

BOROUGH OF AVALON AND BOROUGH OF STONE HARBOR

**SHARED SERVICES AGREEMENT FOR
CHIEF FINANCIAL OFFICER (CFO) SERVICES**

THIS AGREEMENT is made this 5th day of September, 2017, by and between:

THE BOROUGH OF AVALON, a municipal corporation located in the County of Cape May, State of New Jersey, with its principal office located at 3100 Dune Drive, Avalon, New Jersey, 08202 (hereinafter "Avalon"), and

THE BOROUGH OF STONE HARBOR, a municipal corporation located in the County of Cape May, State of New Jersey with its principal office located at 9508 Second Avenue, Stone Harbor, New Jersey, 08247 (hereinafter "Stone Harbor").

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et seq. (the "Act"), authorizes local units of this State to enter into agreements with any other local unit or units to provide or receive any shared service that each local unit participating in the agreement is empowered to provide or receive in its own jurisdiction; and

WHEREAS, N.J.S.A. 40A:9-140.10 requires each municipality to have a Chief Financial Officer but same may be provided by an agreement with another municipality; and

WHEREAS, the Stone Harbor temporarily is in need of the services of a certified professional Chief Financial Officer to perform temporary duties of a Chief Financial Officer; and

WHEREAS, Avalon has agreed to furnish to Stone Harbor the services of its Chief Financial Officer pursuant to N.J.S.A. 40A:65-1 *et. seq.*; and

WHEREAS, in the spirit of inter-municipal cooperation, and in furtherance of the principles underlying the Act, Avalon and Stone Harbor (collectively "the Parties") have negotiated this Agreement for the provision of the Chief Financial Officer services for their respective jurisdictions; and

WHEREAS, the terms and conditions of this undertaking are set forth below; and

WHEREAS, the Parties have each duly authorized their proper officials to enter into and execute this Agreement through the accompanying Resolutions attached hereto as Exhibits A (Borough of Stone Harbor) and B (Borough of Avalon) respectively.

NOW THEREFORE, it is understood and agreed as follows:

1. PREAMBLE. All of the statements of the preamble are repeated and incorporated herein by this reference thereto as if fully set forth.

2. **CONTROLLING LAW.** This Agreement is governed by the provisions of N.J.S.A. 40A:65-1 *et. seq.*, the Uniform Shared Services and Consolidation Act. All actions and amendments to this Agreement must be authorized in conformance with the Act.
3. **TERM OF AGREEMENT.** This Agreement shall take effect on May 4, 2017, *nunc pro tunc* (the "Effective Date"). This Agreement shall run for a period of three years, expiring on May 3, 2020 unless sooner terminated in accordance with paragraph 15 below.
4. **SCOPE OF WORK.** Commencing May 4, 2017 Avalon shall furnish Stone Harbor the services of a certified Chief Financial Officer, to fulfill all statutory duties required of a municipal Chief Financial Officer in the State of New Jersey.

A. Designation of Employer – Salary and Benefits.

The Parties acknowledge that the Borough of Avalon is hereby designated as the sole employer of the Chief Financial Officer. Avalon shall be exclusively responsible for payment of any and all salary and the maintenance of all employee benefits and workers' compensation insurance. The Chief Financial Officer shall be covered under all applicable personnel policies of Avalon and shall retain any and all rights and benefits that may have accrued from that position with Avalon. Nothing in this Agreement shall be interpreted as forming an employer-employee relationship between Stone Harbor and Avalon's officials and the employee who performs services for Stone Harbor pursuant to this Agreement.

B. Responsibility.

At all times, Avalon shall maintain responsibility for and control over the Chief Financial Officer hired to provide services. All citizen inquiries and/or complaint resolutions regarding employee performance shall be handled through Avalon.

C. Supervision.

The Chief Financial Officer shall be subject to the supervision of Avalon while performing duties for Avalon and by Stone Harbor while performing services for Stone Harbor, but any and all personnel or employment issues shall be handled by Avalon under Avalon's applicable policies.

D. Designation of Chief Financial Officer.

Pursuant to the provisions of N.J.S.A. 40A:65-5, the Borough of Stone Harbor Governing Body has adopted a resolution authorizing the Borough to enter into this Shared Services Agreement with the Borough of Avalon for the shared services of the Borough of Avalon Chief Financial officer and has designated and does designate hereby the Chief Financial Officer of the Borough of Avalon as the temporary, acting Chief Financial Officer of the Borough of Stone Harbor.

