



Agenda
Meeting of the Municipal Council
Sunday, January 1, 2023
ORGANIZATIONAL MEETING 12:00 PM

I. Call to Order

Call to Order/Roll Call

II. Invocation by Reverend Marcia Grayson

III. Salute the Flag

IV. Announcement by City Clerk

As to comply with the Open Public Meetings Act, Chapter 231, P.L. 1975, adequate Notice of this meeting has been provided in the following manner: The Reorganization Meeting Notice was forwarded to the Asbury Park Press and The Coaster on December 9, 2022, and posted on the bulletin board the same date. All notices are on file with the City Clerk.

V. Swearing in of Newly Elected Officials by Municipal Court Judge Ronald J. Troppoli

A. Swearing in of Council Member Angela Ahbez-Anderson

B. Swearing in of Mayor John Moor

VI. Nomination of Deputy Mayor

A. Swearing in of Deputy Mayor by Municipal Court Judge Ronald J. Troppoli

VII. Resolutions

1. Consent Agenda

All matters listed on the Consent Agenda are presented collectively to the City Council, and will be considered for approval with one vote. These matters are considered to be routine in nature, and there will be no individual discussion of these items. If discussion is desired by one or more Council member(s) as to any particular item(s), then said item(s) shall be removed from the Consent Agenda and considered separately.

2023-1 Resolution Establishing Council Meeting Dates for 2023

- 2023-2 Resolution Designating the Official Newspapers for the City of Asbury Park for the Year 2023
- 2023-3 Resolution Establishing 2023 Schedule of Holidays
- 2023-4 Resolution Authorizing the City Clerk to Execute all Bingo and Raffle Games of Chance Applications that Meet all Provisions Pursuant to Statute for the 2023 Calendar Year
- 2023-5 Resolution Establishing Rules of Order for Public Comments
- 2023-6 Resolution Authorizing the City Clerk to Execute all of the City of Asbury Park Fire Department Member's Enrollment into NJ State Firemen's Association for the 2023 Calendar Year
- 2023-7 Resolution Appointing a Fund Commissioner and Alternate to the New Jersey Intergovernmental Insurance Fund
- 2023-8 Resolution Appointing an ADA Compliance Officer and Coordinator
- 2023-9 Resolution Designating a Public Agency Compliance Officer
- 2023-10 Resolution Authorizing City Manager to sign NJDEP Treatment Works Applications
- 2023-11 Resolution Authorizing the Tax Assessor to Act as Agent for the City of Asbury Park for the Purpose of Filing and Settling Tax Appeals on Behalf of the Taxing District for the Tax Year 2023
- 2023-12 Resolution Adopting a Debt Management and Capital Policy
- 2023-13 Resolution of the Mayor and Council of the City of Asbury Park Designating the Depositories wherein all Public Monies and Other Funds of the Municipality Shall Be Kept
- 2023-14 Resolution Adopting a Cash Management Plan for the City of Asbury Park
- 2023-15 Resolution Authorizing Change in Custodian of Petty Cash Fund
- 2023-16 Resolution Appointing a Recycling Coordinator for the Year 2023
- 2023-17 Resolution To Credit Sewer Account For Deduct Meter
- 2023-18 Resolution Of The Mayor And Council Of The City Of Asbury Park Fixing The Rate Of Interest To Be Charged On Delinquent Taxes, Assessments And Sewer Accounts For 2023
- 2023-19 Resolution Setting Fees for Tax Collection Department for 2023
- 2023-20 Resolution Approving and Adopting A Form Required to Be Utilized for The Filing of Tort Claims Against the City Of Asbury Park in Accordance with The Provisions of The New Jersey Tort Claims Act

2. Individual Resolutions

- 2023-21 Resolution Appointing A Deputy Mayor
- 2023-22 Resolution Providing for 2023 Temporary Budget Appropriations

- 2023-67 Resolution Appointing Municipal Court Judge
- 2023-23 Resolution Appointing Frederick C. Raffetto, Esq., to Serve as Municipal Attorney for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith
- 2023-24 Resolution Appointing PFK O'Connor Davies to Serve as Auditor for the City and Authorizing the Execution of an Agreement for Professional Services Associated Therewith
- 2023-25 Resolution Appointing T & M Associates to Serve as Municipal Engineer for the City, and Authorizing the Execution of an Agreement for Professional Engineering Services Associated Therewith
- 2023-26 Resolution Pursuant to N.J.S.A. 40:48-1 Authorizing the City Engineer to Perform Services as Designee to The City Manager for Review of Development Permits in Any Area of Special Flood Hazard
- 2023-27 Resolution Appointing Archer & Greiner, P.C. to Serve as Redevelopment Counsel and Authorizing the Execution of an Agreement for Professional Services Associated Therewith
- 2023-28 Resolution Appointing Archer & Greiner, P.C. to Serve as Bond Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith
- 2023-29 Resolution Appointing Maraziti and Falcon to Serve as Redevelopment Counsel and Authorizing the Execution of an Agreement for Professional Services Associated Therewith
- 2023-30 Resolution of the Mayor and City Council of The City of Asbury Park to enter into a Professional Services Agreement with Public Resources Advisory Group for the Provision of PILOT/RAB Administration
- 2023-31 Resolution Awarding a Contract for U.S. Environmental Protection Agency Brownfields Community-Wide Hazardous Substances Assessment Grant and Petroleum Community-Wide Assessment Grant Service To Brownfield Redevelopment Solutions, Incorporated (BRS)
- 2023-32 Resolution Appointing Acacia Financial Group, Inc. To Serve as Financial Advisors for the City, and Authorizing the Execution of an Agreement for Professional Services Associated Therewith
- 2023-33 Resolution Authorizing the Execution of an Agreement for Professional Appraisal Services to BRB Valuations Pamela J. Brodowski, MAI, ASA, CTA
- 2023-34 Resolution Appointing GJEM Insurance Agency, to Serve as an Insurance Brokerage/Consultant/Risk Manager, and Authorizing the Execution of an Agreement for Professional Services Associated Therewith
- 2023-35 Resolution Appointing Law Offices of Parker McCay, P.A. to Serve as OPRA Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith

- 2023-36 Resolution Authorizing the Award of a Contract to the Firm of Kyle + McManus Associates, LLC to Perform Professional Affordable Housing Planning and/or Consulting Services
- 2023-37 Resolution Appointing Law Offices of Genova Burns, LLC to Serve as Labor Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith
- 2023-38 Resolution Appointing Community, Grants, Planning & Housing LLC To Serve as Affordable Housing Administrative Agent For the City of Asbury Park
- 2023-39 Resolution Appointing the Firm of Surenian, Edwards & Nolan, LLC To Serve as Special Affordable Housing Counsel For the City of Asbury Park
- 2023-40 Resolution Appointing City Prosecutor
- 2023-41 Resolution Appointing Alternate City Prosecutor
- 2023-42 Resolution Appointing City Public Defender
- 2023-43 Resolution Appointing Alternate Public Defender
- 2023-44 Resolution Appointing Gregory B. Pasquale, Esquire, to Serve as Special Tax Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith
- 2023-45 Resolution Appointing the firm of Gene J Anthony, Esquire to Serve as Rent Leveling Board Attorney for the City, and Authorizing the Execution of an Agreement for Professional Services Associated Therewith.
- 2023-46 Resolution Appointing Various Firms to Provide Architectural Services for the City, and Authorizing the Execution of an Agreement for Professional Architectural Services Associated Therewith
- 2023-47 Resolution Authorizing the Award of a Contract to The Firm of ENGenuity Infrastructure to Perform Special Project Engineering Services
- 2023-48 Resolution Authorizing the Award of a Contract to The Firm of Dynamic Traffic, LLC to Perform Special Project Engineering Services
- 2023-49 Resolution Authorizing the Award of a Contract to the Firm of ARH, Inc. to Perform Special Project Engineering Services
- 2023-50 Resolution Authorizing the Award of a Contract to V-Comm LLC To Perform Telecommunications and 5G Engineering Services
- 2023-51 Resolution Appointing the Firm of CDM Smith, Inc. to Perform Special Project Engineering Services
- 2023-52 Resolution Authorizing Appointments to the Business Advisory Committee
- 2023-53 Resolution Authorizing Appointments to Community Development Block Committee

- 2023-54 Resolution Authorizing Appointments to Code Enforcement/Quality of Life Committee
- 2023-55 Resolution Authorizing Appointments to the Deal Lake Commission
- 2023-56 Resolution Authorizing Appointments to the Environmental Shade Tree Commission
- 2023-57 Resolution Authorizing Appointments to the Green Team
- 2023-58 Resolution Authorizing Appointments to the Parking Committee
- 2023-59 Resolution Authorizing Appointments to the Participatory Budget Committee
- 2023-60 Resolution Authorizing Appointments to the Planning Board
- 2023-61 Resolution Authorizing Appointments to the Public Arts Commission
- 2023-62 Resolution Authorizing Appointments to the Recreation Committee
- 2023-63 Resolution Authorizing Appointments to the Rent Leveling Board
- 2023-64 Resolution Authorizing Appointments to the Sunset Lake Commission
- 2023-65 Resolution Authorizing Appointments to the Mayor's Wellness Committee
- 2023-66 Resolution Authorizing Appointments to the Zoning Board of Adjustment

VIII. Announcement by Mayor Moor of Mayor's Appointment to the Library Board Committee

IX. Announcement by Mayor Moor of Mayor's Appointment to the Position of Office of Emergency Management ("OEM") Director

X. Announcement of Mayor of Mayor's Appointment to the Planning Board

- 1. Class I Member (Mayor or Mayor's Designee - 1 Year Term)
- 2. Class II Member (Non-Government Body Municipal Official - 1 Year Term)

XI. Comments from Council Members

XII. Comments from Mayor

XIII. Public Participation

XIV. Adjournment



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-1

Council Meeting Dates for 2023



RESOLUTION NO. 2023-1

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION ESTABLISHING COUNCIL MEETING DATES FOR 2023

BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, that for the year 2023 the following shall be the meeting dates City Council:

January 1- (Reorganization)	July 12
January 11	July 26
January 25	August 9
February 8	August 23
February 22	September 13
March 8	September 27
March 22	October 11
April 12	October 25
April 26	November 9 (11/14 NJLM Conference)
May 10	November 21
May 24	December 6
June 14	December 20 (December 25 th Christmas)
June 28	

BE IT FURTHER RESOLVED that all executive session meetings commence at 4:00 p.m. Regular meeting will commence at 6:00 p.m.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-1 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-2

Official Newspaper of the City of Asbury Park
the Coaster, the Asbury Park Press, the Star Ledger

**RESOLUTION NO. 2023-2**

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION DESIGNATING THE OFFICIAL NEWSPAPERS FOR THE CITY OF
ASBURY PARK FOR THE YEAR 2023**

BE IT RESOLVED, by the City of Asbury Park, County of Monmouth, State of New Jersey that the following publications shall constitute the official newspaper(s) of the City of Asbury Park for the 2023 year:

1. The Coaster
2. The Asbury Park Press
3. The Star Ledger

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon final passage and publication in accordance with the law.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-2 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-3

Establishing 2023 Schedule of Holidays



RESOLUTION NO. 2023-3

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION ESTABLISHING 2023 SCHEDULE OF HOLIDAYS

BE IT RESOLVED by Mayor and Council of the City of Asbury Park the following will be considered official holidays for the year 2023.

<u>Date</u>	<u>Holiday</u>
January 2	New Year's Day (Monday)
January 16	Martin Luther King Day (Monday)
February 13	Lincoln's Birthday (Monday)
February 20	President's Day (Monday)
April 7	Good Friday (Friday)
May 29	Memorial Day (Monday)
June 19	Juneteenth (Monday)
July 4	Independence Day (Tuesday)
September 4	Labor Day (Monday)
October 9	Columbus Day (Monday)
November 7	Election Day (Tuesday)
November 10	Veteran's Day (Friday)
November 23	Thanksgiving Day (Thursday)
November 24	Day After Thanksgiving (Friday)
December 25	Christmas Day (Monday)

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-3 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-4

Authorizing the City Clerk to Execute all Bingo and Raffle Games of Chance Applications



RESOLUTION NO. 2023-4

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE CITY CLERK TO EXECUTE ALL BINGO AND RAFFLE GAMES OF CHANCE APPLICATIONS THAT MEET ALL PROVISIONS PURSUANT TO STATUTE FOR THE 2023 CALENDAR YEAR

BE IT RESOLVED by the City Council of Asbury Park City that it hereby authorizes the City Clerk to execute all Bingo, 50/50's, and Raffle Games of Chance Applications pursuant to the statutory provisions of N.J.S.A. 5:8-1 et seq. for the remaining 2023 calendar year; and

BE IT FURTHER RESOLVED that the City Clerk shall furnished the Chief of Police with a copy of each Game of Chance Application, License and Findings and Determination so that he may conduct a background check pursuant to N.J.S.A. 5:8-27.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Asbury Park Chief of Police.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-4 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-5

Establishing Rules of Order for Public Comments



RESOLUTION NO. 2023-5

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION ESTABLISHING RULES OF ORDER FOR PUBLIC COMMENTS

WHEREAS, the City Council serves as the Governing Body of the City of Asbury Park pursuant to N.J.S.A. 40:69A-81, *et seq.*, and Section 2-2 of the Asbury Park City Code; and

WHEREAS, it is the desire of the City Council to provide for effective and productive public meetings by conducting the large volume of City business needed within the time constraints available at public meetings and in an orderly manner; and

WHEREAS, the City Council welcomes public comments, and to that end, provision is made for a public comment period at each meeting; and

WHEREAS, pursuant to N.J.S.A. 10:4-12, the City Council is permitted to establish rules governing the public comment period.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, that the following provisions shall govern the public comment period at every Council meeting for the remainder of the calendar year 2023:

1. Any person desiring to speak during the public comment period shall approach the microphone (or shall raise their hand virtually during a virtual Council meeting) and be recognized by the Chair before commencing their comments.
2. Each speaker shall state his or her full name and address for the record before making comments.
3. Each person recognized to speak may speak once for a maximum of three minutes.
4. Any speaker who exceeds the time limit shall be ruled out of order and shall be subject to removal. Each three-minute period is personal to each speaker and may not be ceded to another person.

5. Each speaker is expected to conduct himself or herself in a proper manner. No profanity shall be permitted, nor shall any derogatory, abusive or threatening language, or personal attacks, or disruptive conduct, be permitted. The Chair will immediately rule any such statements or conduct to be out of order and shall warn the speaker accordingly. If the individual continues to make such statements or to engage in such disruptive conduct, the Chair may terminate any further comments from that individual and, at the Chair's discretion, may have the individual removed from the meeting.
6. Questions or comments from the public should be directed to the City Council as a whole. A response may be provided, at the discretion of the Council. If appropriate, the Chair may direct and recognize a staff employee or professional of the City to respond. The Chair may request that any question asked of the City Council or its staff or professionals which, due to its complexity or need for research or factual investigation cannot be answered immediately, be placed in writing and directed to the appropriate City official so that an answer may be provided as soon as possible.
7. Any aspect of this protocol may be suspended for a particular matter by a vote of a majority of the City Council present at the meeting.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be provided to each of the following:

- a. Donna Vieiro, City Manager; and
- b. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-5 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 3rd DAY OF January, 2022.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-6

Authorizing the City Clerk to Execute all of the City of Asbury Park Fire Department Member's Enrollment into NJ State Firemen's Association for the 2023 Calendar Year



RESOLUTION NO. 2023-6

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE CITY CLERK TO EXECUTE ALL OF THE CITY OF ASBURY PARK FIRE DEPARTMENT MEMBER'S ENROLLMENT INTO NJ STATE FIREMEN'S ASSOCIATION FOR THE 2023 CALENDAR YEAR

BE IT RESOLVED by the City Council of Asbury Park City that it hereby authorizes the City Clerk to execute all application for the City of Asbury Park Fire Department Member's Enrollment into the New Jersey State Firemen's Association for the 2023 calendar year.

BE IT FURTHER RESOLVED that a copy of this Resolution be forwarded to the Asbury Park Fire Department Chief Kevin Keddy.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-6 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-7

Fund Commissioner and Alternate to the New Jersey Intergovernmental Insurance Fund
Donna Vieiro & Denise Callery



RESOLUTION NO. 2023-7

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING A FUND COMMISSIONER AND ALTERNATE TO THE NEW JERSEY INTERGOVERNMENTAL INSURANCE FUND

WHEREAS, the Fund Commissioner shall attend regular meetings of the NJIIF on behalf of the City and otherwise serve as a liaison representative of the City to the NJIIF for the ensuing year; and

WHEREAS, the Mayor and Council wish to appoint the City Manager to serve as the Commissioner to the NJIIF on behalf of the City for 2023, and Denise Callery to serve as the alternate Commissioner for 2023.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. Donna Vieiro is hereby appointed to serve as the Fund Commissioner to the NJIIF on behalf of the City for the year 2023.
2. Denise Callery is hereby appointed to serve as the alternate Fund Commissioner to the NJIIF for the year 2023.
3. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. Denise Callery, Alternate Commissioner
 - c. Eric J. Nemeth, Esq., NJIIF
 - d. JoAnn Boos, CMFO, Chief Financial Officer

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-7 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-8

City Manager ADA Officer

**RESOLUTION NO. 2023-8**

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION APPOINTING AN ADA COMPLIANCE OFFICER AND
COORDINATOR**

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Asbury Park hereby appoints Donna Vieiro, City Manager as the ADA Compliance Officer for 2023.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-8 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-9

Designating a Public Agency Compliance Officer: Donna Vieiro



RESOLUTION NO. 2023-9

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION DESIGNATING A PUBLIC AGENCY COMPLIANCE OFFICER

WHEREAS, N.J.A.C. 17:27-3.2 requires all public agencies awarding contracts for goods and services and/or construction contracts to appoint a Public Agency Compliance Officer (PACO) for a one year term; and

WHEREAS, a Public Agency Compliance Officer is the liaison between the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts and the public agency and the PACO is the point of contract for all matters concerning implementation and administration of N.J.S.A. 10:5-31, et seq. and its implementing regulations at N.J.A.C. 17:27-1.1, et seq.; and

WHEREAS, the City Council desires to appoint the City Manager, as its Public Agency Compliance Officer for 2023.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the City Council hereby appoints City Manager Donna Vieiro, as the Public Agency Compliance Officer in accordance with N.J.A.C. 17:27-3.2 for a period of one year.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-9 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
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RESOLUTION SUMMARY

2023-10

Resolution Authorizing City Manager to sign NJDEP Treatment Works Applications



RESOLUTION NO. 2023-10

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING CITY MANAGER TO SIGN NJDEP TREATMENT WORKS APPLICATIONS

WHEREAS, the Asbury Park City Manager is hereby authorized to sign NJDEP Statements of Consent upon review and recommendation of the City Engineer; and

WHEREAS, a copy of the signed application shall be forwarded to the governing body and Director of Planning and Redevelopment; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of Asbury Park, County of Monmouth, State of New Jersey, authorizes the City Manager to sign NJDEP Statements of Consent upon review and recommendations of the City Engineer and forward said application to the governing body and Director of Planning and Redevelopment.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-10 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-11

Authorizing the Tax Assessor to Act as Agent for the City of Asbury Park for the Purpose of Filing and Settling Tax Appeals on Behalf of the Taxing District



RESOLUTION NO. 2023-11

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE TAX ASSESSOR TO ACT AS AGENT FOR THE CITY OF ASBURY PARK FOR THE PURPOSE OF FILING AND SETTLING TAX APPEALS ON BEHALF OF THE TAXING DISTRICT FOR THE TAX YEAR 2023

WHEREAS, the Tax Assessor is knowledgeable regarding the valuation and assessment of properties in the City of Asbury Park; and

WHEREAS, the Tax Assessor has the statutory responsibility, pursuant to N.J.S.A. 54:4-23 to 36 to set assessments for properties in the City of Asbury Park under the Local Property Tax, N.J.S.A. 54:4-1 et seq; and

WHEREAS, the governing body of the Taxing District deems the Tax Assessor to be responsible and acting in the best interests of the municipality.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Council of the City of Asbury Park, that the Tax Assessor is hereby authorized to act as agent for the Taxing District without further governing body approval to:

(a) determine when tax appeals, cross appeals, complaints and counterclaims should be filed on behalf of the Taxing District with regarding to any property located in the City of Asbury Park and accordingly direct the attorney for the Taxing District to file such documents with either the County Tax Board or Tax Court of New Jersey as deemed appropriate.

