

1
ORDINANCE # 85

**BOROUGH OF SEVEN FIELDS
BUTLER COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE BOROUGH OF SEVEN FIELDS, BUTLER COUNTY,
PENNSYLVANIA, AUTHORIZING THE BOROUGH TO ENTER INTO AN
INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE BOROUGH
OF EVANS CITY RELATIVE TO PUBLIC RESOURCES**

THIS AGREEMENT, made this 13th day of June, 2015, by and between **THE BOROUGH OF SEVEN FIELDS**, Butler County, Pennsylvania, with its municipal offices at 2200 Garden Drive, Suite 100, Seven Fields, Pennsylvania, 16046 ("Seven Fields") and **THE BOROUGH OF EVANS CITY**, Butler County, Pennsylvania, with its municipal offices at 204 B South Jackson Street, Evans City, Pennsylvania, 16033 ("Evans City").

Recitals

WHEREAS, Seven Fields and Evans City are boroughs located in Butler County, Pennsylvania, in close proximity to one another.

WHEREAS, Seven Fields and Evans City have labor and asset resources for purposes of maintaining and improving their communities.

WHEREAS, the parties own or lease certain vehicles, equipment, machinery and tools and employ certain individuals ("Public Resources") which use and services are utilized for public construction, operations, maintenance and related activities. ("Public Works").

WHEREAS, there are occasions when one Borough or the other is in need of Public Resources from the other for Public Works due to the circumstances then and there existing.

WHEREAS, Seven Fields and Evans City wish to form a Public Resources cooperative whereby either Borough may request from the other Public Resources when necessary or desirable for Public Works.

WHEREAS, the parties acknowledge that sharing Public Resources promotes the cost effective and efficient use of public resources.

WHEREAS, boroughs in the Commonwealth of Pennsylvania are authorized to enter into such intergovernmental cooperation agreements based upon Article 9, Section 5 of the Constitution of the Commonwealth of Pennsylvania, 53 Pa. C.S. Section 2301, et seq., and the Borough Code and specifically 8 Pa.C.S. Section 1202 (24).

WHEREAS, in order to address the needs of Seven Fields and Evans City, the parties wish to enter into this Intergovernmental Cooperation Agreement.

Witnesseth

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and intending to be legally bound hereby, the parties agree as follows:

1. **Recitals.** The recitals are incorporated herein by reference thereto.
2. **Term.** This Agreement shall continue in effect until either party terminates its participation by providing thirty (30) days written notice to the other parties. Any amounts due and owing by a terminating party shall be paid within thirty (30) days of termination.
3. **Definitions.** The party supplying the Public Resources shall be designated as the "Provider" herein. The party receiving the Public Resources or assuming the use of Public Resources shall be designated as the "User" herein.
4. **Request for Public Resources.** Upon the request of a party, and the mutual agreement of both parties, the other party shall provide Public Resources required of the other in the manner and on the terms and conditions provided herein. Public Resources shall be provided upon reasonable request at mutually convenient times and locations. The Provider retains the right to refuse to honor a request if Public Resources are needed for other purposes, if providing the Public Resources would be unduly inconvenient, or if for any other reason, the Provider determines in good faith that it is not in its best interest to provide Public Resources at the requested time. Public Resources shall be returned immediately at Provider's request.
5. **Equipment Subject to Request.** The vehicles, machinery and tools subject to request shall include, but not be limited to trucks, backhoes, bobcats, lawn mowers, tractors, and other construction equipment.
6. **Condition of Equipment.** Provider shall endeavor to provide vehicles, equipment, machinery and tools in good working order and to inform User of any information reasonably necessary for the proper operation of the vehicles, equipment, machinery and tools. The vehicles, equipment, machinery and tools are provided "as is" with no representation or warranties as to its condition or its fitness for a particular purpose. User shall be solely responsible for selecting the proper vehicles, equipment, machinery and tools for its needs and inspecting vehicles, equipment, machinery and tools prior to use. It is acknowledged by the parties that the Provider is not in the business of selling, leasing, renting or otherwise providing vehicles, equipment, machinery and tools to others and that the parties are acting only for their mutual convenience and efficiency.
7. **Care and Maintenance.** The User receiving the vehicles, equipment, machinery or tools shall take proper precaution in its operation, storage and maintenance. Vehicles, equipment, machinery or tools shall be used only for their intended purpose. The User shall permit the vehicles, equipment, machinery or tools to be used only by properly trained, properly licensed, and supervised operators. The User shall be responsible for vehicle, equipment, machinery or tool repairs necessitated by misuse or negligent operation and for the maintenance and/or replacement of high wear items (i.e. milling machine teeth, etc.) The User shall not be responsible for scheduled preventive maintenance (P.M.) unless vehicle, equipment, machinery or tool hours used exceed the P.M. schedule periods and has been agreed by the Provider. The User shall perform and document required written maintenance checks prior to and after use and shall provide routine daily