5. SERVICES TO BE PERFORMED.

Avalon will provide to Stone Harbor a Chief Financial Officer to fulfill all statutory duties required of a municipal Chief Financial Officer.

It is expected that said duties will be performed by the Chief Financial Officer in a manner consistent with the level and quality that is consistent with all statutorily required duties of a Chief Financial Officer.

6. HOURS OF SERVICE.

a) The Chief Financial Officer shall normally be present in the Borough of Stone Harbor Municipal Building for 16.25 hours per week, during which time the Chief Financial Officer will fulfill the duties identified in this Agreement on behalf of Stone Harbor.

b) The parties acknowledge and agree that the 16.25 hours referenced in paragraph (a) above represents a good faith estimation of time, however, it is understood that the demands of the position of Chief Financial Officer in either municipality may require that the hours stated in paragraph (a) to, at times, fluctuate.

7. COMPENSATION.

Stone Harbor shall pay to Avalon a monthly sum of \$7,543.00 for May 1, 2017 through April 30, 2018; a monthly sum of \$7,694.00 for May 1, 2018 through April 30, 2019; and a monthly sum of \$7,848.00 from May 1, 2019 through April 30, 2020. Said sums shall be prorated for any months where the services of the Chief Financial Officer were not provided for an entire month.

The specified compensation for Avalon furnishing the services referred to in this Agreement, shall be payable as follows:

a) The first payment shall be due on June 1, 2017, at which time the payment for the prorated portion of May, 2017, shall be due.

b) Thereafter, payment for the previous month or prorated portion thereof shall be due on the first of the following month. For example, payment for June, 2017 shall be due on July 1, 2017, etc.

Stone Harbor shall provide sufficient funds in their budget to cover the cost of this Agreement.

The parties agree that in the event it is expected that this Agreement will be extended beyond May 4, 2020, the parties shall meet to discuss the compensation provided for in this

paragraph at least forty-five (45) calendar days prior to the expiration of this Agreement to determine if compensation provided for in this paragraph should be adjusted.

8. MAINTENANCE OF RECORDS. All records produced by the Chief Financial Officer on behalf of the Borough of Stone Harbor shall be retained at the Borough of Stone Harbor Municipal Building.

9. INSURANCE.

The Chief Financial Officer provided for in this Agreement shall be covered at all times by Avalon's workers compensation policy whether working in Avalon or Stone Harbor, as well as by all other policies of insurance that are maintained by Avalon which are applicable to its Chief Financial Officer, such as, by way of example and not by way of limitation, the policies of insurance that are set forth on Exhibit "C". Avalon agrees to provide Stone Harbor with at least fourteen (14) days advance written notice of any proposed cancellation of relevant insurance policies or of a material change to said policies.

10. AMENDMENT

This Agreement may be amended by mutual agreement of the parties, provided such amendment is in writing with notice to the parties and approved by Resolution of both governing bodies.

11. EXTERNAL DISPUTES.

Stone Harbor's Borough Administrator shall notify Avalon's Borough Administrator, in a timely manner, of any complaints, related to the nature, extent and quality of services provided to Stone Harbor by Avalon. Avalon's Borough Administrator shall handle any responses to issues related to the services provided by the Chief Financial Officer.

12. CONFIDENTIALITY.

Each party recognizes and acknowledges that it may have access to certain confidential information of the other party, (e.g. employment, operations, and financial records and related data) which is not otherwise publicly available (the "Confidential Information"). Each party will treat as confidential all Confidential Information of the other party; will implement reasonable procedures to prohibit the disclosure, unauthorized duplication, use, misuse, or removal of the other party's Confidential Information; and will not sue or disclose such Confidential Information, unless such information becomes generally known through no fault of the disclosing party, or unless such party is required by law to disclose such Confidential Information. Each party agrees that any breach of its obligations under this Section will entitle the other party to equitable relief to protect its interests therein, including injunctive relief.

13. HOLD HARMLESS AND INDEMNIFICATION

Stone Harbor shall indemnify and hold Avalon, its officers, employees and agents harmless from and against any and all claims of whatever nature or type arising from the provision of the services by Avalon to Stone Harbor, so long as the actions upon which the demand or claim or assertion of liability are found to have been performed in the course of carrying out official duties on behalf of Stone Harbor and were not beyond the scope of performing official duties or performed in bad faith, and did not constitute actual fraud, actual malice, willful misconduct, an intentional wrong or criminal act. Such indemnification shall include payment of reasonable fees and costs in the defense of any claim made by a third person.