(b) resolve and settle tax appeals pending before the County Tax Board, Tax Court or Appellate Courts for any tax year and authorize the attorney for the Taxing District to formalize such settlement in the appropriate Courts and/or County Tax Board.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-11 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
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RESOLUTION SUMMARY

2023-12

To adopt Debt Management and Capital Policy for 2023



RESOLUTION NO. 2023-12

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION ADOPTING A DEBT MANAGEMENT AND CAPITAL POLICY

WHEREAS, the Mayor and Council of the City of Asbury Park wish to establish policies with respect to Debt Management and Fiscal and Fund Balance Policy and Capital Policy and

WHEREAS, the policies will serve as guidance for staff, committees and the governing body for budgeting, capital planning and other purposes, and

WHEREAS, it is the belief of Mayor and Council that the policies will demonstrate the City of Asbury Park's intent to maintain strong long-term financial health, and

WHEREAS, the policies established hereby will be periodically reviewed and updated to ensure that they are in consonance with needs and desires of the City.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Asbury Park that the Debt Management and Capital Policies (see attached) be approved.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-12 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



CAPITAL POLICY

Capital Policy Elements:

Process Elements:

1. Capital planning, budgeting and analysis
 - a. Asbury Park will annually adopt a 6-year plan to ensure that it is planning for its long term needs and that it allocates capital spending across all of its functional (departmental) needs and to ensure that it is generating adequate capacity within its capital budget to accommodate the large non-recurring projects that are certain to arise on a periodic basis.
 - b. All functional areas will collaborate for capital through an organized planning process. The planning process will occur annually coincident with the budget and will result in a rolling 6-year capital plan that is adopted by Council and revised and updated and re-adopted annually.
 - c. Each department should maintain a schedule of assets that will require renewal/replacement. The schedule should sufficiently itemize the assets, their estimated useful life, and their current life and estimated replacement cost for use in long-term capital planning.
 - d. The Administration should maintain a schedule of large non-recurring capital projects for discussion, use and evaluation by Council when the 6-year plan is discussed.
 - e. The Administration shall be responsible for developing and maintaining the capital plan.
 - f. The most-current year of the capital plan shall anticipate funding sources that are consistent with Asbury Park's debt policy and the Current Fund (Operating) Budget.
 - g. The capital plan is a planning tool only; nothing in this policy shall prevent the Council from spending on capital items or adopting Improvement Authorizations that are not in the capital plan. Nothing in this policy shall obviate the requirement that an improvement Authorization be adopted.
 - h. Improvement Authorization requests shall include a full financial analysis, the extent possible, for the project, including:
 - Estimated total capital costs
 - Annual savings to be realized as a result of the investment
 - Any additional operating expenses that will arise as a result of the investment
 - A calculation of 20-year unlevered Internal Rate of Return and Payback
 - Any additional non-financial costs or benefits arising from the project(It is expected that many projects will not have easily quantified financial returns; however, sound financial management practices call for this type of analysis to ensure that funds are being wisely spent)
2. Management and monitoring of Capital Authorizations
 - a. Improvement Authorizations shall be monitored and managed to avoid unintended consequences on debt and debt service (to avoid over spending relative to the capital plan and debt policy by spending on old Capital Authorizations). The monitoring needs to take into account all Improvements Authorizations that have been approved and not cancelled, regardless of year of approval.

- b. To keep good control over Improvement Authorizations, any project that has not commenced within 2 years of approval of the improvement authorization will be cancelled and, if appropriate, re-submitted for approval.
- c. Once a capital project has commenced, any remaining balance of the Improvement Authorization will be promptly cancelled at project completion, and in the case of multi-year projects, reviewed annually after project commencement.
- d. The Improvement Authorization clean-up process shall occur at the end of each year.

Resolution Adopted January 1, 2023



Debt Management and Fiscal & Fund Balance Policy

INTRODUCTION

The following policy is hereby enacted to standardize the issuance and management of debt for the City of Asbury Park and to provide a general Fund Balance policy. In part, it is the City's goal to have established guidelines of debt management to ensure sound fiscal policy, long term meeting and growth of the City's capital needs, and to maintain or enhance its existing credit rating.

The City of Asbury Park recognizes that one of the keys to sound financial management is a comprehensive Debt Management Policy. These benefits are recognized by bond rating agencies and the development of a Debt Policy is a recommended practice by the Government Finance Officers Association (GFOA). A Debt Policy establishes the parameters for issuing and managing debt. It provides guidelines regarding the timing and purpose for which debt may be issued, presents the types of permissible debt, and the methods of sale that may be used. The Debt Policy should recognize an obligation to fully and timely repay all debt as an essential requirement for entry into the capital markets. Adherence to a Debt Policy helps to ensure that a government maintains a sound financial position and that credit quality is protected. The Debt Policy is to be used in conjunction with the operating and capital budgets, the Capital Improvement Program (CIP), and other financial policies. The advantages of a Debt Policy are:

- Enhancing the quality of decisions;
- Documenting the decision-making process;
- Identifying objectives for staff to implement;
- Demonstrating a commitment to long-term financial planning objectives; and
- Being viewed positively by the bond rating agencies, investment community and taxpayers.

PURPOSE

The Debt Policy Statement sets forth comprehensive guidelines for the financing of capital expenditures. It is the objective of this policy that (1) the City obtains financing only when desirable, (2) the process for identifying the timing and amount of debt financing be as efficient as possible (3) obtain and then retain the highest possible credit rating, (4) obtain the most favorable interest rate and other related costs and (5) comply with full and complete financial disclosure and reporting.

Debt financing, to include general obligation bonds, temporary notes, lease/purchase agreements, debt guaranteed by the City, and other City obligations permitted to be issued or incurred under State statute, should only be used to purchase capital assets that will not be acquired from current resources. The useful life of the asset or project needs to equal or exceed the payout schedule of

any debt the City assumes for that project. This allows for a closer match between those who benefit from the asset and those that pay for it.

To enhance creditworthiness and prudent financial management, the City is committed to systematic capital planning, intergovernmental cooperation and coordination, and long-term financial planning. Evidence of this commitment to capital planning will be demonstrated through adoption and periodic adjustment of the City's Capital Improvement Plan (CIP) and the annual adoption of a multi-year Capital Improvement Budget. Capital Planning shall be the responsibility of the City Administrator.

ANNUAL REVIEW

This Debt Management Policy should be reviewed annually during the annual budget process. Any recommended changes shall be required to be adopted by the City Council.

IMPLEMENTATION

The City's Debt Policy shall be implemented by City Administrator and/or CFO when developing comprehensive debt management guidelines that provides for the following:

- Full and timely payment of principal and interest on all outstanding debt
- That debt be incurred only for those purposes as provided by State statute
- Capital improvements should be developed, approved and financed in accordance with the capital improvement budgeting process as required by the adoption of the annual budget
- The payment of debt shall be secured by the faith, credit and taxing power of the City, in the case of General Obligation, and the by the pledge of specified, limited revenues in the case of other obligations
- Principal and interest retirement schedules shall be structured to: 1) achieve a low borrowing cost for the City, 2) accommodate the debt service payments of existing debt and 3) respond to perceptions of market demand. Shorter maturities should be encouraged to demonstrate that debt is being retired at an aggressive pace
- The City shall select a method of sale that will maximize the financial benefits to the City. Such sales shall be governed by applicable laws, rules and regulations established by the State of New Jersey
- The City can incur debt as per the rules and regulations as promulgated by the State of New Jersey as outlined in N.J.S.A 40A:2-1 et seq. (New Jersey Bond Law) and N.J.S.A 40A:3-1 et seq. (Municipal Qualified Bond Act) or other appropriate laws, regulations or rules
- Maintain an existing Fund Balance (surplus) of 5% - 15% of the previous year's local government tax levy
- Maintain that debt appropriations are moderate in regards to the annual budget with a goal of no more than 15% of appropriations
- The City shall maintain good communications with bond rating agencies to ensure complete and clear understanding of the credit worthiness of the City; and

- Every financial report (AFS, ADS, Official Statement, etc.) shall follow a policy of full, complete and accurate disclosure of financial conditions and operating results.

Primary responsibility for making debt-financing recommendations rests with the CFO with assistance from staff and/or selected consultants. The responsibilities of staff, inclusive of the CFO, shall be to:

- Consider the need for debt financing and assess progress on the current Capital Program and any other program/improvement deemed necessary
- To review applicable debt ratios in accordance with State law
- Review changes in federal and State legislation that affects the City's ability to issue debt and report such findings to the City Administrator
- Review the provisions of Ordinance related to capital affairs
- Review the opportunities for refinancing existing debt
- Recommend services by a financial advisor, bond counsel, or other entity as appropriate
- In December of each year, at a minimum one week before a Council meeting, provide the Council with recommendations of existing Capital Ordinances that can be cancelled
- Two months before a scheduled Note or Bond Sale, at a minimum one week before the next Council meeting, provide the Council with recommendation of existing Capital Ordinances that can be cancelled

In developing financing recommendations, the City staff should consider:

- Effects of proposed actions on the tax rate
- Trends in bond market structures
- Trends in interest rates
- Other factors as deemed appropriate

Debt is intended to be structured to match projected cash flows, moderate the impact on future property tax levies, and maintain a relatively rapid repayment of principal. The City will endeavor to repay as much of the initial principal amount within ten years as practicable. The City will endeavor to maintain a steady annual budget appropriation in efforts reduce future debt by appropriating the highest annual payment of its current debt structure.

The City may use an objective analytical approach to determine whether it desires to issue new General Obligation bonds. Generally, this process will compare ratios of key financial and economic data. The goal will be for the City to maintain or improve its existing credit rating.

The decision on whether or not to issue new General Obligation bonds should be, based, in part, on:

- Cost versus benefit
- The current conditions of the bond market
- The City's ability to issue new General Obligations as determined be the aforementioned benchmarks
- Stabilization of the tax rate/appropriation

FUND BALANCE

Fund Balance, commonly referred to as “surplus” is simply Assets minus Liabilities. The City will make an effort to ensure a regular Fund Balance in reserve (not used in the budget) that is adequate.

The City will follow to the best extent practical, that the GFOA Best Practice recommends, at a minimum, that general-purpose governments, regardless of size, maintain unrestricted budgetary fund balance in their general fund of no less than two months of regular general fund operating revenues or regular general fund operating expenditures.

The City can forecast the Fund Balance for the following year in early December. Budget cancellations or other mechanisms to ensure a steady “cash surplus” may be utilized and authorized by the governing body.

The City understands the importance of a Fund Balance policy as it relates to ensuring continued municipal operations and the long-term impacts of credit ratings.

CREDIT RATINGS

It is the responsibility of the CFO, City Administrator, selected City financial consultant or a combination of all to maintain relationships with the rating agencies that assign ratings to the City’s debt. This effort includes providing periodic updates on the City’s financial conditions as requests, answering questions in relations to the City’s financial operations and other actions deemed appropriate.

The City will obtain a rating from Moody’s Investor Service and Standard & Poor’s Rating Agency. The CFO, City Administrator, selected City financial consultant or a combination of all will determine if an additional rating agency is required.

Full disclosure of operations and open lines of communications shall be made to rating agencies used by the City. Whoever the rating agency requests information from, that individual shall be required to provide said information. The City is committed to full and complete financial disclosure and to cooperating fully with rating agencies and investors. The City is committed to meeting secondary disclosure requirements on a timely and comprehensive basis.

At all times, the City shall seek to maintain and, if possible, to improve its current rating(s) so borrowing costs are minimized and access to credit is preserved.

DISCLOSURES

All financial disclosures including annual financial statements, annual debt statements and annual audit reports will be posted to the Electronic Municipal Market Access (EMMA) website.



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-13

Designating the Depositories wherein all Public Monies and Other Funds of the Municipality Shall Be Kept



RESOLUTION NO. 2023-13

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ASBURY PARK DESIGNATING THE DEPOSITORIES WHEREIN ALL PUBLIC MONIES AND OTHER FUNDS OF THE MUNICIPALITY SHALL BE KEPT

WHEREAS, under New Jersey Statutes, the Governing Body shall, by Resolution, designate the depositories wherein all public monies and other funds of the Municipality shall be kept; and

WHEREAS, all public officials charged with the custody of such public funds shall hereafter deposit such funds only in the depositories named herein; and

WHEREAS, the Mayor, Chief Financial Officer and Treasurer shall be designated as the authorized signatories on all checking accounts, with at least two signatures being required.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Asbury Park that the following banks be, and same are hereby designated as depositories for all City funds, and the account specified and maintained therein for the year 2023:

DEPOSITORY

ACCOUNT

CURRENT FUND:

Investors Bank/Citizens Bank	Current Fund
Investors Bank/Citizens Bank	Tax Collector's Account
Investors Bank/Citizens Bank	Central Disbursing Account
Investors Bank/Citizens Bank	Payroll Account, Flexible Spending Account
Investors Bank/Citizens Bank	Merchant Service Fee Account

GRANT FUND:

Investors Bank/Citizens Bank	Grant Fund
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GENERAL CAPITAL FUND:

Investors Bank/Citizens Bank	General Capital Account
Investors Bank/Citizens Bank	RCA, Freehold/Middletown

PARKING UTILITY OPERATING FUND:

Investors Bank/Citizens Bank	Parking Operating
Investors Bank/Citizens Bank	Parking Utility Refund

PARKING UTILITY CAPITAL FUND

Investors Bank/Citizens	Parking Utility Capital
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SEWER UTILITY OPERATING FUND:

Investors Bank/Citizens Bank	Sewer Utility Operating
Investors Bank/Citizens Bank	Sewer Utility Operating (Asbury Partners)
Investors Bank/Citizens Bank	Sewer Collector's Account

SEWER UTILITY CAPITAL FUND:

Investors Bank/Citizens Bank	Sewer Capital Fund Account
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BEACH UTILITY OPERATING FUND:

Investors Bank/Citizens Bank	Beach Operating Fund Account
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TRUST FUNDS:

Investors Bank/Citizens Bank	Animal Control Trust Fund
Investors Bank/Citizens Bank	Trust - Other
Investors Bank/Citizens Bank	Affordable Housing/Community Initiative
Investors Bank/Citizens Bank	Child Welfare Trust Account
Investors Bank/Citizens Bank	Howell RCA Trust Account
Lakeland Bank	Wesley Lake Escrow
Lakeland Bank	American Water Escrow
Investors Bank/Citizens Bank	Law Enforcement Trust (Local)
Investors Bank/Citizens Bank	Community Development Fund
Santander Bank	Madison/Asbury Retail Escrow
Investors Bank/Citizens Bank	Workers Compensation Trust Account
Santander Bank	Planning/Zoning Escrow Trust Account
Investors Bank/Citizens Bank	Law Enforcement Trust (Federal)
Investors Bank/Citizens Bank	Tax Collectors Redemption Account
Investors Bank/Citizens Bank	Tax Sale Premium Account
Lakeland Bank	Beach Urban Renewal Escrow
Lakeland Bank	NJ Natural Gas Escrow
Santander Bank	Metro Homes Escrow
Santander Bank	Madison/Wesley Escrow
Lakeland Bank	Beach Urban Renewal Inspection Escrow
Investors Bank/Citizens Bank	Millstone/Wall/Spring Lake RCA
Santander Bank	I-Star2 Escrow
Santander Bank	AEF Savoy Theatre Escrow
Santander Bank	Michaels Development Escrow
Lakeland Bank	Springwood Avenue Redevelopment Escrow
Lakeland Bank	Mattison Avenue Properties, LLC Escrow

Investors Bank/Citizens Bank	Master Escrow
Investors Bank/Citizens Bank	Affordable Housing Trust Fund
Investors Bank/Citizens Bank	Waterfront Redevelopment Trust

All funds of the City of Asbury Park may be invested in New Jersey Cash Management at any time. Moreover, funds may be invested in any one of the designated depositories named in the 2023 Cash Management Plan at the discretion of the Chief Financial Officer.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-13 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-14

To adopt the Cash Management Plan for 2023



RESOLUTION NO. 2023-14

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION ADOPTING A CASH MANAGEMENT PLAN FOR THE CITY OF ASBURY PARK

WHEREAS, The State of New Jersey Department of Community Affairs has requested that all government entities update their cash management plans to insure compliance with N.J.S.A. 40A:5-14; and,

WHEREAS, The City of Asbury Park's Chief Financial Officer and Treasurer recommend that the attached Cash Management Plan for Fiscal Year 2023 be adopted.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, and the State of New Jersey that the Fiscal Year 2023 Cash Management Plan is hereby adopted as indicated in the annexed document.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-14 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

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YVONNE CLAYTON
JESSE KENDLE
EILEEN CHAPMAN

DONNA M. VIEIRO, CITY MANAGER
MELODY HARTSGROVE, RMC, CITY CLERK

CASH MANAGEMENT PLAN OF THE CITY OF ASBURY PARK COUNTY OF MONMOUTH, NEW JERSEY

I. STATEMENT OF PURPOSE.

This Cash Management Plan (the “Plan”) is prepared pursuant to the provision of N.J.S.A. 40A:5-14 in order to set forth the basis for the deposits (“Deposits”) and investment (“Permitted Investments”) of certain public funds of the City of Asbury Park (the “City”) pending the use of such funds for the intended purposes. The Plan is intended to assure that all public funds identified herein are deposited in interest bearing Deposits or otherwise invested in Permitted Investments hereinafter referred to. The intent of the Plan is to provide that the decisions made with regard to the Deposits and Permitted Investments will be done to insure the safety, the liquidity (regarding its availability for the intended purposes), and the maximum investment return within such limits. The Plan is intended to insure that any Deposit or Permitted Investment matures within the time period that approximates the prospective need for the funds deposited or invested so that there is not a risk to the market value of such Deposits or Permitted Investments.

II. DESIGNATION OF OFFICIALS OF THE CITY OF ASBURY PARK AUTHORIZED TO MAKE DEPOSITS AND INVESTMENTS UNDER THE PLAN.

The Chief Financial Officer (the “Designated Official”) of the City of Asbury Park is hereby authorized and directed to deposit and / or invest the funds referred to in the Plan. Prior to making any such Deposits or any Permitted Investments, such officials of the City of Asbury Park are directed to supply to all depositories or any other parties with whom the Deposits or Permitted Investments are made a written copy of this Plan which shall be acknowledged in writing by such parties and a copy of such acknowledgment kept on file with such officials.

III. DEFINITIONS.

“Arbitrage” refers to the rules and regulations governing the issuance of Bonds or Notes and the reinvestment of the proceeds at a higher yield. These regulations are promulgated by the Internal Revenue Services, Regulation 1.103.