maintenance of equipment (i.e. fluid checks, lubricating, etc.) during the period in which the equipment is in User's possession.

8. **Storage of Vehicle, Equipment, Machinery and Tools.** The parties shall provide vehicle, equipment, machinery and tool storage to each other, at no charge, upon request when mutually convenient. It is recognized that such storage is for the benefit of the party requesting it. The party storing the vehicles, equipment, machinery and tools shall be responsible for providing a reasonably safe and secure area and not responsible nor liable for theft or damage.

9. **Billing.** An estimate for specific Public Resources will be supplied by the Provider at the request of the User. Providers shall maintain an accurate cost accounting system, track expenditures and provide monthly billing to User for Public Resources. Provider's invoices will be paid by Users in full within thirty (30) days of billing. Employees provided to Seven Fields by Evans City shall be billed at the following hourly rates:

Norm Wilson - Street Department Superintendent	\$	40.84
Mark Nansky		29.18
Gary Nicklas (also licensed electrician)		31.78
Jack Beers (Superintendent when Norm is on vacation)		33.14
Jim Schafer (licensed waste treatment pit operator)		33.66
Nadine Grabe		24.70

Employees provided to Evans City by Seven Fields shall be billed at the following hourly rates:


Bret Cole	\$	31.71
Rich Larrick		17.48
Ed Brown		18.01
Tom Cordell		19.62
Donald Gutonski		21.48

10. **Independent Contractor.** The Provider may require, in its sole discretion, that only Provider's personnel operate vehicles, equipment, machinery and tools. In so doing, Provider shall be deemed an independent contractor and Provider's employees shall not be deemed employees of Provider. The Provider's operator shall perform under the general direction and control of the User, but shall retain full control over the manner and means of using the vehicles, equipment, machinery and tools.

For the purposes of this Agreement, the parties are independent contractors. Nothing herein shall alter the employment status of any workers providing services under this Agreement. Such workers shall at all times continue to be subject to all standards of performance, disciplinary rules and other terms and conditions of their employer. No User shall be responsible for the direct payment of any salaries, wages, compensation or benefits for Provider's workers performing services to User under this Agreement.

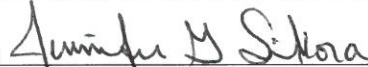
11. **Indemnity** Each party shall be solely responsible for its own acts and those of its employees and officers under this Agreement. No party shall be responsible or liable for consequential damages to the other party arising out of providing or using services, vehicles, equipment, machinery and tools under this Agreement. Providers requiring that their personnel operate vehicles, equipment, machinery and tools shall, within limits of the law, hold harmless, indemnify and defend the User, its officers, agents and employees from all claims arising solely by reason of any negligent act by persons designated by Provider to operate vehicles, equipment, machinery and tools. Notwithstanding the above, the User shall bear sole responsibility for ensuring that it has the authority to request the work, for its designs and for any representations made to the Provider regarding site conditions or other aspects of the project. The Providers of the vehicles, equipment, machinery and tools shall adequately insure the vehicles, equipment, machinery and tools or provide self-insurance coverage.
12. **Modification.** This Agreement may be amended by written amendment signed by all of the parties.

ATTEST:



Thomas B. Smith, Secretary

BOROUGH OF SEVEN FIELDS

By: 

Jennifer Sikora, Council President


ATTEST:



Name: Nadine Grabe

Title: Borough Secretary

BOROUGH OF EVANS CITY

By: 

Name: Ondus L. Dyer

Title: Council President