ML One-Ton Dump Truck

LeeBoy 5-Ton Roller
Cat 10-Ton Roller
Wieler 16' Asphalt Paver
Tack Buggy
Crack Sealer
Case Wheel Loader w/ Bucket and Forks
Cat Wheel Loader w/ Bucket and Forks
Cat 953 Track Loader
Cat D5 Dozer
John Deere 310 Backhoe
Bartmill Milling Machine - 2' Head w/ Conveyor to Load Trucks
Tractor Trailer w/ Low Bed and 48' Flat Bed Trailer
Top Soil Screener
Hook/Ladder Truck w/ 20 YD and 240 YD boxes
Jetter Truck
Street Sweeper
Skid Steer w/ Mill Head, Bucket, Forks and Auger
Pull Behind Air Compressor w/ Jack Hammers
2014 Bucket Truck – 53'
JD6430 w/ 17' Boom Mower Rotary Head and Rear Flail
Conveyor Shoulder Machine w/ Hydr Wind up to 6' Width
Trailer – Tandem Axle
Morbark 10" Chipper
30-YD ODB Leaf Machines (2)
Miller 14" Pavement Saw

UPPER NAZARETH TOWNSHIP - EXHIBIT A

EXHIBIT FOR INTERGOVERNMENTAL COOPERATION AGREEMENT

VEHICLES

Truck #	Year	Make	VIN	Plate
1	2008	Chevrolet 2500 pick/up	1gchk2468e120470	MG0222E
2	2008	GMC 5500 Dump truck	1gde5c3978f407854	MG3059E
3	2006	International Dump truck	1htwdaar76j335876	MG5148B
4	2005	GMC 4500 Dump truck	1gde4c3215f523164	MG1835F
5	2002	Ford F-250 pick/up	1ftsf31132ea91059	95819MG
6	1998	Ford L8513 Dump truck	1fdys80e1wva05501	69473MG
7	2003	Ford F550 Dump truck	1fdaf57s23ec57333	MG1835F
8	2003	Chevrolet 3500 Dump truck	1gbjk34193e170338	MG3821F
10	2017	Mack tandom dump	1m2ax04c6hm034884	MG8273J
11	2008	CrownVic	2fahp71v58x103161	MG7960D

EQUIPMENT

Number	Year	Make	VIN	Plate
E1	2006	John Deere 310sg (Back-hoe)	t0310sg946516	MG2401B
E2	2010	Dynapac (asphalt roller)	60119678	
E3	1992	Leeboy asphalt paver	112vv302235288	
E4	2013	Marathon cracksealer	2m9kdccit0ch102189	MG3746G
E5	1999	John Deere roadside mower	1064105 300802	
E6	1988	Eager Beaver Trailer (roller)	40679327702up	MG8681B
E7	2011	Felling Trailer (back-hoe)	5ftde2822c1038306	MG3199F
E8	2018	Marathon Liquid Asphalt Sprayer	2M9TPS2TXJH190718	MG5786K

PERSONNEL

First	Last	Position	FT/PT
Shawn	Shupe	Director	FT
Craig	Hoffman	Assistant Director	FT
Edgar	Geiger	Laborer	FT
Josh	Gurinko	Laborer	FT
Dean	Steckel	Laborer	FT
Jake	Groff	Laborer	PT
Joe	Brown	Laborer	PT

BUSHKILL TOWNSHIP - EXHIBIT A



Equipment Schedule

#	Year	Description	Serial #	Unit
1		2002 Sabre Turf Tiger 72 inch Mower	7800031	13,475
2		John Deere 4300 Compact Utility Tractor	LV4300S23	14,946
3		1970 Ford Tractor wBrush Cutter Bar Bld	C255947	15,000
4		Bobcat Loader		15,000
5		Speed Enradd 2 HeadMachine		6,000
6		4 Defibrillators @ \$1500 each		6,000
7		1988 Caterpillar Roller 3-5 Ton	6HD00143	9,900
8		Delco Pressure Washer	1184-316567	3,820
9		2012 AMMCO Lift	P12030000	5,000
10		1994 Air Compressor	5708534	2,000
11		Golf Cart		1,500
12		JD Backhoe Loader &Equip Model 410G	10410GX896 537	45,000
13		1996 John Deere Loader Model JD544G	DW544GB55 003	65,000
14		Bullard Thermal Imager		20,000
15		12 Road Guardian Portable Truck Scales		36,120
17		2003 Gehl Paver	190217386	10,000
18		1992 John Deere Tractor w Boom Mower	L02755G735 880	10,000
19		Speed Monitoring Trailer		10,000
20		John Deere 997ZTRK Mower	DM997SC01 1160	11,116
21		Asphalt Roller		12,000
22		John Deere Gator 4x4 Tractor		13,455
23	2014	Bobcat T650 CompactTrack Loader	A3P0A82961 2022013	50,000
24	2014	TARCO Typhoon 4000 leaf Collector		140,000
25	2014	TARCO Hurricane 4000 Leaf Collector Tag		65,000
26	2001	John Deere Backhoe	T0410GX896 537	25,000

Personnel

Peter Yotter	Road Foreman
William Kummer, Jr.	Assistant Road Foreman
Thomas Roberts	Laborer
Carl Akers	Laborer
Kyle Klein	Laborer
Ellis R. Pysher, Jr.	Laborer