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“Certificate of Eligibility” is the certification issued by the New Jersey Department of Banking and Insurance, Division of Banking that a public depository is eligible to act as a depository for public funds and qualifies as a participant in the New Jersey Governmental Unit Deposit Protection Act (GUDPA).

“Government Money Market Mutual Fund.” An investment company or investment trust:

- (a) which is registered with the Securities and Exchange Commission under the “Investment Company Act of 1940,” 15 U.S.C. sec.80a-1 et seq., and operated in accordance with 17 C.F.R. sec. 270.2a-7.
- (b) the portfolio of which is limited to U.S. Government securities that meet the definition of any eligible security pursuant to 17 C.F.R. sec. 270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities; and
- (c) which has:
 - (i) attained the highest ranking of the highest letter and numerical rating of a nationally recognized rating organization; or
 - (ii) retained an investment advisor registered or exempt from registration with the Securities and Exchange Commission pursuant to the “Investment Advisors Act of 1940,” 15 U.S.C. sec. 80b-1 et seq., with experience investing in U.S. Government securities for at least the most recent past 60 months and with assets under management in excess of \$500 million.

“GUDPA” requires a bank that accepts public funds to be a public depository. A “public depository” is defined as a state bank, a national bank, a savings bank or association which is located in the State of New Jersey, the deposits of which are insured by the Federal Deposit Insurance Corporation, and which receives or holds public funds on deposit. A Local Unit may make deposits in, or purchase certificates of deposits from, banks which are located in New Jersey and which meet the requirements of GUDPA.

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“Local Government Investment Pool”. An investment pool:

- (a) which is managed in accordance with 17 C.F.R. sec. 270.2a-7;
- (b) which is rated in the highest category by a nationally recognized statistical rating organization;
- (c) which is limited to U.S. Government securities that meet the definition of an eligible security pursuant to 17 C.F.R. sec. 270.2a-7 and repurchase agreements that are collateralized by such U.S. Government securities;
- (d) which is in compliance with rules adopted pursuant to the “Administrative Procedure Act,” P.L. 1968, c. 410 (c.52:14B-1 et seq.) by the local Finance Board of the Division of Local Government Services in the Department of Community Affairs, which rules shall provide for disclosure and reporting requirements, and other provisions deemed necessary by the board to provide for the safety, liquidity and yield of investments;
- (e) which does not permit investments in instruments that: are subject to high price volatility with changing market conditions; cannot reasonably be expected, at the time of interest rate adjustment, to have a market value that approximates their par value; or utilize an index that does not support a stable net asset value; and
- (f) which purchases and redeems investments directly from the issuer, government money market mutual fund, or the State of New Jersey Cash Management Fund, or through the use of a national or State bank located within this State, or through a broker-dealer which, at the time of purchase or redemption, has been registered continuously for a period of at least two years pursuant to section 9 of P.L. 1967 c.9 (C.49:3-56) and has at least \$25 million in capital stock (or equivalent capitalization if not a corporation), surplus reserves for contingencies and undivided profits, or through a securities dealer who makes primary markets in U.S. Government securities and reports daily to the Federal Reserve Bank of New York its position in and borrowing on such U.S. Government securities.

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“The New Jersey Cash Management Fund.” The New Jersey Division of Investment is authorized pursuant to N.J.S.A. 52:18A-90.4 to establish, maintain and operate, with the approval of the State Investment Council and the State Treasurer, a common trust fund known as the State of New Jersey-New Jersey Cash Management Fund (the “Fund”). The Fund is authorized to accept deposits from all Local Units of government. The Fund is a “common trust” fund pursuant to the statute, which created such funds within the jurisdiction of the Division of Investment. According to the enabling legislation, monies of Local Units deposited in the Fund must be invested in obligations and bonds, which meet the investment requirements of the statute. These obligations include, among other things, evidences of indebtedness of U.S. corporations. These obligations are less secure than those permitted to Local Units under the Act. Thus, the Fund is riskier than direct investments in federal securities or GUDPA protected deposits by Local Units.

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IV. IDENTIFICATION OF FUNDS AND ACCOUNTS TO BE COVERED BY THE PLAN.

- A. The Plan is intended to cover the deposit and / or investment of the following funds and accounts of the City:

Current Fund	General Capital Fund
Beach Utility Operating Fund	Beach Utility Capital Fund
Transp. Utility Operating Fund	Transport. Utility Capital Fund
Sewer Utility Operating Fund	Sewer Utility Capital Fund
Trust Funds	Payroll Fund
Grant Funds	

- B. The Plan is not intended to cover the deposit and / or investment of the following funds and accounts of the City.
1. Petty Cash Funds.
 2. Cash drawn from a Federal Agency under a letter of credit which cash has to be paid out within 5 working days to a vendor.
 3. Deposit, retainage, or amounts posted by way of bond, for such things as faithful performance, if the City would be required by law to pay back any interest earned to the provider of the deposit, except where the City is required by law or court order to invest the funds.
 4. Amounts derived from the sale of bonds or notes, only to the extent that a specific written opinion of bond counsel states that the earning of (full) interest would result in the bonds or notes being classified as an arbitrage (not federally tax exempt) issue pursuant to Federal regulations. To the extent that some interest is allowable, it shall be deposited at the most favorable rates obtainable.

V. STANDARDS OF CARE.

1. Employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees shall disclose any material interests in the financial institutions with which business is conducted and they shall

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refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the City.

2. The Chief Financial Officer, under the direction of the Mayor and Council, is responsible for establishing and maintaining internal control. The controls should ensure that the assets of the City are protected from loss, theft, or misuse.

VI. PROCEDURES FOR THE RECEIPT OF MONIES.

A. Department Procedures

1. A receipt shall be issued in duplicate for all transactions involving the receipt of money. A copy of the receipt shall be given to the paying party and the duplicate shall be maintained by the receiving department. All payments and receipts must be recorded.
2. All monies collected or received from any source by or on behalf of the City shall be deposited within forty-eight (48) hours of receipt to the designated bank pursuant to N.J.S.A. 40A:5-15.
3. All monies received shall be placed in a secured place until forwarded for deposit.
4. No department, division or agency shall engage in the practice of cashing checks with public funds. Cashing of employee paychecks is prohibited.

B. Chief Financial Officer (Designated Official)

1. The Chief Financial Officer is responsible for the following accounts: Current, Dog Trust, Other Trust, Capital, Escrows, Payroll, Unemployment, Sewer Operating, Sewer Capital, Law Enforcement Trust, Grant, Beach Operating, Beach Capital, Transportation Operating and Transportation Capital.

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2. The Chief Financial Officer shall:

- a. Deposit all monies collected or received from any source by or on behalf of the City within forty-eight (48) hours of receipt to the designated bank pursuant to N.J.S.A. 40A:5-15.
- b. Ensure that all monies deposited are in interest bearing accounts.
- c. Make recommendations of legal public depositories to the City Council who shall by resolution designate said depositories at the first meeting of the calendar year.
- d. Ensure that each of the various accounts for which there is a separate bank statement is reconciled with the bank statement by the end of the following month.
- e. Verify that designated official depositories submit to the Chief Financial Officer a copy of the State of New Jersey, Department of Insurance, Division of Banking, Governmental Unit Deposit Protection Act notification of eligibility, which must be filed semi-annually in the Division of Banking as of June 30th and December 31st of each year.

VII. DESIGNATION OF DEPOSITORIES.

City Council authorized a resolution on January 1, 2023, which designated the following banks, and financial institutions as official depositories for the Deposit of all public funds referred to in the Plan, including any Certificates of Deposit which are not otherwise invested in Permitted Investments as provided for in this plan:

Lakeland Bank
Santander Bank
Investors Bank

Citizens Bank

All such depositories shall acknowledge in writing receipt of this Plan by sending a copy of such acknowledgment to the Designated Official referred to in Section II above.

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VIII. AUTHORIZED INVESTMENTS.

A. Except as otherwise specifically provided herein, the Designated Official is hereby authorized to invest the public funds covered by this Plan, to the extent not otherwise held in Deposits, in the following Permitted Investments:

1. Bonds of other obligations of the United States of America or obligations guaranteed by the United States of America;
2. Government money market mutual funds;
3. Any obligation that a federal agency or a federal instrumentality has issued in accordance with an act of Congress, which security has a maturity date not greater than 397 days from the date of purchase, provided that such obligation bears a fixed rate of interest not dependent on any index or other external factor;
4. Bonds of other obligations of the Local Unit or bonds or other obligations of school districts of which the Local Unit is a part or within which the school district is located;
5. Bonds or other obligations, having a maturity date not more than 397 days from the date of purchase, approved by the Division of Investment of the Department of Treasury for investment by Local Units;
6. Local Government Investment Pools;
7. Deposits with the State of New Jersey Cash Management Fund established pursuant to section 1 of P.L. 1977, c.281 (C.52:18A-90.4); or
8. Short-term debt obligations issued by New Jersey municipalities, counties, local authorities and school districts, having a maturity no longer than 397 days from date of purchase.

CITY OF ASBURY PARK
ONE MUNICIPAL PLAZA
ASBURY PARK, NJ 07712

PHONE: (732) 775-2100
FAX: (732) 775-0441



CITY COUNCIL
JOHN B. MOOR, MAYOR
AMY QUINN, DEPUTY MAYOR
YVONNE CLAYTON
JESSE KENDLE
EILEEN CHAPMAN

DONNA M. VIEIRO, CITY MANAGER
MELODY HARTSGROVE, RMC, CITY CLERK

IX. SAFEKEEPING CUSTODY PAYMENT AND ACKNOWLEDGMENT OF RECEIPT OF PLAN.

To the extent that any Deposit or Permitted Investment involves a document or security which is not physically held by the City, then such instrument or security shall be covered by a custodial agreement with an independent third party, which shall be a bank or financial institution in the State of New Jersey. Such institution shall provide for the designation of such investments in the name of the City to assure that there is no unauthorized use of the funds or the Permitted Investments or Deposits. Purchase of any Permitted Investments that involve securities shall be executed by a “delivery versus payment” method to insure that such Permitted Investments are either received by the City or by a third party custodian prior to or upon the release of the City’s funds.

To assure that all parties with whom the City deals either by way of Deposits or Permitted Investments are aware of the authority and the limits set forth in this Plan, all such parties shall be supplied with a copy of this Plan in writing and all such parties shall acknowledge the receipt of that Plan in writing, a copy of which shall be on file with the Designated Official.

X. CITY AUDITOR.

The investment practices, receipt procedures and the agreement for banking services and compensation thereof shall be reviewed by the City auditor as part of the annual audit, as required by N.J.S.A. 40A:5-4. Where a conflict exists between this Plan and State statute, the applicable statute shall govern.

The Designated Official charged with the custody of the monies of the City shall deposit them as stated by the Plan and shall thereafter be relieved of any liability or loss of such monies due to insolvency or closing of any depository designated in the Plan pursuant to N.J.S.A. 40A:5-14.

XI. SURETY BONDS.

The Chief Financial Officer, the Tax Collector, and Court Personnel shall be covered by surety bonds, proper coverage to be determined and tested during the course of the annual audit.

All City employees not covered by separate Surety Bonds shall be covered by a Public Employee’s Blanket Bond providing \$1,000,000 of Employee Dishonesty Blanket Bond Coverage.

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MELODY HARTSGROVE, RMC, CITY CLERK

XII. ESTABLISHING AND MAINTAINING CONTROLS.

When possible, the internal controls should provide for a separation of the investment placement functions and the accounting activity. Controls must be designated for telephone orders, wire transfers and securities safekeeping. Only specifically designated personnel of the Finance Department shall be allowed to conduct this part of the transactions, and all activity should be subject to immediate written confirmation by the designated depository. The Chief Financial Officer shall review each day's activity.

XIII. REPORTING REQUIREMENTS.

The Designated Official referred to in Section II hereof shall supply to the Governing Body of the City a written report of any Deposits or Permitted Investments made pursuant to this Plan, which shall include, at a minimum, the following information:

- A. The name of any institution holding funds of the City as a Deposit or a Permitted Investment.
- B. The amount of securities or Deposits purchased or sold during the immediately preceding month.
- C. The class or type of securities purchased or Deposits made.
- D. The book value of such Deposits or Permitted Investments.
- E. The earned income on such Deposits or Permitted Investments. To the extent that such amounts are actually earned at maturity, this report shall provide an accrual of such earnings during the immediately preceding month.
- F. The fees incurred to undertake such Deposits or Permitted Investments.
- G. The market value of all Deposits or Permitted Investments as of the end of the immediately preceding month.
- H. All other information which may be deemed reasonable from time to time by the Governing Body of the City.

CITY OF ASBURY PARK
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CITY COUNCIL
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AMY QUINN, DEPUTY MAYOR
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EILEEN CHAPMAN

DONNA M. VIEIRO, CITY MANAGER
MELODY HARTSGROVE, RMC, CITY CLERK

XIV. TERM OF PLAN.

This Plan shall be in effect until December 31, 2023. Attached to this Plan is a resolution of the Governing Body of the City approving this Plan for such period of time. The Plan may be amended from time to time by resolution of the governing body. To the extent that any amendment is adopted by the Council, the Designated Official is directed to supply copies of the amendment to all of the parties who otherwise have received the copy of the originally approved Plan, which amendment shall be acknowledged in writing in the same manner as the original Plan was so acknowledged.

Attachment: Cash Management Policy 2023 (2023-14 : Cash Management)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-15

To change PC custodian from Marykay Callahan to JoAnn Boos, CFO

**RESOLUTION NO. 2023-15**

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING CHANGE IN CUSTODIAN OF PETTY CASH FUND

Whereas, Marykay Callahan was custodian of the Finance Department Petty Cash Fund, and

Whereas, in accordance with N.J.S.A. 40:5-21, the City of Asbury Park is changing custodians to JoAnn Boos; and

Whereas, JoAnn Boos is bonded in the amount of \$1,000,000 by virtue of a surety bond.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-15 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-16

Yvonne Adams Appointment of Recycling Coordinator for the Year 2023

**RESOLUTION NO. 2023-16**

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING A RECYCLING COORDINATOR FOR THE YEAR 2023

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Asbury Park hereby appoint Yvonne Adams as the Recycling Coordinator for 2023.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-16 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-17

Crediting Sewer Account For Deduct Meter

**RESOLUTION NO. 2023-17**

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION TO CREDIT SEWER ACCOUNT FOR DEDUCT METER

WHEREAS, properties in The City of Asbury Park have deduct meters used for irrigation credits and are not connected to a sewer line; and

WHEREAS, it was made certain that New Jersey American Water Company bills for water consumption; and

WHEREAS, it has been determined by the City of Asbury Park Sewer Department that the Tax Collector should issue a sewer credit on accounts with a deduct meter; and

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council for the City of Asbury Park authorize the Tax Collector to credit each sewer account with a deduct meter reading for 2023.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-17 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-18

Fixing The Rate Of Interest To Be Charged On Delinquent Taxes, Assessments And Sewer Accounts For 2023



RESOLUTION NO. 2023-18

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF ASBURY PARK FIXING THE RATE OF INTEREST TO BE CHARGED ON DELINQUENT TAXES, ASSESSMENTS AND SEWER ACCOUNTS FOR 2023

WHEREAS, N.J.S.A. 54:4-67 permits the Governing Body of each Municipality to fix the rate of interest to be charged for nonpayment of taxes or assessments subject to any abatement or discount for the late payment of taxes provided by law; and

WHEREAS, N.J.S.A. 54:4-67 has been amended to permit the fixing of said rate of 8% per annum on the first \$1,500.00 of the delinquency and 18% per annum on any amount in excess of \$1,500.00; and

WHEREAS, N.J.S.A. 54:4-67 has been amended to allow for an additional penalty of 6% to be collected against delinquency in excess of \$10,000.00 on properties that fail to pay the delinquency prior to the end of the calendar year; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Asbury Park, as follows:

1. The Tax Collector is hereby authorized and directed to charge 8% per annum on the first \$1,500.00 of taxes becoming delinquent after due date, and 18% per annum on any amount of taxes in excess of \$1,500.00 becoming delinquent after due date, and if delinquency in excess of \$10,000.00 remains in arrears beyond December 31st, a penalty of 6% of the amount of the delinquency shall be charged.
2. Effective January 1, 2023, no interest shall be charged if payment on any installment is made within ten (10) calendar days following the date upon which the installment became due.
3. Any payments not made in accordance with Paragraph Two of this Resolution shall be charged the interest from the due date.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be provided by the City Clerk to the Tax Collector, City Attorney, Chief Financial Officer and the City Auditor for the City of Asbury Park.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-18 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-19

Setting Fees for Tax Collection Department for 2023



RESOLUTION NO. 2023-19

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION SETTING FEES FOR TAX COLLECTION DEPARTMENT FOR 2023

WHEREAS, Title 54 of the New Jersey Revised Statutes authorizes municipalities to charge certain fees for various services provided by the Tax Collector; and

WHEREAS, the City of Asbury Park currently charges fees for other City services; and

WHEREAS, the City Council believes it is in the best interest of the City to review and update said fees on a regular basis.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Asbury Park, County of Monmouth, State of New Jersey, the City of Asbury Park will charge fees for the below services.

Redemption of certificate.

In accordance with N.J.S.A. 54:5-54, the Tax Collector shall provide to any party entitled to redeem a certificate pursuant to this section (N.J.S.A. 54:5-54) two calculations of the amount required for redemption within a calendar year at no cost. For each subsequent calculation requested from the Tax Collector, there shall be a \$50 fee. A request for a redemption calculation shall be made in writing to the Tax Collector.

Redemption of tax lien.

In accordance with N.J.S.A. 54:5-97.1, the Tax Collector may charge a lienholder of a tax lien \$50 for the calculation of the amount due to redeem the tax lien as required pursuant to N.J.S.A. 54:5-97.1. Any request for a redemption calculation shall specify the dates to be used for calculation, which shall be the date of the notice. Neither the Tax Collection nor the municipality shall be liable for an incorrect calculation. The fee paid to the municipality shall not become part of the lien and shall not be passed on to any party entitled to redeem pursuant to N.J.S.A. 54:5-54.

Service charge for insufficient funds.

In accordance with N.J.S.A. 40:5-18, the service charge for a payment returned for insufficient funds shall be \$20 per payment. Any service charge authorized by this section shall be collected in the same manner prescribed by law for the collection of the account for which the payment was tendered. In addition, the governing body may require future payments to be tendered in

cash or by certified or cashier's check.

Duplicate tax bill.

In accordance with N.J.S.A. 54:4-64(d), the Tax Collector is hereby authorized to charge the following fees for the preparation of duplicate tax bills:

A. \$5 for the first duplicate copy.

B. \$25 for each subsequent duplicate copy requested in the same fiscal year.

Tax search certificate.

In accordance with N.J.S.A. 54:5-14, the Tax Collector is hereby authorized to charge a fee of \$10 for each official municipal tax search certificate issued. Pursuant to N.J.S.A. 54:5-15, the Tax Collector is further authorized to charge a fee of \$2 per calendar year for the continuation of an official municipal tax search.

Duplicate tax sale certificate.

In accordance with N.J.S.A. 54:5-52.1, the Tax Collector is hereby authorized to charge a fee of \$100 for the preparation of a duplicate tax sale certificate. This fee shall be collected upon the receipt of a written request for a duplicate certificate from the legal lienholder or their representative and must be approved by the Mayor and Council, by resolution, before a duplicate certificate can be created.