14. REQUIRED BONDS

The Borough of Stone Harbor shall apply for and acquire any and all required bonds necessary for the implementation of this Agreement.

15. TERMINATION

a. This Agreement may be terminated at any time upon mutual Agreement of the Parties.

b. Either Party may terminate this Agreement at any time and for any reason upon giving the other party thirty (30) days advanced notice, in writing, delivered to the other Party by certified mail at the address provided herein under in accord with paragraph 17.

c. It was the intent of the Parties that the Chief Financial Officer services to be provided by Avalon to Stone Harbor under the terms of this Agreement were to be performed by the individual who was Avalon's Chief Financial Officer at the time of execution of this Agreement. In the event that the individual, during the Term of this Agreement, ceases to be Avalon's Chief Financial Officer, then Avalon immediately shall notify Stone Harbor of that fact whereupon Stone Harbor shall have the option of immediately terminating this Agreement, with compensation to be prorated accordingly, or of having its Chief Financial Officer services performed by Avalon's new Chief Financial Officer in accordance with the terms and conditions of this Agreement.

16. DEFAULT.

In the event that either party defaults in the performance of any of its duties or obligations under this Agreement, after receiving written notice of same and failing to cure such default within fifteen (15) days of said written notice, the non-defaulting party shall be entitled to terminate this Agreement at the expiration of that 15-day period.

17. NOTICES.

Notices hereunder shall be given to the Parties set forth below and shall be made by hand delivery, facsimile, overnight delivery or by regular mail. If given by regular mail, the notice shall be deemed to have been given within a required time if deposited in the U.S. Mail, postage

prepaid, within the specified time limit. For the purpose of calculating time limits, which run from the giving of a particular notice, the time shall be calculated from actual receipt of the notice. Time shall run only on business days, which for purposes of this Agreement shall be any day other than a Saturday, Sunday or legal public holiday. Notices shall be addressed as follows:

If to Borough of Avalon:
Borough of Avalon
3100 Dune Drive
Avalon, New Jersey 08202
Attn: Borough Administrator

With a Required Copy to:
Borough Clerk
3100 Dune Drive
Avalon, NJ 08202

If to Borough of Stone Harbor
Borough of Stone Harbor
9508 Second Avenue
Stone Harbor, New Jersey 08247
Attn: Borough Administrator

With a Required Copy to:
Borough Clerk
9508 Second Avenue
Stone Harbor, New Jersey 08247

18. CHOICE OF LAW.

Any dispute under the Agreement or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.

19. ENTIRE AGREEMENT.

This Agreement represents the entire Agreement between the parties and may not be changed orally, and may only be modified or amended by a written statement signed by both parties.

20. SEVERABILITY.

If any part of this Agreement shall be held to be unenforceable or invalid the remainder of the Agreement shall nevertheless remain in full force and effect.

21. WAIVER.

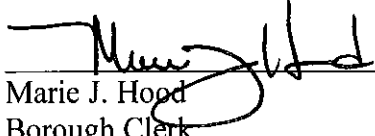
Failure to insist upon strict compliance with any terms, covenants, or conditions of this Agreement at any one time shall not be deemed a waiver of such term, covenant, or condition at any one time nor shall any waiver or relinquishment of any right or power herein at any time be deemed a waiver or relinquishment of the same or any other right or power at any other time.

22. HEADINGS. The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of the substantive provisions of this Agreement.

23. **JOINT PREPARATION.** This Agreement (and all exhibits thereto) is deemed to have been jointly prepared by the Parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any Party, but shall be interpreted according to the application of the rules of interpretation for arm's-length agreements.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, the day and year first above written.

ATTEST:



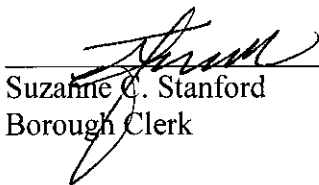
Marie J. Hood
Borough Clerk

BOROUGH OF AVALON




Martin L. Pagliughi
Mayor

ATTEST:



Suzanne C. Stanford
Borough Clerk

BOROUGH OF STONE HARBOR



Judith M. Davies-Dunhour
Mayor