

**RESOLUTION AUTHORIZING AND APPROVING NEGOTIATED  
SETTLEMENT AGREEMENT AND GENERAL RELEASE**

**WHEREAS**, former Mayor Charles Tyson previously filed a Municipal Court Complaint against Police Officer Nicholas Barbetta that was subsequently dismissed and resulted in the acquittal of Officer Barbetta of any wrongdoing with respect to the allegations made by former Mayor Charles Tyson; and

**WHEREAS**, despite the acquittal and dismissal entered by the Municipal Court in favor of Officer Nicholas Barbetta, Plaintiff, Charles Tyson, initiated litigation in Federal Court, and

**WHEREAS**, the Township of South Harrison, as well as the South Harrison Township Police Department, including former Chief of Police Warren Mabey, Officer Nicholas Barbetta and the Gloucester County Prosecutor's Office were named parties in the lawsuit filed in the United States District Court, District of New Jersey – Camden, under Civil Action Docket No.: 10-cv-3634 by the former Mayor of the Township of South Harrison, Charles Tyson; and

**WHEREAS**, the Municipal Excess Liability Joint Insurance Fund (MEL JIF), through Scibal Associates, heretofore assigned counsel to defend and indemnify the Township with respect to the allegations alleged by Plaintiff, Charles Tyson; and

**WHEREAS**, the Township, including the South Harrison Township Police Department; Chief Warren Mabey; and Officer Nicholas Barbetta vehemently denied each and every allegation of wrongdoing claimed by Plaintiff pending in the United States District Court for the District of New Jersey, Camden Vicinage, bearing Civil Action No.: 10-cv-3634 (JBSJS); and

**WHEREAS**, under correspondence dated July 11, 2011 (attached hereto and made a part hereof), the Township was compelled to address the Settlement Proposal received from Scibal Associates as the Claim's Administrator for the MEL JIF concerning the Settlement reached between Plaintiff's Counsel and Counsel assigned to represent the Township's interest through the MEL JIF; and

**WHEREAS**, the MEL JIF has recommended acceptance of the Settlement Proposal as a more economical way to resolve the claims asserted by Plaintiff, wherein the Township believes its costs to successfully defend the matter will substantially exceed payment of the proposed Settlement sum to Plaintiff in the amount of Eighteen Thousand Dollars (\$18,000.00), that is inclusive of all Plaintiff attorney's fees and costs; and

**WHEREAS**, the Gloucester County Prosecutor's Office was a named Defendant in the litigation, however, they did not contribute nor participate in the Settlement Agreement reached with the Township and Plaintiff; and

**WHEREAS**, the MEL JIF has recommended acceptance of the Settlement Proposal not on the basis of liability, but on the basis of ending risk and reducing legal fees and costs for which the Township would be responsible due to the Self-Insured Reserve (SIR) and co-pay, the total of which is approximately Twenty-Three Thousand Six Hundred Dollars (\$23,600.00),

which is inclusive of the Eighteen Thousand Dollar (\$18,000.00) Settlement Proposal referenced above; and

**WHEREAS**, if the Township exercised its right to object to the Settlement, the MEL JIF'S liability on account of Plaintiff's claim would not exceed the proposed Settlement amount of Eighteen Thousand Dollars (\$18,000.00) and the Township would be responsible for any amount exceeding the Settlement Proposal, in addition to additional legal fees and costs for defending the matter to a conclusion that could potentially exceed the sum of Seventy Five Thousand Dollars (\$75,000.00); and

**WHEREAS**, the Township Solicitor has received, reviewed and recommended approval of the negotiated Settlement Agreement and General Release that was negotiated and agreed to between Plaintiff's Counsel and Assigned Counsel from the MEL JIF representing the Township's interest; and

**WHEREAS**, the Township Solicitor has advised the Township Committee that the acceptance of the negotiated Settlement Agreement and General Release shall not, in any way, be construed or considered to be an admission of liability by the Township of South Harrison nor the South Harrison Township Police Department, including former Chief of Police Warren Mabey and Officer Nicholas Barbetta, nor shall such Agreement be an admission of guilt or non-compliance with any federal, state, or local, or of any other wrongdoing whatsoever.

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the Township of South Harrison, that the Township Committee does hereby authorize, under protest, the execution of the negotiated Settlement Agreement and General Release for the litigation entered under Civil Action Docket No. : 10-cv-3624 (JBSJS), forthwith after the adoption hereof.

Dated: February 8, 2012

TOWNSHIP OF SOUTH HARRISON

BY: \_\_\_\_\_  
JAMES MCCALL, MAYOR

ATTEST:

\_\_\_\_\_  
NANCY E. KEARNS, RMC  
TOWNSHIP CLERK

**CERTIFICATION**

I hereby certify the above to be a true copy of a Resolution adopted by the Township Committee of the Township of South Harrison at the Regular Meeting held on the 8<sup>th</sup> day of February 2012.

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NANCY E. KEARNS, RMC  
TOWNSHIP CLERK