Certificate of redemption.

In accordance with N.J.S.A. 54:5-97.1, the Tax Collector is hereby authorized to charge a fee of \$40 to prepare and execute a certificate of redemption of tax sale. This fee shall be collected upon the receipt of a written request from the property owner or their authorized agent.

Mailing of tax sale notices in lieu of advertising.

The Tax Collector is hereby authorized to send, by regular mail, two notices in lieu of any two tax sale publications to the property owner of record and to any person or entity entitled to notice pursuant to N.J.S.A. 54:5-104.48 for a fee of \$25 per notice. The total cost to be charged and collected shall not exceed \$50 per property tax sale.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-19 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-20

Approving and Adopting a Form Required to be used for Filing a Tort Claim



RESOLUTION NO. 2023-20

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPROVING AND ADOPTING A FORM REQUIRED TO BE UTILIZED FOR THE FILING OF TORT CLAIMS AGAINST THE CITY OF ASBURY PARK IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY TORT CLAIMS ACT

WHEREAS, the New Jersey Tort Claims Act, N.J.S.A. 59:8-6 provides that a public entity may adopt a form to be completed by claimants seeking to file a Notice of Tort Claim against the public entity; and

WHEREAS, the City of Asbury Park (the “City”) is a public entity covered by the provisions of the New Jersey Claims Act; and

WHEREAS, the City deems it advisable, necessary and in the public interest to adopt a Notice of Tort Claim form in the form attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the attached Notice of Claim form be and is hereby adopted as the official Notice of Tort Claim form for the City; and
2. That all persons making claims against the City, pursuant to the New Jersey Tort Claims Act, N.J.S.A. 59:8-1, *et seq.* be required to complete the form herein adopted as a condition with the notice requirements of the New Jersey Tort Claims Act.
3. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Donna M. Vieiro, City Manager;
 - b. Eric J. Nemeth, Esq., NJIIF;
 - d. Ezio I. Altamura, AAI, CIC, CWCP, NJWCP;
 - e. Justin Wilkinson, Account Manager, PMA; and
 - f. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-20 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-21

Appointing A Deputy Mayor



RESOLUTION NO. 2023-21

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING A DEPUTY MAYOR

WHEREAS, pursuant to N.J.S.A. 40:69A-87, the Mayor shall preside at all meetings of the Municipal Council and have such other powers as specified therein; and

WHEREAS, the Municipal Council wishes to designate another member of the Council with the title of “Deputy Mayor” so that such Council Member may act as the “Mayor” in cases of the Mayor’s absence or disability, or otherwise in the event of the Mayor’s inability to act (per N.J.S.A. 40:69A-87); and

WHEREAS, the Council Member chosen herein shall serve as the “Deputy Mayor” until the time of the next Organization meeting of the Municipal Council, or until such other time as the Municipal Council shall determine by subsequent Resolution.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That Council Member Amy Quinn is hereby designated with the title of “Deputy Mayor” to act as the Mayor in cases of the Mayor’s absence or disability, or otherwise in the event of the Mayor’s inability to act (per N.J.S.A. 40:69A-87).
2. That this designation shall be effective until the time of the next Reorganization meeting of the Municipal Council, or until such other time as the Municipal Council shall determine by subsequent Resolution.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-21 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-22

To adopt a temporary budget for the payment of bills until the adoption of the regular budget.



RESOLUTION NO. 2023-22

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION PROVIDING FOR 2023 TEMPORARY BUDGET APPROPRIATIONS

WHEREAS, in the normal operations of the business of the City of Asbury Park, it will be necessary to make contracts, commitments, and payments prior to the adoption of the regular budget for the City of Asbury Park; and

WHEREAS, Revised Statutes 40A:4-19 of the State of New Jersey provide that the Governing Body of any municipality may make temporary appropriations to provide for any contracts, commitments or payments to be made between the beginning of the budget year and the adoption of the final budget; and

WHEREAS, the date of this resolution is within thirty (30) days of the month of January 2023; and

WHEREAS, the total amount of appropriations hereunder of \$13,285,914 for the General Fund, \$3,758,173 for the Sewer Utility Operating Fund, \$538,527 for the Beach Utility Operating Fund and \$443,560 for the Parking Utility Operating Fund for 2023, exclusive of any 2023 appropriations made for Debt Service, Capital Improvement Fund, and Public Assistance does not exceed 26.25% of the 2022 budget.

NOW, THEREFORE, BE IT RESOLVED that the following Temporary Budget for the City of Asbury Park for the year 2023 be adopted, and a certified copy of this resolution be forwarded to the City's Chief Financial Officer.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-22 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

CITY OF ASBURY PARK
2023 TEMPORARY BUDGET

CURRENT FUND

	Salaries & Wages	Other Expenses
IN CAP:		
General Administration	\$ 84,704.00	\$ 78,593.00
Mayor & Council	9,975.00	1,286.00
Central Functions		13,781.00
Clerk's Office	52,157.00	31,474.00
Director of Communications	25,133.00	6,381.00
Financial Administration	152,513.00	109,331.00
Audit		16,275.00
Tax Collector	61,804.00	9,752.00
Tax Assessor	29,543.00	34,703.00
Legal Services		91,875.00
Computerized Data Processing	30,547.00	75,192.00
Cable TV Advisory	5,672.00	7,059.00
Planning Department	65,800.00	24,909.00
Engineering		78,750.00
Code Enforcement	99,623.00	2,790.00
Unemployment Insurance		32,813.00
Liability Insurance		363,563.00
Worker Compensation Insurance		429,440.00
Employee Group Insurance		1,312,500.00
Health Insurance Opt Out		18,375.00
Police	2,818,894.00	123,833.00
Fire Department	1,597,195.00	84,814.00
Municipal Prosecutor		16,275.00
Streets and Roads	408,550.00	202,519.00
Solid Waste	38,956.00	420,000.00
Buildings and Grounds	94,796.00	32,025.00
Social Services	50,190.00	16,118.00
Senior Citizens	51,994.00	9,358.00
Recreation Services	72,346.00	60,955.00
Municipal Court	74,813.00	16,776.00
Public Defender		11,813.00
Uniform Construction Code	127,918.00	6,313.00
Street Lighting		72,188.00
Telephone		38,063.00
Gasoline		78,750.00
Light, Heat and Power		72,188.00
Fire Hydrant Rent		55,125.00
Contr. Acc. Absences		52,500.00
Social Security		223,125.00
Public Employees Retirement System		278,251.00
Police & Firemens Retirement System		1,269,556.00
DCRP		1,838.00
Total Inside CAPS	<u>5,953,123.00</u>	<u>5,881,225.00</u>

Attachment: 2023 TEMP RESO BACKUP FOR RESOLUTION (2023-22 : Temporary Budget - Reorg 2023)

CITY OF ASBURY PARK
2023 TEMPORARY BUDGET

CURRENT FUND

	Salaries & Wages	Other Expenses
O/S CAP:		
Library		197,496.00
Monmouth County 911 and Dispatch Services		694,177.00
BPP		20,111.00
Senior Center Grant		28,320.00
Mental Health Grant		120,230.00
SRO		370,176.00
	-	1,430,510.00
Debt Service:		
Green Acres Loan		21,056.00
		21,056.00
Total O/S CAP	-	1,451,566.00
	5,953,123.00	7,332,791.00
TOTAL CURRENT FUND BUDGET	\$ 13,285,914.00	

CITY OF ASBURY PARK
2023 TEMPORARY BUDGET

SEWER UTILITY OPEARTING FUND

Salaries and Wages	\$ 160,968.00
Other Expenses	3,339,124.00
NJEIT-DEP and Admin Fee	5,250.00
Social Security	14,831.00
Bond Principal	238,000.00
 TOTAL SEWER OPERATING BUDGET	 \$ <u>3,758,173.00</u>

BEACH UTILITY OPEARTING FUND

Salaries and Wages	\$ 357,008.00
Other Expenses	105,394.00
Social Security	23,625.00
Boardwalk Replacement	52,500.00
 TOTAL BEACH UTILITY BUDGET	 \$ <u>538,527.00</u>

TRANSPORTATION UTILITY OPEARTING FUND

Salaries and Wages	\$ 249,375.00
Other Expenses	187,622.00
Social Security	6,563.00
 TOTAL PARKING UTILITY BUDGET	 \$ <u>443,560.00</u>



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-67

Appointing Municipal Court Judge



RESOLUTION NO. 2023-67

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING MUNICIPAL COURT JUDGE

WHEREAS, N.J.S.A. 2B:12-4 provides that each Judge of a Municipal Court shall serve for a term of three years from the date of appointment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asbury Park, County of Monmouth, State of New Jersey that **Ronald J. Troppoli** be and is hereby appointed and designated to serve as the Municipal Court Judge for the City of Asbury Park Municipal Court for a three year term to expire on December 31, 2025 and/or until his successor is appointed and qualified.

BE IT FUTHER RESOLVED that a copy of this Resolution be forwarded to the following:

- a. Hon. Ronald J. Troppoli;
- b. Hon. Lisa P. Thornton, A.J.S.C.;
- c. Hon. James M. Newman, P.J.M.C.;
- d. Theresa Romano, Municipal Division Manager - Monmouth Vicinage;
- e. Joanne N. Pilliod, Municipal Court Administrator;
- f. Donna M. Vieiro, City Manager;
- g. JoAnn Boos, CFO;
- h. Denise Callery, Personnel Officer; and
- i. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-67 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-23

Appointing Frederick C. Raffetto, Esq., to Serve as Municipal Attorney for the City for 2023



RESOLUTION NO. 2023-23

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING FREDERICK C. RAFFETTO, ESQ., TO SERVE AS MUNICIPAL ATTORNEY FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) must appoint a licensed attorney to serve as the “Municipal Attorney” (a/k/a, the “City Attorney”) for the City for the year 2023; and

WHEREAS, the Municipal Attorney shall handle the general legal matters of the City during the term of his appointment, and perform such other legal matters (collectively, the “services”) as may be directed from time to time per the direction of the City Manager; and

WHEREAS, the Mayor and Council have determined to appoint Frederick C. Raffetto, Esq. (the “Attorney”), of the firm of Hill Wallack, LLP, as the Municipal Attorney for the City for 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the firm of Hill Wallack, LLP., has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council;

and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Attorney’s services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. Frederick C. Raffetto, Esq., of the firm of Hill Wallack, LLP, is hereby appointed to serve as the “Municipal Attorney” (a/k/a, the “City Attorney”) for the City for the calendar year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, an Agreement between the City of Asbury Park and Frederick C. Raffetto, Esq., for the year 2023.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.*
5. Legal services rendered to the City of Asbury Park by Frederick C. Raffetto, Esq., or any other attorney of the law firm Hill Wallack, LLP, at a rate of \$175.00 per hour and as referenced in the attached proposal.
6. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
8. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. JoAnn Boos, CMFO, Chief Financial Officer
 - d. Tracy Lizardi, Director of Purchasing, Assistant CFO
 - e. Frederick C. Raffetto, Esq., Municipal Attorney

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-23 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

AGREEMENT, made this ____ day of January, 2023, by and between

THE CITY OF ASBURY PARK
a Municipal Corporation of the State of New Jersey
 One Municipal Plaza
 Asbury Park, New Jersey 07712
 (hereinafter "City");

AND

FREDERICK C. RAFFETTO, ESQ.
 Hill Wallack, LLP
 2 Bridge Avenue, Suite 211
 The Galleria
 Red Bank, New Jersey 07701
 (hereinafter "Mr. Raffetto" or "Attorney" or "Contractor")

WITNESSETH:

WHEREAS, the City requires professional legal services to be performed during the calendar year 2023 by an individual designated to serve as the Municipal Attorney, who shall handle the legal affairs of the City; and

WHEREAS, the City adopted a Resolution authorizing the award of a professional services contract for the aforesaid services to the Attorney without competitive bidding pursuant to a restricted (or "non-fair and open") process in accordance with the New Jersey Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* and the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City and the Attorney wish to set forth their respective rights and responsibilities in the within Agreement.

NOW, THEREFORE, IT IS AGREED, as follows:

1. The City hereby appoints and employs the Attorney to represent, appear and act for the City in the capacity of Municipal Attorney in accordance with the statutes and ordinances

pertaining thereto and to perform such other legal activities as may be directed from time to time by the Mayor and City Council, subject to the terms and conditions contained herein.

2. The Attorney hereby accepts this appointment and agrees to serve as the Municipal Attorney, for the term set forth herein, in accordance with the terms and conditions contained in this Agreement.

3. The City hereby agrees to pay the Attorney for the services performed by him or other representatives of his firm as follows:

(a) Attendance at Council Meetings - The Attorney shall be paid an annual retainer (non-pensionable) in the amount of \$12,000.00, billable at \$1,000.00 per month by the Attorney's law firm, which retainer shall cover attendance by the Attorney or by a qualified licensed substitute at all Council meetings (including all monthly regular meetings and workshop meetings, as well as any special or emergency meetings, called by the governing body of the City) for the duration of this Agreement.

(b) Other Services - Professional services of the Attorney and Attorney's law firm, or in the Attorney's absence, the services of a qualified licensed substitute, shall be rendered on a part-time basis which services shall include, but not necessarily be limited to, research, telephone conferences and advice, court and administrative appearances, preparation of resolutions, ordinances and any other legal documents as may be required by the City, as well as representing the City in litigation matters involving the City and/or City officials, and all other services as may be requested by the governing body, the City Manager, or other officials of the City.

(c) Said services shall be chargeable at the following rates:

i. Legal services rendered to the City by Frederick C. Raffetto, Esq. or any other attorney of the law firm of Hill Wallack LLP - \$175.00 per hour.

ii. Legal services rendered to the City by a research assistant, law clerk, or paralegal - \$90.00 per hour.

iii. Legal services rendered to the City by Frederick C. Raffetto, Esq., or any other attorney of the firm of Hill Wallack, LLP, regarding redevelopment matters for which escrow funds are posted by a private developer or other party - \$195.00 per hour.

4. The Attorney may assign certain appearances and/or projects to other attorneys in his law firm who are members of the legal profession and licensed as Attorneys-at-Law by the State of New Jersey, and/or to paralegals/law clerks, compensation for whose services shall be paid in accordance with paragraph 3 above. The Attorney shall be responsible for supervising and directing the work of such other individuals and for making period progress reports to the Mayor and City Council as to the status of such matters.

5. The City shall reimburse the Attorney for all out-of-pocket costs and expenses advanced by the Attorney or the Attorney's law firm, including but not limited to Court costs, copying or printing costs, excessive postage costs, messenger fees, filing fees, transcript costs, Westlaw or other computerized legal research charges, and for all other similar costs and expenses.

6. The fees and costs paid to the Attorney shall not exceed the amount budgeted for such purposes in budgets heretofore or hereafter adopted in the City.

7. The Attorney shall bill the City monthly for all legal services rendered on vouchers as required by the City. The City agrees to process and pay said vouchers when audited and found

correct. Payment will be made within thirty (30) days of the submission of an audited and approved voucher.

8. The Attorney is aware that the City has enacted Section 2-76 of the Asbury Park City Code, which requires public contracting reform and prohibits certain professional service contractors, during the term of their contracts with the City, from making contributions, or pledges thereof, of money or other in-kind donations, to any City of Asbury Park candidate or holder of the public office within the City having ultimate responsibility for the award of their contracts, or to any City of Asbury Park or Monmouth County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting City of Asbury Park municipal candidates or municipal officeholders. The parties hereby recognize that the Attorney is subject to this prohibition. It shall, therefore, be a breach of this Agreement for the Attorney to violate the requirements of Section 2-76 of the City Code during the term of this Agreement.

9. Statutorily Required Affirmative Action Clause: During the term of this Agreement, the City and the Attorney hereby incorporate into this Agreement the mandatory affirmative action language pursuant to N.J.S.A. 10:5-31, et seq. (P.L. 1975, C.127) N.J.A.C. 17:27, as amended and supplemented from time to time, as set forth in Exhibit A attached. The Attorney shall execute and comply with all requirements contained in the Affirmative Action Affidavit attached hereto as Exhibit B. Both Exhibits are incorporated herein by reference. The Attorney shall submit a copy of the Certificate of Employee Information Report or Form AA-302 (Initial Employee Information Report) prior to any payments being made under this Agreement.

10. The Attorney shall also execute the “Americans With Disabilities Act of 1990” Certification attached hereto as Exhibit C, which shall be incorporated herein by reference.

11. Political Contribution Disclosure: The within Agreement has been awarded to the Attorney based upon the merits and abilities of the Attorney to provide the services as described herein. This Agreement was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned does hereby attest that the Attorney, his Law Firm, his Law Firm’s subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his Law Firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Attorney’s eligibility to perform this Agreement, nor will the Attorney or his Law Firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

12. Subject to the provisions of Paragraph 13 below, this Agreement shall expire on December 31, 2023, or until the appointment and qualification of a successor to the Attorney.

13. This Agreement may be terminated by either party, with or without cause, upon thirty (30) days advance written notice.

14. If applicable, this Agreement is subject to the review and approval of the New Jersey Division of Local Government Services (the “Division”), in accordance with the Memorandum of Understanding executed by the Division and the City regarding the provision of State funding to the City.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day
and year first above written.

CITY OF ASBURY PARK

BY: _____
MAYOR JOHN B. MOOR

ATTEST/WITNESS

LISA ESPOSITO,
CITY CLERK

HILL WALLACK LLP

BY: 

FREDERICK C. RAFFETTO, ESQ.
Attorney/Partner

Attachment: Hill Wallack - Municipal Attorney (2023-23 : Appointment of City Attorney)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-24

Appointing PFK O'Connor Davies to Serve as Auditor for the City.



RESOLUTION NO. 2023-24

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING PFK O'CONNOR DAVIES TO SERVE AS AUDITOR FOR THE CITY AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) must appoint a licensed auditor to handle general auditing responsibilities (the “services”) for the City during the year 2023; and

WHEREAS, on October 29, 2020, a formal “Request for Qualification” (the (“RFQ”) was issued by the City pursuant to the “Fair and Open” process described in N.J.S.A. 19:44A-20.4, et. Seq., seeking interested firms to provide professional auditing services for the City; and

WHEREAS, the Mayor and Council have determined to appoint the firm of PFK O'Connor Davies to serve as the licensed auditor and perform general auditing responsibilities for the City for calendar year 2023; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the City Auditors services may exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq. (the Pay-to-Play Law); and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The firm of PFK O'Connor Davies is hereby appointed to serve as the Auditor for the City for the calendar year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and PFK O'Connor Davies for the aforementioned services, for the calendar year 2023, which contract shall be in a form satisfactory to the Municipal Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. PFK O'Connor Davies shall be paid an amount not to exceed \$60,000.00 for the services enumerated herein.
5. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
6. A certified copy of this Resolution shall be provided to each of the following:
 - a. PFK O'Connor Davies
 - b. Donna M. Vieiro, City Manager
 - c. JoAnn Boos, CMFO, Chief Financial Officer

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-24 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



November 29, 2022

Ms. Donna Vieiro, City Manager
City of Asbury Park
City Hall
One Municipal Plaza
Asbury Park, NJ 07712

Dear Ms. Vieiro:

This letter sets forth our understanding of the terms and objectives of our engagement, and the nature and scope of the services we will provide to the City of Asbury Park (the "City") for the period ending December 31, 2022.

Prior to the commencement of our audit(s) we may not know if an audit performed in accordance with the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards ("Uniform Guidance") is required. Consequently this letter includes the words "if applicable" next to relevant single audit communication requirements.

Audit Objective

We will audit the regulatory basis financial statements of the various funds and account group of the City as of December 31, 2022 and 2021, the related statements of revenues, expenditures and changes in fund balances for the years ending December 31, 2022 and 2021, statement of fund balance, statements of revenues, statements of expenditures and related notes to the financial statements and issue our report by the statutory deadline.

We have also been engaged to report on supplementary information required by the Division of Local Government Services, Department of Community Affairs, State of New Jersey (the "Division"), Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements for Federal Awards* (if applicable) and by New Jersey OMB Circular 15-08, *Single Audit Policy for Recipients of Federal Grants, State Grants and State Aid* (if applicable) that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

- 1) Analysis by fund:
 - a) Current Fund
 - b) Trust Fund
 - c) General Capital Fund
 - d) Sewer Utility Fund
 - e) Transportation Utility Fund
 - f) Beach Utility Fund
 - g) General Fixed Assets Account Group

PKF O'CONNOR DAVIES, LLP
20 Commerce Drive, Suite 301, Cranford, NJ 07016 | Tel: 908.272.6200 | Fax: 908.272.2416 | www.pkfod.com

PKF O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.

- 2) Supplementary exhibits
 - a) Supplementary Data
 - b) Officials in Office and Report on Surety Bonds as of December 31, 2022
 - c) Comments and Recommendations
- 3) Schedule of expenditures of federal and state awards (if applicable)
- 4) Schedule of findings and questioned costs and prior year audit findings (if applicable)

The objectives of our audit are to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud, error, misappropriation of assets, or violations of laws or governmental regulations that are attributable to the City or to acts by management or employees acting on behalf of the City; and issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with the regulatory basis as prescribed by the Division; and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Because the determination of abuse is subjective, GAGAS do not expect auditors to provide reasonable assurance of detecting abuse. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS, GAGAS, the audit requirements prescribed by the Division, and Uniform Guidance (if applicable) will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

Auditor's Responsibilities for the Audit of the Financial Statements

We will conduct the audit in accordance with US GAAS, GAGAS, the audit requirements prescribed by the Division, and Uniform Guidance (if applicable), and will include tests of accounting records, a determination of major programs in accordance with Uniform Guidance (if applicable), and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with US GAAS, GAGAS, the audit requirements prescribed by the Division, and Uniform Guidance (if applicable), we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements may exist and not be detected by us even though the audit is properly planned and performed in accordance with US GAAS, GAGAS, the audit requirements prescribed by the Division and Uniform Guidance (if applicable). In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements and on those programs we have determined to be major programs (if applicable). However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting or misappropriation of assets and any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit (if applicable). We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential.

The objective for our audit also includes reporting on:

- Internal control related to the financial statements and compliance with the provisions of laws, regulations, contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with GAGAS.

- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with Uniform Guidance, Audits of States, Local Governments and Non-Profit Organizations (if applicable).

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to GAGAS.

Uniform Guidance (if applicable) requires that we also plan and perform the audit to obtain reasonable assurance about whether the City has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the "Uniform Guidance Compliance Supplement" for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of these procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to Uniform Guidance. As required by Uniform Guidance, we will also perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to prevent or detect material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to Uniform Guidance.

Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also include, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the City's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement when required based on our professional judgement.

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Significant Risks identified prior to issuing engagement letter.

We have identified the following significant risk(s) of material misstatement as part of our audit planning:

- Management override of internal controls
- Revenue Recognition
- Financial statement presentation and disclosure issues such as obscuring, misstating, or omitting significant information in disclosures

Audit Procedures – Internal Control

We will obtain an understanding of the government/City and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements and the supplementary information, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards

Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to prevent and detect misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to GAGAS. An audit is also not designed to identify significant deficiencies or material weaknesses. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

Audit Procedures – Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion in our report.

Reporting

We will issue a written report(s) upon completion of our audit of the City's financial statements and written reports required with audits performed in accordance with GAGAS and the Uniform Guidance (if applicable). Our reports will be addressed to management and those charged with governance" of the City. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or withdraw from this engagement.

We will also provide a report (which does not include an opinion) on internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements as required by GAGAS (if applicable).

The reports on internal control and compliance (if applicable) will each include a paragraph that states that the purpose of the report is solely to describe (1) the scope of testing of internal control over financial reporting and compliance and the result of that testing and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance, (2) the scope of testing internal control over compliance for major programs and major program compliance and the result of that testing and to provide an opinion on compliance but not to provide an opinion on the effectiveness of internal control over compliance, and (3) that the report is an integral part of an audit performed in accordance with GAGAS in considering internal control over financial reporting and compliance and Uniform Guidance in considering internal control over compliance and major program compliance. The paragraph will also state that the report is not suitable for any other purpose.

At the conclusion of the engagement, we will complete the appropriate sections of the Data Collection Form (if applicable) that summarize our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit.

We will also communicate with those charged with governance any (a) fraud involving senior management and other fraud that causes a material misstatement of the financial statements; (b) violations of laws or governmental regulations that come to our attention (unless they are clearly inconsequential); (c) disagreements with management and other serious difficulties encountered in performing the audit; and, (d) various matters related to the City's accounting policies and financial statements.

Other Services

We will also assist in preparing the financial statements of City in conformity with regulatory basis accounting principles as prescribed by the Division based on information provided by you.

We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Responsibilities of Management for the Financial Statements

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements, including all disclosures, RSI and supplementary information, in conformity with regulatory basis accounting principles as prescribed by the Division.

Management is responsible for making drafts of financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Your responsibilities include adjusting the financial statements and supplementary information to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the preparation of the supplementary information in conformity with regulatory basis accounting principles as prescribed by the Division. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon.

Management's responsibilities include acknowledging to us in the written representation letter that (1) you are responsible for presentation of the RSI and supplementary information in accordance with the regulatory basis of accounting prescribed by the Division; (2) you believe the RSI and supplementary information, including its form and content, is fairly presented in accordance with the regulatory basis as prescribed by the Division; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the RSI and supplementary information.

Management is responsible for management decisions and assuming all management responsibilities; for designating an individual with suitable skill, knowledge, and/or experience to oversee assistance with preparing the financial statements or other non-attest services we provide; and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of Uniform Guidance (if applicable). As part of the audit, we will assist with preparation of your financial statements, schedule of expenditures of federal awards (if applicable), and related notes. You agree to include our report on the schedule of expenditures of federal awards in any document that contains, and indicates that we have reported on, the schedule of expenditures of federal awards. You also agree to include the audited financial statements with any presentation of the schedule of expenditures of federal awards that includes our report thereon. You are responsible for making all management decisions and assuming all management responsibilities relating to the financial statements, schedule of expenditures of federal awards and related notes, and for accepting full responsibility for such decisions.

Management is also responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the City involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the City received in communications from employees, former employees, grantors, regulators or others. In addition, you are responsible for identifying and ensuring that the City complies with applicable laws, regulations, contracts, agreements and grants and for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report. Additionally, as required by Uniform Guidance (if applicable), it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

In order to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements, management is responsible for establishing and maintaining effective internal control, including internal control over compliance, and for evaluating and monitoring ongoing activities.

Management's responsibilities also include identifying any significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the audit objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or other engagements or studies. The City is also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions for the report, and for the timing and format for providing that information.

It is possible that all or a majority of the audit will be conducted remotely. Management is responsible for ensuring that all electronically provided documents and records are complete and accurate reproductions of the original documents and records. For any part of the engagement performed on premises, management is responsible for ensuring that all applicable safeguards are in place in accordance with Centers for Disease Control guidance and any state and local regulations and guidelines. PKF O'Connor Davies holds the right to not perform work onsite if we consider the onsite conditions unsafe for any reason. Management, in coordination with PKF O'Connor Davies, is responsible to arrange for alternative methods for audit procedures that must be performed on the City's or a third-party's premises.

At the conclusion of the engagement, we will request from management written confirmation concerning representations made to us in connection with the audit. The representation letter, among other things, will confirm management's responsibility for: (1) the preparation of the financial statements in conformity with the regulatory basis as prescribed by the Division, (2) the availability of financial records and related data, and (3) the completeness and availability of all minutes of board meetings. Management's representation letter will further confirm that: (1) the effects of any uncorrected misstatements aggregated by us during the engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole, and (2) we have been informed of, or that there were no incidences of, fraud involving management or those employees who have significant roles in the City's internal control. You will also be required to acknowledge in the management representation letter, when applicable, our assistance with preparation of the financial statements and related schedules, RSI and the schedule of expenditures of federal awards (if applicable) and that you have reviewed and approved the financial statements, aforementioned schedules and RSI, and related notes prior to their issuance and have accepted responsibility for them. We will place reliance on these representations in issuing our report.

To the best of your knowledge, you are unaware of any facts which might impair our independence with respect to this engagement.

The financial statements are the property of the City and can be reproduced and distributed as management desires. However, you must notify us in advance and obtain our approval if you intend to make reference to our firm in a document that includes our auditors' report on the financial statements. Because our engagement does not contemplate the foregoing, there may be an additional fee in connection with our review of any such documents. In the event our auditor/client relationship has been terminated when the City seeks such consent, we will be under no obligation to grant such consent or approval.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

We understand that your accounting department personnel will assist us to the extent practicable in completing the audit. They will provide us with detailed trial balances, supporting schedules, and other information we deem necessary. A list of these schedules and other items of information will be furnished to you before we begin the audit. The timely and accurate completion of this information is an essential condition to our completion of the audit and the issuance of the audit report.

We keep documents related to this engagement in accordance with our records retention policy and applicable regulations or for any additional period requested by the applicable cognizant agency. If we are aware that a federal awarding agency or the City is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation. We do not keep any original client records, so we will return those to you at the completion of the services rendered under this engagement. When records are returned to you, it is your responsibility to retain and protect your records for possible future use, including potential examination by any government or regulatory agencies.

As part of our engagement, we may propose standard, adjusting, or correcting journal entries to your financial statements. Management, however, has final responsibility for reviewing the proposed entries and understanding the nature and impact of the proposed entries to the financial statements. It is our understanding that management has designated qualified individuals with the necessary expertise to be

responsible and accountable for overseeing the acceptance and processing of such journal entries.

Non-reliance on oral advice

It is our policy to put all advice on which a client intends to rely in writing. We believe that is necessary to avoid confusion and to make clear the specific nature and limitations of our advice. You should not rely on any advice that has not been put in writing by our firm after a full supervisory review.

Electronic and other communication

During the course of the engagement, we may communicate with you or with City personnel via fax or e-mail. You should be aware that communication in those media may be unsafe to use and contains a risk of misdirection and/or interception by unintended third parties, or failed delivery or receipt. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of e-mail or other electronic transmissions, including any consequential, incidental, direct, indirect or special damages.

Access to working papers

During the course of this engagement, we will develop files of various documents, schedules and other related engagement information known as our working papers. As we are sure you can appreciate, these working papers may contain confidential information and our firm's proprietary data. You understand and agree that these working papers are, and will remain, our exclusive property. Except as discussed below, any requests for access to our working papers will be discussed with you before making them available to requesting parties:

- (1) Our firm, as well as other accounting firms, participates in a peer review program covering our audit and accounting practices. This program requires that once every three years we subject our system of quality control to an examination by another accounting firm. As part of this process, the other firm will review a sample of our work. It is possible that the work we perform for you may be selected for review. If it is, the other firm is bound by professional standards to keep all information confidential.
- (2) We may be requested to make certain working papers available to regulators pursuant to authority given to them by law, regulation or subpoena. Such regulators may include (i) a federal agency providing direct or indirect funding or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities; (ii) the American Institute of Certified Public Accountants; and (iii) the State Board of Accountancy. If requested, access to such working papers will be provided under the supervision of our personnel. Furthermore, upon request, we may provide photocopies of selected working papers to them. The regulator may intend, or decide, to distribute the photocopies or information contained therein to others, including other government agencies.

Fees and billing

Our fee for these services will be \$60,000.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 90 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Liability

Any and all claims by the City arising under this engagement must be commenced by the City within one year following the date on which our firm delivered our report on the financial statements associated with this engagement, or the date the City is informed of the engagement's termination in the event our report is not delivered, for any reason.

You agree to indemnify our firm, its partners, principals and employees, to the fullest extent permitted by law for any expense, including compensation for our time at our standard billing rates and reimbursement for our out-of-pocket expenses and reasonable attorneys' fees, incurred in complying with or responding to any request (by subpoena or otherwise) for testimony, documents or other information concerning the City by any governmental agency or investigative body or by a party in any litigation or dispute other than litigation or disputes involving claims by the City against the firm. This indemnification will survive termination of this engagement.

Dispute resolution

Any claim or controversy ("dispute") arising out of or relating to this engagement, the services provided thereunder, or any other services provided by or on behalf of the firm or any of its subcontractors or agents to the City or at its request (including any dispute involving any person or entity for whose benefit the services in question are or were provided), shall first be submitted in good faith for mediation administered by the American Arbitration Association ("AAA") under its Mediation Rules. Each party shall bear its own costs in the mediation. Absent an agreement to the contrary, the fees and expenses of the mediator shall be shared equally by the parties.

If the dispute is not resolved by mediation within 90 days of its submission to the mediator, then, and only then, the parties shall submit the dispute for arbitration administered by the American Arbitration Association under its Professional Accounting and Related Services Dispute Resolution Rules (the "Rules"). The arbitration will be conducted before a single arbitrator selected from the AAA's Panel of Accounting Professionals and Attorneys and shall take place in New York, New York.

Any discovery sought in connection with the arbitration must be expressly approved by the arbitrator upon a showing of substantial need by the party seeking discovery.

All aspects of the arbitration shall be treated as confidential. The parties and the arbitrator may disclose the existence, content or result of the arbitration only as expressly provided by the Rules.

The arbitrator shall issue his or her final award in a written and reasoned decision to be provided to each party. In his or her decision, the arbitrator will declare one party the prevailing party. The arbitrator shall have the power to award to the prevailing party reasonable legal fees associated with the arbitration and prior mediation. The arbitrator shall have no authority to award non-monetary or equitable relief of any sort. The arbitrator shall not have authority to award damages that are punitive in nature, or that are not measured by the prevailing party's actual compensatory loss.

The award reached as a result of the arbitration will be binding on the parties and confirmation of the arbitration award may be sought in any court having jurisdiction.

This engagement will be governed by the laws of the State of New York, without giving effect to any provisions relating to conflict of laws that would require the laws of another jurisdiction to apply.

Hosting services

In order to maintain our independence in accordance with the AICPA's Code of Professional Conduct, we cannot host or maintain any client information. You are expected to retain all financial and non-financial information including anything you upload to a portal and are responsible for downloading and retaining anything we upload in a timely manner. Portals are only meant as a method of transferring data, are not intended for the storage of client information, and may be deleted at any time. You are expected to maintain control over your accounting systems to include the licensing of applications and the hosting of said applications and data. We do not provide electronic security or back-up services for any of your data or

records. Giving us access to your accounting system does not make us hosts of information contained within.

Employment of firm partner or professional employee

The City acknowledges that hiring current or former PKF O'Connor Davies personnel participating in the engagement may be perceived as compromising our objectivity, and depending on the applicable professional standards, impairing our independence in certain circumstances. Accordingly, prior to entering into any employment discussions, with such known individuals, you agree to discuss the potential employment, including any applicable independence ramifications, with the engagement partner responsible for the services.

Political Contribution Disclosure

The agreement with the City has been awarded to the Firm based upon the merits and abilities of the Firm to provide the services of the municipal auditor. This agreement was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the Firm and its partners have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the agreement that would, pursuant to P.L. 2004, c. 19, affect the Firm's eligibility to perform the audit, nor will the Firm or its partners make a reportable contribution during the term of the within agreement to any political party committee in the city of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the agreement is awarded.

Confirmation and other

David J. Gannon is the engagement partner and are responsible for supervising the engagement and signing the report or authorizing another individual to sign it. We expect to begin our audit on approximately April 10th 2023.

GAGAS require that we provide you with a copy of our most recent external peer review report, and any subsequent peer review reports received during the period of the contract. Our latest peer review report accompanies this letter.

We will provide copies of our reports to the City; however, management is responsible for distribution of the reports and the financial statements. Unless restricted by law or regulation, or containing privileged and confidential information, copies of our reports are to be made available for public inspection.

Our audit engagement for December 31, 2022 ends on delivery of our audit report covering that period. Requests for services other than those included in this engagement letter will be agreed upon separately.

All rights and obligations set forth herein shall become the rights and obligations of any successor firm to PKF O'Connor Davies, LLP by way of merger, acquisition or otherwise.

If this letter correctly expresses your understanding of the terms of our engagement, including our respective responsibilities, please sign the enclosed copy where indicated and return it to us.

We are pleased to have this opportunity to serve you.

Very truly yours,

PKF O'Connor Davies, LLP

PKF O'Connor Davies, LLP

Enc.

Attachment: Asbury Park 2022 Engagement Letter (2023-24 : Auditor Appointment 2023)

The services and terms described in the foregoing letter are in accordance with our requirements and are acceptable to us.

City of Asbury Park

BY: _____

TITLE: _____

DATE: _____

PKF O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.

REPORT ON THE FIRM'S SYSTEM OF QUALITY CONTROL

June 16, 2020

To the Partners of PKF O'Connor Davies, LLP
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of PKF O'Connor Davies, LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended December 31, 2019. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

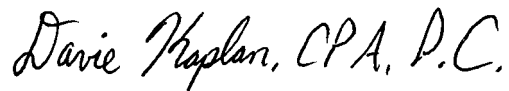
Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act, audits of employee benefit plans, audits of broker-dealers, and examinations of service organizations SOC 1 and SOC 2 engagements.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of PKF O'Connor Davies, LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended December 31, 2019, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. PKF O'Connor Davies, LLP has received a peer review rating of *pass*.



DAVIE KAPLAN, CPA, P.C.



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-25

Appointment of T&M for municipal engineer



RESOLUTION NO. 2023-25

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING T & M ASSOCIATES TO SERVE AS MUNICIPAL ENGINEER FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) must appoint a licensed Engineering Firm to serve as the “Municipal Engineer” (a/k/a, the “City Engineer”) for the City for the year 2023; and

WHEREAS, the Mayor and Council have determined to appoint Francis W. Mullan, of T&M Associates, as the Municipal Engineer for the City for 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the firm of T&M Associates., has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Attorney’s services shall exceed \$17,500.00,

and therefore that the contract is subject to the provisions of the State's Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City's Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. Francis W. Mullan, of the T & M Associates firm, is hereby appointed to serve as the "Municipal Engineer" (a/k/a, the "City Engineer") for the City for the year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, an Agreement between the City of Asbury Park and T&M Associates., for the year 2023.
3. Said contract is awarded as a "professional service" contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, "non-fair and open") process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS.
5. Francis W. Mullan, P.E. C.M.E., of T&M Associates., shall be paid an hourly fee of \$75.00-\$163.00 as per 2023 rate schedule for services herein enumerated.
6. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
7. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
8. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. JoAnn Boos, CMFO, Chief Financial Officer
 - c. Director of the N.J. Division of Local Government Services
 - d. Francis W. Mullan, P.E. CME, T&M Associates

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-25 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

AGREEMENT FOR PROFESSIONAL SERVICES

TO SERVE AS

CITY ENGINEER

FOR

THE CITY OF ASBURY PARK

MONMOUTH COUNTY, NEW JERSEY

THIS AGREEMENT is made as of this date, January 1, 2023 by and between

THE CITY OF ASBURY PARK

One Municipal Plaza
Asbury Park, NJ 07712

(Hereinafter referred to as the "CLIENT")

AND

T&M ASSOCIATES

Eleven Tindall Road
Middletown, NJ 07748

(Hereinafter referred to as the "ENGINEER")

WHEREAS, the CLIENT desires to engage the ENGINEER to serve as the **CITY ENGINEER** for the purpose of rendering professional services upon the request of the CLIENT; and

WHEREAS, ENGINEER has submitted a proposal as part of this Agreement to serve as **CITY ENGINEER**, the terms and conditions of said proposal, including fees, are satisfactory to the CLIENT, and are set forth herein; and

WHEREAS, **FRANCIS W. MULLAN, P.E., C.M.E.**, a current employee of T&M Associates, has been appointed as the **CITY ENGINEER** and shall be designated as the Engineer in Responsible Charge on behalf of the CLIENT; and

NOW, THEREFORE, the CLIENT and ENGINEER, in consideration of their mutual covenants and promises, agree as follows:

SECTION 1 – PERIOD OF SERVICE

This Agreement shall have an effective commencement date of **January 1, 2023** and shall terminate on **December 31, 2023**. Of the ENGINEER's services be required beyond that time, the ENGINEER and CLIENT shall agree on the terms of the extended period of service.

SECTION 2 – PROFESSIONAL SERVICES OF THE ENGINEER

The basic professional services provided by the ENGINEER upon the request of the CLIENT shall include services required of a Municipal Engineer by Statute and Ordinance and any other services requested and authorized by the CLIENT during the terms of the ENGINEER's appointment and may also include planning

Attachment: T&M Associates - Municipal Engineer - Francis Mullan (2023-25 : Appointment of Municipal Engineer 2023)

studies, review of subdivision and site plan proposals and other services for those bodies of the Municipality. The ENGINEER shall provide services directed and authorized by the CLIENT, which may include, but are not limited to, the following:

2.1. GENERAL ENGINEERING CONSULTANT

- a. Serve as a general Engineering Consultant to the Municipal Governing Body and other Municipal officials, boards, commissions and bodies of the CLIENT;
- b. Attend meetings of the Municipal governing body and to provide general Engineering advice to the CLIENT as requested;
- c. Provide technical and engineering advice to the CLIENT'S various employees, agents, department units and committees;
- d. Furnish pertinent reports, counseling and advice to the CLIENT, as required;
- e. Perform such other duties and functions as may be requested by the CLIENT or any agent or employee of the CLIENT; *and*
- f. Attend meetings of the CLIENT, as directed.

2.2. CAPITAL IMPROVEMENT AND PUBLIC WORKS CONTRACTS

- a. Prepare, review, and approve construction plans and specifications for all capital improvement and public works contracts; provide construction observation during the construction phase of such contracts; and verify work completed to authorize progress payments for contracts; *and*
- b. Provide and maintain maps, plans, specifications, surveys and other records as may be needed for public work and facilities owned and operated by the CLIENT.

2.3. TAX MAP REVISION

When directed by the CLIENT, the ENGINEER shall provide services necessary to review property changes and transfers, determine their conformance with the tax map; and provide any necessary alterations of the tax map. The ENGINEER shall maintain, on a current basis, tax maps and the associated tax map records.

2.4. REVIEW OF SUBDIVISION AND SITE PLAN PROPOSALS

When directed by the CLIENT, the ENGINEER shall provide the services necessary to review and make recommendations concerning various subdivisions and site plan proposals regarding their conformance or nonconformance to applicable municipal ordinances, and/or to the general requirements of design practice.

2.5. CONSTRUCTION OBSERVATION SERVICES

- a. When directed by the CLIENT, the ENGINEER shall provide the services necessary to observe, assess conformity to approved plans and CLIENT ordinance requirements and report upon the installation of site plan improvements and subdivision improvements in connection with commercial and residential site developments.
- b. When the Engineer assists the CLIENT with respect to the design and inspection of capital improvements, construction, repair, alterations or demolition projects, the ENGINEER will observe the progress and quality of the executed work of contractor(s) and determine in general if such work is generally proceeding in accordance with the contract documents for the project. ENGINEER shall not be responsible for the means, methods, techniques, sequences

or procedures of construction selected by contractors or the safety precautions and programs incident to the work of contractors. Contractor shall be solely responsible for site safety and the safety of all of contractor's employees or subcontractors. ENGINEER'S efforts will be directed toward providing a greater degree of confidence for the CLIENT that the completed work of contractors will conform to the contract documents. During such visits and on the basis of on-site observations, the ENGINEER shall keep the CLIENT informed of the progress of the work.

- c. When the Engineer assists the CLIENT with respect to the review and inspection of guaranteed or bonded improvements in accordance with N.J.S.A. §§40:55D-53 and 40:55D-53.2, the Engineer shall observe as a design professional the progress and quality of the executed work of the applicant's or developer's contractor(s) and determine in general if such work is proceeding in accordance with the approved plans and specifications for the project. ENGINEER shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the contractors or the safety precautions and programs incident to the work of the contractors. Contractor shall be solely responsible for site safety and the safety of all of Contractor's employees or subcontractors. ENGINEER'S efforts will be directed toward providing a greater degree of confidence for the CLIENT that the completed work of contractors will conform to the local ordinances and the approved plans and specifications; however, it is the responsibility of the contractor to actually perform the work in accordance with the approved plans and specifications. During field visits and on the basis of on-site observations, the ENGINEER shall keep the CLIENT informed of the progress of the work, shall endeavor to guard the CLIENT against defects and deficiencies in such work and may disapprove or reject work failing to conform to the approved plans and specifications.

2.6. REVIEW AND DIRECTION CONCERNING PERMITS AND CERTIFICATES

When directed by the CLIENT, the ENGINEER shall provide the services necessary to review, assess conformity to requirements and take necessary action with respect to issuance of certificates, permits, licenses and similar regulatory documents. When requested, the ENGINEER shall provide technical advice to other municipal employees, officials and agents concerning their review of such documents.

2.7. PREPARATION OF REPORTS AND STUDIES

When directed by the CLIENT, the ENGINEER shall provide the services necessary to prepare and provide detailed reports as requested by the CLIENT regarding feasibility investigations, economic comparisons, land use, planning, community development proposals, public works projects and functions, planning and financing schedules, and preparation of reports and recommendations concerning other matters referred to the ENGINEER by the CLIENT.

2.8. JUDICIAL AND QUASI-JUDICIAL PROCEEDINGS

When directed by the CLIENT or when subpoenaed in connection with Municipal business to appear and testify at a deposition in judicial or quasi-judicial hearings, or to respond to an Open Public Records Act ("OPRA") request, the ENGINEER shall provide the services necessary to prepare for the deposition or hearing and shall provide testimony or project documents, as required.

2.9. MISCELLANEOUS SERVICES

The ENGINEER may provide professional Engineering services not otherwise classified herein when such services are requested by the CLIENT, including but not limited to surveys in connection with property acquisition; Engineering surveys; additional inspection or observation of projects; preparation of grant applications; environmental assessments; review of outside technical consultants; laboratory tests of materials, borings and other soils investigations; detailed layout of construction; or any other services requested by CLIENT.

SECTION 3 – ENGINEER’S RESPONSIBILITIES

The ENGINEER agrees to the following:

- a. Provide, with the usual thoroughness and competence of the engineering profession, the professional services noted and set forth in [Section 2 – Professional Services of the Engineer](#);
- b. Perform all professional services under this Agreement with the care and skill ordinarily used by members of the engineering profession practicing under similar circumstances at the same time and in the same locality and based on facts and information available at the time services are provided;
- c. Obtain the services of sub-contractors or sub professionals as required and/or ordered by the CLIENT for the compensation provided herein; *and*
- d. In the event **FRANCIS W. MULLAN, P.E., C.M.E.** is not available to provide services or if the employee’s employment with T&M Associates terminates, then the ENGINEER shall designate another employee who is satisfactory to the CLIENT and who shall be in Responsible Charge for the remaining term of this Agreement.

SECTION 4 – CLIENT’S RESPONSIBILITIES

The CLIENT agrees to the following:

- a. Make such records and information available to the ENGINEER as may be required to assist him in the performance of his duties;
- b. Authorize and direct committees, employees, and agents of the CLIENT to consult with the ENGINEER at all reasonable times upon the request of the ENGINEER regarding the services performed as described in this Agreement;
- c. Submit to the ENGINEER all relevant applications, plans, and reports prepared by others within such time to allow the ENGINEER ample opportunity to properly review same, consult with respect thereto and to make any necessary reports to the CLIENT, without the ENGINEER causing a delay in the progress of the work; *and*
- d. Authorize the ENGINEER to undertake additional services related to special projects (“Additional Services”) if deemed necessary. Such authorization shall be memorialized in writing between the parties prior to commencement of said services. The ENGINEER shall be compensated for Additional Services in accordance with the negotiated fee agreed to between the CLIENT and the ENGINEER.

SECTION 5 – PAYMENT TO THE ENGINEER

- 5.1** For the services rendered by the ENGINEER under this Agreement, the CLIENT shall pay, and the ENGINEER shall receive the following described sums:
- 5.1.1 PROFESSIONAL SERVICES.** For all professional services provided pursuant to this Agreement, the ENGINEER shall be compensated in accordance with the **2023 SCHEDULE OF HOURLY BILLING RATES / EXPENSES**, attached hereto as [Exhibit II](#).
- 5.1.2 ADDITIONAL SERVICES.** For any Additional Services performed under Section 4 of this Agreement, the ENGINEER shall be compensated in accordance with the negotiated fee as set forth in writing between the parties.
- 5.1.3 ATTENDANCE AT MEETINGS.** The ENGINEER, or his representative, shall attend scheduled workshop and public meetings of the CLIENT as requested. The ENGINEER shall be compensated for said meetings in accordance with the **2023 SCHEDULE OF HOURLY BILLING RATES / EXPENSES** attached hereto as [Exhibit II](#).
- 5.1.4 ADDITIONAL EXPENSES.** Expenses for travel, postage, and telephone are specifically included in the hourly rates set forth in the **2023 SCHEDULE OF HOURLY BILLING RATES / EXPENSES** attached hereto as [Exhibit II](#). All other expenses specifically related to the work performed under this Agreement shall be reimbursed to the ENGINEER.
- 5.2** Vouchers or invoices shall be issued monthly by ENGINEER for services performed. Such billings shall be due when rendered. In the event the CLIENT has a dispute with an invoice (*or any portion of an invoice*), the CLIENT shall nevertheless pay all undisputed invoices, or undisputed portions thereof, no later than sixty (60) days from the date of the invoice. CLIENT and ENGINEER agree to negotiate any and all disputes in good faith with an effort of resolving the dispute within sixty (60) days of the subject invoice date.
- 5.3** In the event the CLIENT requires the ENGINEER's services beyond the termination date specified in [Section 1 – Period of Service](#), the ENGINEER's [2023 Schedule of Hourly Billing Rates / Expenses](#) shall be subject to an equitable adjustment to reflect changes in the various elements that comprise the rates. All adjustments will be pursuant to an agreement reached between the CLIENT and the ENGINEER which such agreement shall be reduced to writing and deemed a modification of this Agreement.

SECTION 6 – STATUS OF ENGINEER

- 6.1** To the extent permitted by law, the ENGINEER, when engaged in the performance of duties and services set forth herein (*including specifically those services provided in Section 2 hereof*), shall, in the event of litigation, act as and have the status of an employee or an agent of the Municipality for the sole and limited purposes of Title 59 Immunity allowing ENGINEER to therefore be entitled to all immunities normally afforded to a municipal employee or agent under Title 59.
- 6.2** The CLIENT, subject to appropriation and availability of funds, authorizes the ENGINEER to secure any and all professional, technical and non-technical staff which may from time to time be necessary in the performance of the services required. It is expressly agreed and understood that services will be provided, and certain functions will be performed on behalf of the CLIENT, pursuant to the terms of

this proposal, by the ENGINEER's employees.

- 6.3** The professional, technical and non-technical staff referred to in **SUBSECTION 6.2** hereof, when they are engaged on behalf of the CLIENT in the performance of Engineering duties and services referred to in **SECTION 2 – PROFESSIONAL SERVICES OF THE ENGINEER** hereof, shall be afforded Title 59 Immunity, to the extent permitted by law, as set forth in **SUBSECTION 6.1** hereof.

SECTION 7 – INSURANCE AND INDEMNIFICATION

- 7.1** The ENGINEER shall secure and maintain Worker's Compensation Insurance (*as required by Law*) and General Liability Insurance to protect the ENGINEER and / or its employees and agents from claims for bodily injury, death or property damage which may arise from the performance of services pursuant to this Agreement. The limits of said Liability Insurance shall not be less than \$1,000,000 with a \$2,000,000 excess liability coverage. If requested, the ENGINEER shall provide Certificates of Insurance to the CLIENT prior to the performance of any services.
- 7.2** The ENGINEER shall also provide and maintain Professional Liability (*Errors and Omissions*) Insurance for claims which arise from any negligent performance of the ENGINEER pursuant to this agreement. The limits of the ENGINEER'S Professional Liability insurance shall not be less than \$2,000,000 per claim.
- 7.3** The CLIENT acknowledges that although the ENGINEER is to cooperate with and make recommendations to the CLIENT with respect to engineering matters related to the services provided by the ENGINEER, the final decisions are within the CLIENT's discretion and are to be made by the CLIENT.

The ENGINEER shall not be liable in any way for any decision of the CLIENT (*or consequences thereof*) which (i) are not in accordance with the recommendations of the ENGINEER, or (ii) are based on the acts or omissions of a contractor or other third party that is not a party to a written agreement with ENGINEER by which ENGINEER assumes responsibility for the contractor or third party, or (iii) are based on or related to any failure on the part of the CLIENT to accept or follow any recommendations of the ENGINEER. The CLIENT hereby releases the ENGINEER from any and all liability and waives any and all claims against the ENGINEER arising out of or relating to any such decisions or the consequences thereof, and agrees to indemnify, defend, and save harmless the ENGINEER against loss, liability, claim, damage, and expense, including any consequential damages or reasonable counsel fees, arising out of or relating to any such decisions or the consequences thereof.

- 7.4** The ENGINEER agrees subject to the provisions herein, to indemnify and hold the CLIENT harmless from any damage, liability or cost (*including reasonable attorneys' fees and costs of defense*) to the extent caused by the ENGINEER's negligent acts, errors or omissions (*and those of his or her contractors, subcontractors or consultants or anyone for whom the ENGINEER is legally liable*) in the performance of professional services under this Agreement.

The CLIENT agrees subject to the provisions herein, to indemnify and hold the ENGINEER harmless from any damage, liability, or cost (*including reasonable attorneys' fees and costs of defense*) to the extent caused by the CLIENT's negligent acts, errors or omissions.

SECTION 8 – OWNERSHIP AND REUSE OF DOCUMENTS

- 8.1** All final plans and specifications ordered by the CLIENT and prepared by the ENGINEER shall become

the joint property of the CLIENT and the ENGINEER. At the completion of work or in the event of termination, all work sheets and internal office communications of the ENGINEER, including drawings, sketches, calculations, field notes and memoranda are and shall remain the property of the ENGINEER, as instruments of service. The CLIENT, at its expense, may obtain extra prints of final drawings and specifications.

- 8.2** All documents including drawings and specifications prepared by the ENGINEER pursuant to this Agreement are instruments of service with respect to a specific project. They are not intended or represented to be suitable for reuse of the CLIENT or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by the ENGINEER for the specific purpose intended will be at the CLIENT'S sole risk, with no liability or exposure to the ENGINEER; and the CLIENT shall indemnify and hold harmless the ENGINEER from all claims, damages, losses and expenses including attorney's fees arising out of or resulting from such unauthorized use. Any such verification or adaptation will entitle the ENGINEER to further compensation at rates to be agreed upon by the CLIENT and the ENGINEER.

SECTION 9 – MISCELLANEOUS

- 9.1 AFFIRMATIVE ACTION.** The ENGINEER and the CLIENT hereby incorporate by reference into this Agreement the mandatory Affirmative Action language of Subsection 3.4(a) and the mandatory language of Section 5.3 of the Regulations promulgated by the Treasurer of the State of New Jersey pursuant to P.L. 1975, c. 127 and N.J.S.A. 10:5-31, as amended and supplemented from time to time; and ENGINEER agrees to comply fully with the terms, provisions and conditions of Subsection 3.4(a), and Section 3.4(a) shall be applied subject to the terms of Subsection 3.4(d) of the Regulations. The **AFFIRMATIVE ACTION LANGUAGE** set forth in [Exhibit I](#) is also made a part hereof.
- 9.2 AMERICANS WITH DISABILITIES ACT.** The ENGINEER and the CLIENT do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990 (*the "Act"*) (U.S.C. Sec. 12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this Agreement.
- 9.3 FORCE MAJEURE.** The ENGINEER is not responsible for delays caused by factors beyond the ENGINEER's control including, but not limited to, strikes, lockouts, work slowdowns or stoppages, accidents, acts of nature, failure of any governmental or other regulatory authority to act in a timely manner, failure of the CLIENT to furnish timely information or provide review comments promptly, or delays caused by the faulty performance of others.
- 9.4 MUTUAL WAIVER.** To the fullest extent permitted by law, the CLIENT and the ENGINEER waive against each other, and the other's employees, officers, directors, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, from any cause or causes including, but not limited to, loss caused by delay, commercial loss, or lost profits or revenues or opportunities from any service provided by either Party.
- 9.5 GOVERNING LAW.** The laws of the State of New Jersey shall govern this Agreement.
- 9.6 SUCCESSORS AND ASSIGNS.** Each Party to this Agreement is hereby bound to the terms and conditions contained in this Agreement and the legal representatives, successors and assignees of

this Agreement, if any, shall also be bound to the terms and conditions contained herein.

- 9.7 SEVERABILITY.** Any provision of this Agreement held to be void and unenforceable under any law or regulation shall be stricken, and all remaining provisions shall continue to be valid and binding upon the parties to this Agreement.
- 9.8 ENTIRE AGREEMENT.** This Agreement represents the entire agreement between the CLIENT and the ENGINEER relating to the subject matter hereof and no representations or agreements made by either party or by any representative of either party in the negotiations leading to this Agreement or otherwise which are not expressed in this Agreement shall be binding on either party. No change in, addition to, or modification of any provision of this Agreement shall be effective unless made by written agreement signed by the party to be charged with such change, addition, or modification.
- 9.9 POLITICAL CONTRIBUTION DISCLOSURE.** The within Agreement has been awarded to the ENGINEER based upon the merits and abilities of the ENGINEER to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to NJ.SA. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the ENGINEER, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-6, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the ENGINEER's eligibility to perform this Agreement, nor will the ENGINEER or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

IN WITNESS WHEREOF, the CLIENT and the ENGINEER have caused this Instrument to be executed in its respective name and behalf as of the day and year herein written.

WITNESS

By: _____
[MUNICIPAL WITNESS]

Date: _____

By: _____
John Moor
Mayor, City of Asbury Park

WITNESS

By: Nicole A. [Signature]
[T&M WITNESS]

Date: 12/1/22
COMM No. 5017771

By: Francis W. Mullan [Signature]
Francis W. Mullan, P.E., C.M.E.
Senior Vice President, Operations Manager



EXHIBIT I

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 ET SEQ. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

- Letter of Federal Affirmative Action Plan Approval
- Certificate of Employee Information Report
- Employee Information Report Form AA302
(electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXHIBIT II

2023 SCHEDULE OF HOURLY BILLING RATES / EXPENSES

	
2023 Schedule of Hourly Billing Rates	
Billing Title	Billing Rate/Hour
Administrative Support Staff	\$75.00
Intern	\$77.00
Junior Field Staff	\$80.00
Junior Technical Staff	\$85.00
Field Staff	\$115.00
Technical Staff	\$120.00
Junior Professional Staff	\$125.00
Senior Technical + Field Staff	\$145.00
Professional Staff	\$150.00
Supervising Technical Staff	\$154.00
Senior Professional Staff	\$157.00
Manager	\$163.00
Billing Basis: Fixed Rate for Each Billing Title	

2023 ASPK Rates



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-26

City Engineer is Flood Plan manager



RESOLUTION NO. 2023-26

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION PURSUANT TO N.J.S.A. 40:48-1 AUTHORIZING THE CITY ENGINEER TO PERFORM SERVICES AS DESIGNEE TO THE CITY MANAGER FOR REVIEW OF DEVELOPMENT PERMITS IN ANY AREA OF SPECIAL FLOOD HAZARD

WHEREAS, the City of Asbury Park previously adopted Ordinance No.2915 § 24-4.1 which establishes statutory authorization and general provisions for construction and review of development permits in any area of special flood hazard; and

WHEREAS, Applications for a development within the special flood hazard area shall be made on forms furnished by the City Manager and shall include plans for any new or substantially improved structures; and

WHEREAS, Ordinance Ord. No. 2915 § 24-4.2 designated the City Manager as the Local Administrator and allowed for assignment of a Designee to assist with said reviews and implement the intent of reviews granting or denying development permit applications in accordance with the provisions established; and

WHEREAS, the duties of the Local Administrator are outlined within the Flood Damage Prevention Ordinance and shall thereby transfer to the Designee assigned to perform those duties; and

WHEREAS, the City desires to officially assign the City Engineer as a Designee to the Local Administrator and assist with review of development applications specifically in special flood hazard areas.

NOW THEREFORE BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park in the County of Monmouth, and in the State of New Jersey that the City hereby assign the duties of the Local Administrator to the City Engineer as the official designee to assist with development reviews in special flood hazard areas and grants authority to the City Engineer as the Designee to grant or deny development applications in accordance with provisions set forth in the City Flood Damage and Prevention Ordinance § 24-4 et. Sec.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-26 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-27

Reappointment of Archer & Greiner, P.C. as Redevelopment Attorney for non-waterfront parcels for 2023



RESOLUTION NO. 2023-27

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING ARCHER & GREINER, P.C. TO SERVE AS REDEVELOPMENT COUNSEL AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) desires to appoint Redevelopment Counsel for 2023; and

WHEREAS, said attorney/law firm shall handle legal issues for the City which relate to redevelopment matters, as well as such other legal matters as may be referred to it from time to time by the City Manager and/or the Mayor and Council (collectively referenced as the “services”); and

WHEREAS, the Mayor and Council have determined to appoint the law firm of Archer & Greiner, P.C. to serve as the City’s “Redevelopment Counsel” for 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq., because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq. (the Pay-to-Play Law); and

WHEREAS, the firm of Archer & Greiner, P.C., has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Attorney’s services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The City Manager or Director of Planning and Redevelopment are authorized to determine assignments as required.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, an Agreement to be drafted by the City Attorney for professional services for calendar year 2023.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS.
5. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
6. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna M. Vieiro, City Manager
 - b. JoAnn Boos, CFO, Chief Financial Officer
 - c. Director of the N.J. Division of Local Government Services
 - d. Frederick C. Raffetto, Esq., Municipal Attorney
 - e. John M. Cantalupo, Esq., Redevelopment Counsel

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-27 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

PROFESSIONAL SERVICE AGREEMENT
BETWEEN
THE CITY OF ASBURY PARK
AND
ARCHER & GREINER, PC
REDEVELOPMENT COUNSEL

THIS AGREEMENT, made this ___ day of _____, 2023 by and between the **CITY OF ASBURY PARK (“City”)**, a public body (which, together with any successor public body or officer hereinafter designated by or pursuant to law), whose address is One Municipal Plaza, Asbury Park, New Jersey 07712 and **ARCHER & GREINER, PC (“Counsel”)**, whose principal address is 10 Highway 35, Red Bank, New Jersey 07701; and

WHEREAS, the City of Asbury Park requires the service of a Law Firm as Redevelopment Counsel; and

WHEREAS, the Law Firm of Archer & Greiner, PC, is recognized as having substantial experience in the field of redevelopment law and commercial real estate projects; and

WHEREAS Archer & Greiner, PC responded to a Request for Qualifications (“RFQ”) published by the City in 2019, and were subsequently qualified to provide Redevelopment Counsel Services at a City Council Meeting in accordance with N.J.S.A. 40A:20.4 et seq. (Pay to Play Law). The City desires to renew the 2019 Professional Services Agreement and the DLGS has provided its consent to permit the City to appoint and retain Archer & Greiner PC for 2023 without undertaking a new “fair and open” process so long as Archer & Greiner PC is not increasing its rates over the 2019 levels; and

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereinafter set forth, the parties hereto agree to the following:

1. Legal Services to be Provided.

(a) Counsel will perform any and all legal services and represent the City, in any and all redevelopment matters and/or projects which are assigned to it by the City Executive and Mayor, they shall include, but are not limited to, negotiations, meetings, conferences, drafting

of redevelopment agreements and any other documents or agreements which may be related to the project.

(b) In addition, Counsel shall be responsible as required, for the preparation of all pleadings and commencement of any eminent domain/condemnation action to which it is assigned by the City Executive and Mayor. This shall include, but not be limited to, the preparation of the Declaration of Taking, all pleadings, negotiations, trials and appeals in connection with the City's eminent domain powers as it is utilized in each specific project for which Counsel has been assigned.

The legal work includes but is not limited to, all necessary research, investigation, correspondence, preparation and drafting of all legal documents, conferences in person and by telephone with the City and others.

2. Contract Term.

Representation as Redevelopment Counsel to the City shall commence January 1, 2023 and terminate, unless extended by the parties, on December 31, 2023.

3. Legal Fees.

For the City's governmental (municipal) work hourly rate, a blended \$175 hourly rate for all attorneys and \$95 hourly rate for paralegal time will be assigned. Should the City require services where the fees are being paid by a private redeveloper (presumably through an escrow account) and not the City, the blended hourly rate for such escrow work will increase to \$325 per hour.

Counsel has also agreed to a ceiling on the initial legal services necessary to get "caught-up" on all legal matters currently being handled by the City's current redevelopment attorney. This ceiling would be set once Counsel has the opportunity to discuss all pending matters with the City and will negotiate a reasonable ceiling for fees.

Archer & Greiner would not bill the City separately for the following charges:

- Routine long-distance telephone charges;

- Routine postage; and
- Secretarial, data processing and word processing services.

All charges and expenses incurred to third-party vendors as part of our representation of the City would be charged at cost without any mark-up, including:

- Outside printing and duplicating by third-party vendors;
- Federal Express and similar overnight delivery service;
- Outside courier services;
- Travel and mileage expenses;
- Filing fees, court reporter fees and court costs; and
- Expert, appraiser, litigation support and other similar fees and charges, which will be incurred only with the College's approval in advance.

The fees and payments associated with this Agreement shall not exceed \$200,000.

4. Employment of Other Counsel.

Counsel will not employ or otherwise incur any obligation to any other counsel from outside its Law Firm for services in connection with the Agreement without prior written approval of the City. In addition, the City agrees, that any and all redevelopment project/files currently in the possession of the Counsel, shall remain with Counsel, subject to City approval, until conclusion of the project or conclusion of Counsel's representation of the City therein.

5. Special Issues.

Counsel shall provide to the City, without charge, unlimited telephone access between City Executive and Counsel. Furthermore, if, at any given time, City Executive requires Counsel to attend a public, monthly or other meeting in which the redeveloper is not responsible for the payment of Counsel's fees, Counsel shall not charge the City for attendance at such meeting.

6. Termination of Agreement.

This Agreement and all legal services to be rendered hereunder may be terminated by written notice from either party. In such event, all finished and unfinished documents,

notes, memoranda, pleadings, exhibits, project data, reports and evidence shall, at the option of the City, become its property and shall be delivered to it or to any party it may designate. In the event of such termination, Counsel shall be paid for all work performed to that date.

7. Interest of Members of The City.

No member of the governing body of the City and no other officer, employee or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the project to which any litigation pertains, shall have any personal interest, direct or indirect, in this Agreement.

8. Interest of Other Local Public Officials.

No member of the governing body of the locality in which this project is situated, and no other public official of such locality, who exercises any function or responsibilities in the review or approval of the carrying out of the project to which litigation pertains, shall have any personal interest, direct or indirect, in this Agreement.

9. Interest of Certain Federal Officials.

No member of or delegate to the Congress of the United States, and no Resident Federal Commissioners, shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

10. Political Contribution Disclosure.

The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect

the Contractor's eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

11. Execution of Agreement.

The execution of this Agreement has been properly authorized by Resolution of its City Council dated _____, 2023.

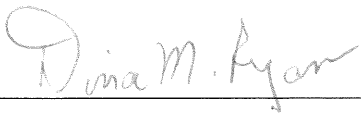
12. Indemnification.

To ensure that Counsel may properly perform its duties without the threat of lawsuits and except for any claim of legal malpractice, fraud or misrepresentation brought against Counsel, the City agrees to release, defend, hold harmless and indemnify Counsel, its officers, employees, agents or representatives for any and all causes of action, charges, complaints, claims, judgments, damages, liabilities, obligations, promises, agreements, rights, costs, losses, debts and expenses of any nature whatsoever, including but not limited to counsel fees, for any lawsuit filed against Counsel, its officers, employees, agents or representatives, based upon a cause of action which arose or shall arise out of Counsel's representation of the City during the terms of both the within contract.

This Agreement is subject to Local Public Contracts Law N.J.S.A. 40A:11-1 et seq.

IN WITNESS WHEREOF, the City and Counsel have executed this Agreement at of the date first above written.

Witness:



Witness:

Law Firm: **ARCHER & GREINER, PC**



John M. Cantalupo, Redevelopment Counsel

CITY OF ASBURY PARK

Donna M. Vieiro, City Manager

Attachment: Archer Greiner - Redevelopment Counsel (Non- Waterfront) - John Cantalupo (2023-27 : Appointing Redevelopment Counsel



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-28

Reappointment of Law Firm Archer & Greiner as City Bond Counsel for 2023



RESOLUTION NO. 2023-28

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING ARCHER & GREINER, P.C. TO SERVE AS BOND COUNSEL FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) must appoint a licensed attorney/law firm to serve as “Bond Counsel” for the City for the year 2023; and

WHEREAS, during the term of its appointment, said attorney/law firm shall handle legal issues for the City which relate to the issuance of bonds and bond anticipation notes, and perform such other legal matters as may be referred to it from time to time by the City Manager, the Chief Financial Officer and/or the Mayor and Council (collectively, the “services”); and

WHEREAS, the Mayor and Council have determined to appoint Archer & Greiner, P.C. to serve as the Bond Counsel for the City for 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the firm of Archer & Greiner, P.C., has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, legal services shall not exceed \$70,000 for the calendar year; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council;
and

WHEREAS, the City's Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Attorney's services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State's Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City's Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The firm of Archer & Greiner, P.C. is hereby appointed to serve as "Bond Counsel" for the City for the calendar year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and Archer & Greiner, P.C. for the aforementioned services, for the calendar year 2022, which contract shall be in a form satisfactory to the Municipal Attorney.
3. Said contract is awarded as a "professional service" contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. Archer & Greiner, P.C. shall be paid an amount not to exceed \$70,000.00 for the services enumerated herein.
5. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
6. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
7. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. JoAnn Boos, CMFO, Chief Financial Officer
 - d. Tracy Lizardi, Director of Purchasing, Assistant CFO
 - e. John M. Cantalupo, Esq., Archer & Greiner

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-28 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

BOND COUNSEL SERVICES A G R E E M E N T

THIS AGREEMENT, made as of this ___ day of January, 2023, between the CITY OF ASBURY PARK, a body politic of the State of New Jersey, herein designated as the "City", party of the first part, and ARCHER & GREINER P.C., Attorneys at Law with offices at 10 Route 35, Red Bank, New Jersey, hereinafter designated as "Bond Counsel", party of the second part:

WITNESSETH:

1. The City desires to authorize and to issue its bonds for various capital projects and to provide for the terms and the security of such bonds in accordance with the laws of the State of New Jersey. The City desires to finance such capital projects through temporary and permanent obligations at the most advantageous terms available to it.

2. Bond Counsel, in consideration of the making and the signing of the within Agreement, agrees to render the following services:

A. Bond Counsel will prepare or review all bond ordinances adopted or to be adopted by the governing body.

B. Bond Counsel will assemble a certified record of proceedings to evidence the proper adoption of each bond ordinance in accordance with the provisions of the Local Bond Law and other applicable New Jersey Statutes.

C. When the City determines to issue bonds, Bond Counsel will prepare the necessary resolutions or other operative documents authorizing the bond sale. Bond Counsel will seek the advice of the Auditor in connection with the appropriate maturity schedule for the bonds to be sold. Bond Counsel will coordinate the printing and the distribution of the Official Statement to those financial institutions that customarily submit bids for new issues of New Jersey municipal bonds of that type. It will arrange for the printing of the notice of sale in The Bond Buyer and in the local newspaper, as required by law, and will answer inquiries made by the investment community concerning the bond sale. Bond Counsel will attend the bond sale and will render legal advice as necessary concerning the submission of bids for the bonds in accordance with the notice of sale and the requirements of law. After the bond sale, Bond Counsel will prepare the bonds for execution, will prepare and see to the execution of the necessary closing certificates and will establish the time and the place for the delivery of the bonds to the successful bidder. Bond Counsel will attend the closing with the appropriate officials, at which time the bonds will be delivered, payment will be made for the bonds, and Bond Counsel will issue a final approving legal opinion with respect to the validity of the bonds.

D. When the City determines to issue bond anticipation notes or tax anticipation notes, Bond Counsel will prepare any necessary resolutions to authorize the sale of such

notes. When the purchaser and the details of the notes have been determined, Bond Counsel will prepare the notes for execution and will prepare the appropriate closing certificates and an approving legal opinion with respect to the notes. Unless requested otherwise, Bond Counsel will forward the notes, closing papers and approving legal opinion to the City Attorney for execution and delivery.

E. Bond Counsel will provide basic advice in regard to the effect of the federal arbitrage regulations on the issuance of bonds or bond anticipation notes and the investment of the proceeds thereof.

F. Bond Counsel will provide other legal advice requested by the City, provided such advice is within the legal expertise of Bond Counsel's law firm.

G. Bond Counsel will prepare, review and distribute the Preliminary and Final Official Statements in connection with any bond or note financing.

H. Bond Counsel will provide legal services, prepare the necessary documentation and review and comment upon all documents in connection with any capital equipment lease financing or pooled loan financing undertaken by the City.

I. Bond Counsel will provide legal services listed in the City's solicitation of proposals, which are incorporated herein by this reference.

3. The City will make payment to Bond Counsel for services rendered in accordance with the following schedule:

A. For services rendered or in connection with each bond sale, a fee of \$3,500, plus \$0.95 per thousand dollars of bonds issued for the first \$15,000,000 and \$0.70 per thousand dollars issued in excess of \$15,000,000.

B. For services rendered in connection with (i) the preparation or review of each bond ordinance, and (ii) the compiling and review of a certified record of proceedings in connection with each bond ordinance, a fee of \$400 for each single purpose ordinance and \$550 for each multipurpose ordinance. If the preparation of the ordinance involves consultations, meetings or discussions that are out of the ordinary, that is, services that are not described in Section 2 of the proposed Bond Counsel Services Agreement, such as attendance at meetings, attention to litigation or other matters described in Section F, there will be additional fees to be charged at the hourly rates of the attorneys in effect at the time of providing the services. The fees for services in connection with the ordinances will be charged periodically during the course of the year.

C. For services rendered in connection with each note sale, a fee equal to the hourly rates reflected in Section F, with a minimum fee of \$.50 per thousand dollars of notes issued up to \$15,000,000 of notes issued and \$0.40 per thousand dollars of notes issued in excess of \$15,000,000, but a fee not less than \$750.00.

D. In the event that a Letter of Credit or similar credit enhancement facility is used in connection with either a bond or note issue, an additional fee of \$1,000 will be charged.

E. In the event of refunding bond issue providing for the payment of a prior issue of bonds, there will be a fee of \$5,000 in addition to the fees described herein.

F. Services rendered beyond the scope of those described above will be billed at the hourly rates in effect when the services are rendered. The present hourly rates range from \$75 to \$150 per hour depending on the paralegal or attorney involved. Such services include, but are not limited to, attendance at meetings, work involved in the preparation or review of the Official Statement and a continuing disclosure agreement, if applicable, for a bond sale or the review or the preparation of an Official Statement and a continuing disclosure agreement, if applicable, for a bond anticipation note sale, diligence for a bond ordinance, review of authorization proceedings for a bond ordinance, preparation of prequalification packages for bond insurance, preparation of a rating agency package, analysis of any credit enhancement facility, the preparation or review of a Local Finance Board application, attention to or services rendered with regard to any litigation that may occur or any legal question posed by the City, tax work, complicated arbitrage analysis or applications to the Federal Reserve Bank for investments of bond or note proceeds in State and Local Government Series federal obligations and legal services, the preparation of the necessary documentation and reviewing and commenting upon all documentation in connection with any capital equipment lease financing, pooled loan financing or loan financing undertaken by the City through the MCIA, NJIB, USDA or any other legal services the City wishes Bond Counsel to perform.

G. In the event that a bond sale is held but all bids are rejected or the sale is cancelled, or this Agreement is terminated prior to the sale of bonds, the fee to be charged shall be a reasonable one, based on the services performed.

H. Customary at-cost disbursements shall be added to the fees referred to in this Agreement. These may include photocopying, express or overnight delivery charges and postage costs, newspaper publication costs and the costs of printing official statements, travel expenses, telecommunications, filing fees, book binding, messenger service or other costs advanced on behalf of the City. The fees and payments associated with this Agreement shall not exceed \$70,000.

I. Political Contribution Disclosure: The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to *N.J.S.A. 19:44A-20.4, et seq.* As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to *N.J.S.A. 19:44A-8* or *19:44A-16*, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor's eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the

City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

J. This Agreement shall be in full force and effect until such time as either party gives written notice to the other of termination.

4. Bond Counsel and the City hereby incorporate into this contract the mandatory language of Subsection 3.4(a) and the mandatory language of Section 5.3 of the Regulations promulgated by the Treasurer of the State of New Jersey pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, and Bond Counsel agrees to comply fully with the terms, the provisions and the conditions of Subsection 3.4(a) and of Section 5.3, provided that Subsection 3.4(a) shall be applied subject to the terms of Subsection 3.4(d) of the Regulations.

IN WITNESS WHEREOF, the CITY OF ASBURY PARK, has caused this Agreement to be duly executed by its proper officers and has caused its corporate seal to be hereto affixed, and Bond Counsel has caused this Agreement to be duly executed by the proper party as of the day and year first above written.

CITY OF ASBURY PARK

ATTEST:

BY: _____
 _____,
 Authorized Officer

 _____,
 City Clerk

ARCHER & GREINER P.C.

BY: _____
 JOHN M. CANTALUPO, ESQ.

P.L. 1975, C. 127 (N.J.A.C. 17:27)
MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT, PROFESSIONAL AND SERVICE CONTRACTS

During the performance of this Contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable City employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable City employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

225852077v1



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-29

Waterfront Redevelopment Counsel Reappointment



RESOLUTION NO. 2023-29

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING MARAZITI AND FALCON TO SERVE AS REDEVELOPMENT COUNSEL AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) desires to appoint Redevelopment Counsel for 2023; and

WHEREAS, said attorney/law firm shall handle legal issues for the City which relate to redevelopment matters, as well as such other legal matters as may be referred to it from time to time by the City Manager and/or the Mayor and Council (collectively referenced as the “services”); and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the firm of Maraziti and Falcon. has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Attorney’s services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play

Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The City Manager or Director of Planning and Redevelopment are authorized to determine assignments as required.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, an Agreement for professional services for 2023.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS.
5. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
6. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
7. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. JoAnn Boos, CMFO, Chief Financial Officer
 - c. Director of the N.J. Division of Local Government Services
 - d. Frederick C. Raffetto, Esq., Municipal Attorney

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-29 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

PROFESSIONAL SERVICE AGREEMENT

This **AGREEMENT** is by and between the **City of Asbury Park**, a Municipal Corporation in the State of New Jersey with an office located at One Municipal Plaza, Asbury Park, New Jersey 07712, and **Maraziti Falcon, LLP**, with its principal place of business at Maraziti Falcon, LLC, c/o Joseph J. Maraziti, Jr., Esq., 240 Cedar Knolls Road, Suite 301, Cedar Knolls, New Jersey 07927.

WHEREAS, the **City of Asbury Park** wishes to retain **MARAZITI FALCON, LLP** for the services of Joseph J. Maraziti, Jr., Esq. as Waterfront Redevelopment Counsel for the year 2023; and

NOW, THEREFORE, in consideration of the mutual covenants and promises therein contained, the parties hereto agree as follows:

1. Contract Documents. The Contract Documents consist of the following:
 - (a) This Agreement.
 - (b) New Jersey State Business Registration;
 - (c) Valid Certificate of Employee Information Report;
 - (d) Affirmative Action Document – “For Goods and Professional Services”.
2. Scope of Work. **MARAZITI FALCON, LLP** agrees to provide the City of Asbury Park with the services as 2023 Waterfront Redevelopment Counsel. This agreement shall commence on January 1, 2023 and terminate on December 31, 2023, or until the appointment and qualification of a successor, whichever occurs last.
3. Assignment. This Agreement may not be assigned by **MARAZITI FALCON, LLP**.
4. Compliance. **MARAZITI FALCON, LLP** and all of its applicable employees shall comply with the requirements of P.L. 1975 C.127 (N.J.A.C. 17:27) regarding Affirmative Action regarding Equal Employment Opportunity and City of Asbury Park City Code, Section 2-76 Award of Public Contracts.
5. Political Contribution Disclosure. The within contract has been awarded to the Attorney based upon the merits and abilities of the Attorney to provide the services as described herein. This contract was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Attorney, his Law Firm, his Law Firm’s subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his Law Firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c. 19, affect the Attorney’s eligibility to perform this contract, or will the Attorney or his Law Firm make a reportable contribution during the term of the within contract to any political party committee in the City if a member of that political party is serving in an elective public office of the City when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the City when the contract is

awarded.

6. Other Terms. This agreement is subject to:
 - a. This contract is for the services of Joseph Maraziti, Esq. who shall be counsel on the aforementioned matters. The blended rate shall be \$175.00/hour for attorney services (\$325.00/hour blended for attorneys when such fees are paid solely by private parties through reimbursement agreements), with no additional fees or charges allowed. These are the only hourly charges allowable under this agreement. The statement will include our fee for services rendered, and disbursements made on your behalf. Such disbursements may include, but not be limited to, computerized research fees (as billed to us), court costs and fees (as required), messenger and delivery fees (using least expensive service available), long distance telephone (as billed to us), and postage charges (as required), document reproduction (\$0.15/page) and transcript fees (as billed to us). Charges for filing fees and costs shall be allowable, but must be clearly identified and described in full in the appropriate monthly invoice. Said fees are in lieu of any and all other benefits, and neither the firm nor the attorney shall be considered an employee of the City of Asbury Park.
 - b. The contractor shall provide the City of Asbury Park with detailed monthly invoices. If **MARAZITI FALCON, LLP** is appointed as Special Counsel to the City in any other matter, the two matters and all billing thereunder shall be clearly distinguished on any invoices served on the City.
 - c. It shall be the contractor's obligation to obtain City Council approval, by way of a Resolution, approval of which shall be at the sole discretion of the City Council, prior to incurring costs above the not to exceed amount. As a temporary measure, and as necessary to protect the City's legal interests until the City Council has the opportunity to consider an increase in the not to exceed amount, the contractor may proceed with incurring costs with the prior written approval of Corporation Counsel, subject to any conditions included in the written approval.
 - d. The parties agree that submission of invoices by the Vendor in accordance with this Agreement is the sole responsibility of the Vendor. The Vendor agrees to submit any and all invoices for services within sixty (60) days of services being rendered; and, Vendor acknowledges that, due to the City's budgeting, appropriation, and fiscal affairs procedures, any invoices not submitted within sixty (60) days of services rendered will not be paid by the City, and the sums therein shall not be sought at law or in equity.
 - e. The City may terminate this contract immediately upon written notice to the contractor, subject only to payment for services rendered prior to service of the notice of termination. The contractor may terminate this contract in accordance with the New Jersey Rules of Professional Conduct.
 - f. Any single incident of waiver in the terms of this agreement shall not constitute a general or full waiver, and such waiver shall not be utilized to evidence waiver in any other instance relating to this Agreement, or any other agreement between the parties.

IN WITNESS WHEREOF, the parties have executed this **AGREEMENT** on this _____ day of _____, 2022

ATTEST:

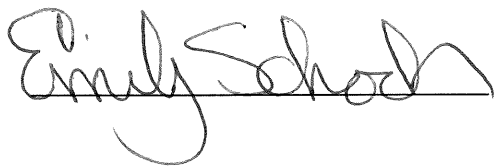
THE CITY OF ASBURY PARK

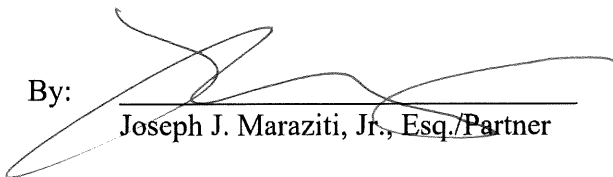
Lisa Esposito, RMC/CMR
City Clerk

By: _____
John Moor, Mayor

ATTEST:

MARAZITI FALCON, LLP



By: 

Joseph J. Maraziti, Jr., Esq./Partner

The aforementioned Agreement has been reviewed and approved as to form.

Frederick Raffetto, Esq.
City Attorney



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-30

Authorizing a Professional Services Agreement with Public Resources Advisory Group for the Provision of PILOTS



RESOLUTION NO. 2023-30

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF ASBURY PARK TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH PUBLIC RESOURCES ADVISORY GROUP FOR THE PROVISION OF PILOT/RAB ADMINISTRATION

WHEREAS, the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “Act”) authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

WHEREAS, the City of Asbury Park (the “City”) has designated certain redevelopment projects, including Vive, Monroe, The Asbury Hotel, South Grand, and 1101 Ocean, as within the City’s Redevelopment Area Bond (“RAB”) program; and

WHEREAS, the City desires to retain a financial advisor to provide administrative services related to special assessments and PILOTs billed to properties within the City’s RAB program; and

WHEREAS, a proposal, dated January 21, 2023 from Wendell G. Gaertner, Senior Managing Director, Public Resources Advisory Group (“PRAG”), attached hereto and made a part hereof, with principal offices located at 150 Second Avenue North, Suite 400, St. Petersburg, Florida, 33701, was submitted to provide these services; and

WHEREAS, the City of Asbury Park has reviewed the proposal submitted and has determined that the PRAG proposal, attached hereto and made a part of, meets the needs of the City; and

WHEREAS, the Public Advisory Group (PRAG) has agreed to maintain his rates at the 2022 levels; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40:11-1 et seq.) authorizes contracts for the provision of “Professional Services,” which may be awarded without public advertising and competitive bidding, provided a brief notice of the nature, duration, service and amount of contract is published, and that the Resolution and contract are kept on file and available for public inspection; and

WHEREAS, the City desires to engage Public Resources Advisory Group (“PRAG”) as

an independent municipal advisor to perform administrative services related to special assessments and PILOTs to be billed to the aforementioned properties within the City's Redevelopment Area Bond ("RAB") program upon the satisfaction of all conditions set forth under the several trust indentures and special assessment agreements; and

WHEREAS, financial services are professional services, exempt from the requirement for public bidding, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(i); and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et. seq.) requires that notice of the award of contracts for "Professional Services" without competitive bidding must be published in a local newspaper; and

WHEREAS, this contract is for an amount over \$17,500 and is being awarded pursuant to N.J.S.A. 19:44A-20.5. PRAG shall be required to complete and submit a Business Entity Disclosure Certification which certifies that PRAG has not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year, and the Professional Services Agreement will prohibit PRAG from making any reportable contributions through the term of the agreement; and

NOW, THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Asbury Park,

1. The Mayor of the City of Asbury Park, in the County of Monmouth (the "Mayor" and together with the City Manager and Chief Financial Officer of the City, an "Authorized Officer") is hereby authorized and directed, upon the receipt of Public Resources Advisory Group's Business Registration Certificate, evidence of Affirmative Action compliance or Certificate of Employee Information Report and Pay to Play Business Entity Disclosure Certification, and upon satisfaction of all conditions set forth under the several trust indentures and special assessment agreements, to execute the Agreement in the form attached hereto as Exhibit 1 with Public Resources Advisory Group ("PRAG"), with offices at 150 Second Avenue North, Suite 400, St. Petersburg, Florida, 33701, to provide financial advisory services related to special assessments and PILOTs billed to certain properties within the City's Redevelopment Area Bond ("RAB") program, in an amount not to exceed Thirty Thousand Dollars (\$30,000.00) without further authorization, and with such changes, insertions and omissions thereto as the Mayor, after consultation with counsel to the City and redevelopment counsel to the City, deems in the Mayor's sole discretion to be necessary or desirable for the execution thereof, which authorization thereof shall conclusively evidence the Mayor's consent to any such changes thereto.

2. The term of this contract shall be for the period of one year, subject to annual renewal by resolution of the Municipal Council of the City of Asbury Park.

3. This contract is being awarded pursuant to the procedures of the State Pay-to-Play Law (N.J.S.A. 19:44A-20.5) and pursuant to the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-5(1)(a)(i)).

4. Sufficient funds, for the purpose set forth herein above, are available pursuant to the City's Redevelopment Area Bond (RAB) documents and the Special Assessment documents.

5. A fully executed copy of this Agreement shall be maintained on file in the Office of the City Clerk, and shall be made available for public inspection.

6. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within ten (10) days of the adoption of this Resolution.

7. This resolution shall take effect upon satisfaction of all conditions set forth under the several trust indentures and special assessment agreements, and as provided by law

8. A certified copy of this Resolution shall be provided to each of the following:

- a. Donna Vieiro, City Manager
- b. JoAnn Boos, CMFO, Chief Financial Officer
- c. Director of the N.J. Division of Local Government Services
- e. Public Resources Advisory Group

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-30 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

**CITY OF ASBURY PARK AGREEMENT FOR
RAB SPECIAL ASSESSMENT AND PILOT
ADMINISTRATIVE SERVICES**

THIS AGREEMENT, made this day of , 2022;

BETWEEN:

CITY OF ASBURY PARK, a public body corporate and politic of the State of New Jersey with offices at One Municipal Plaza, Asbury Park, New Jersey 07712, hereinafter designated as "CITY."

AND:

PUBLIC RESOURCES ADVISORY GROUP, INC., with offices at 150 Second Avenue North, Suite 400, St. Petersburg, Florida, 33701, hereinafter referred to as "CONSULTANT,"

WITNESSETH:

WHEREAS, the CITY desires to secure an independent municipal advisor to perform administrative services related to special assessments and Payments in Lieu of Taxes ("PILOTs") billed to certain properties within the City's Redevelopment Area Bond ("RAB") program, including, Vive, Monroe, The Asbury Hotel, South Grand, 1101 Ocean, AP Triangle, and Block 4001, hereinafter referred to as "the Project"; and

WHEREAS, CONSULTANT submitted a proposal for the performance of said RAB Special Assessment and PILOT Administrative Services dated December 20, 2021, ("Proposal") which is attached to this contract as Appendix A and made a part hereof; and

WHEREAS, CITY adopted a Resolution at its regular board meeting authorizing and directing the Mayor of the City of Asbury Park to execute a contract with CONSULTANT to perform RAB Special Assessment and PILOT Administrative Services; and

WHEREAS, CITY is willing to reappoint CONSULTANT for the year 2023 so long as the 2023 rates remain the same as those contained in the 2022 contract; and

WHEREAS, CONSULTANT is willing to maintain the same rates for the 2023 contract;

WHEREAS, this contract is awarded to CONSULTANT by Resolution pursuant to New Jersey's Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., New Jersey's Pay-to-Play law, N.J.S.A. 19:44A-20.4 et seq., and Title 11 of the Americans with Disabilities Act of 1990 (42 §12101, et seq.) and as such is subject to the requirements contained therein.

NOW, THEREFORE, in consideration of these premises and the mutual covenants, conditions and agreements contained herein, the parties hereto agree as follows:

CONSULTANT'S RESPONSIBILITIES

CONSULTANT shall serve as CITY's professional consultant and provide RAB Special Assessment and PILOT Administrative Services in accordance with the Proposal submitted, dated December 20, 2021, entitled "2022 Administrative Services- Special Assessments and Payments in Lieu of Taxes ("PILOT")," which is attached hereto and made a part hereof as Appendix A.

CITY'S RESPONSIBILITIES

CITY shall provide, to the extent possible, full information as necessary and appropriate to enable CONSULTANT to fulfill the requirements for completion of the project.

PAYMENTS TO CONSULTANT

CITY agrees to pay CONSULTANT as compensation for these services outlined above and provided in the Proposal and in an amount not to exceed \$35,000 without further authorization from CITY. Payments shall be made pursuant to the Redevelopment Area Bond (RAB) documents and Special Assessment documents.

CONSULTANT shall submit monthly statements for consulting services provided and CITY shall make prompt monthly payments in response to CONSULTANT's monthly statements.

GENERAL CONSIDERATIONS

1. Scope - The CONSULTANT is hereby retained by CITY to provide RAB Special Assessment and PILOT Administrative Services for the City of Asbury Park RAB Special Assessment and PILOT Administrative Services shall include the following:

- a. Review the master special assessment agreement; review all financial agreements and special assessment agreements related to each of the Projects;
- b. Assemble all relevant data concerning the units of the respective Projects including but not limited to substantial completion date, offered sales price per special assessment agreement, initial transfer sales price (if applicable), current year assessed value;
- c. Tabulate the CITY's annual tax rates including municipal purposes rate by tax year;
- d. Calculate the annual total special assessments levied to all units in the respective Projects in accordance with the special assessment agreements;
- e. Calculate the pledged special assessment for all units in accordance with the corresponding special assessment agreement to determine the portion of the special assessment that the CITY will levy and remit to the trustee of the RABs upon collection;
- f. Calculate the annual PILOT payment due for all units in accordance with the

corresponding financial agreement;

g. Calculate the annual administrative fee due for all units in accordance with the corresponding financial agreements;

h. Provide the CITY, in spreadsheet form, the annual total special assessments for each unit broken down by the pledged assessment and PILOT payment due;

i. Calculate deficiency payments due from the master developer at the time of a unit's initial sale;

j. Perform similar functions on a quarterly basis, as applicable;

k. Other services as directed by the CITY; and,

l. Attend in-person meetings and conference calls at the request of the CITY; however, it is expected that CONSULTANT's work will be performed off-site.

2. **Term** - This Agreement shall be in effect for one year commencing upon execution, unless otherwise terminated as provided for herein, and will be subject to renewal by resolution of the CITY.

3. **Termination** - This Agreement may be terminated by either party upon ten (10) days written notice to the other party. Under this paragraph, CONSULTANT shall be paid for services rendered and expenses incurred to the date of termination. The termination of CONSULTANT shall be deemed to be a termination of any subcontractors of CONSULTANT as of the termination date. All finished or unfinished documents, data, studies, agreements and/or reports prepared by CONSULTANT under this Agreement, shall be delivered to CITY.

4. **Consideration** - For the services set forth in Paragraph 1 above, the consideration shall be at the rates specified in CONSULTANT's Proposal dated December 20, 2021, entitled "Administrative Services - Special Assessments and Payments in Lieu of Taxes ("PILOT")," which is attached hereto and made a part hereof as Appendix A, and in an amount not to exceed \$35,000 without authorization from CITY.

5. **Controlling Law** - This Agreement is governed by the Laws of the State of New Jersey.

6. **Successors and Assigns** - CITY and CONSULTANT each binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the successors, executors, administrators, assigns and legal representatives of such other party, in respect to all covenants, agreements and obligations of this Agreement.

Neither CITY nor CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except as stated in the above paragraph and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent CONSULTANT from employing such independent consultants, associates and subcontractors as it may deem appropriate to assist in the performance of services hereunder.

Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than CITY and CONSULTANT.

7. **Liability** - Acceptance of the final payment by CONSULTANT shall be considered a release in full of all claims against CITY arising out of, or by reason of, the work done and materials furnished under this contract.

8. **Document Ownership** - Any specifications, drawings, sketches, models, samples, data, computer programs, documentation, technical or business information and the like ("Information") furnished or disclosed by CITY to CONSULTANT in connection with this Agreement for Professional Services shall remain the property of CITY. When in tangible form, all copies of such information shall be returned to CITY upon request. Unless such information was previously known to CONSULTANT, free of any obligation to keep it confidential, or has been or is subsequently made public by CITY or a third party, it shall be held in confidence by CONSULTANT, shall be used only for the purposes of this Agreement for Professional Services and may not be used for other purposes except upon such terms and conditions as may be mutually agreed upon in writing.

9. **Insurance and Indemnification** - CONSULTANT shall maintain insurance and indemnify CITY as follows:

a) CONSULTANT shall maintain at its own expense the following insurance covering any claims incurred or arising as a result of CONSULTANT's performance, which insurance shall be issued by a carrier authorized to do business in the State of New Jersey and having agents upon whom service of process may be made in the State of New Jersey and shall contain at a minimum the following provisions, coverages and policy limits of liability. A Certificate of Insurance shall be provided showing the following coverage and limits.

b) Professional Liability Insurance with limit of liability not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. (A separate Certificate of Insurance shall be provided).

c) The CONSULTANT shall be responsible for performing the above services in accordance with all the professional standards applicable to such services which shall govern CONSULTANT'S responsibility for any errors, omissions or negligent acts in its performance of such services. CONSULTANT shall not be responsible for the acts or omissions of any third parties except the CONSULTANT'S own employees, engineers, subcontractors and agents at the site or otherwise performing any work in connection with the Project, however, nothing contained herein shall be construed to release CONSULTANT from liability for failure to properly perform duties undertaken by it under this Agreement.

d) The CONSULTANT agrees to hold the City of Asbury Park, and its respective officials, officers, agents, servants and employees, harmless from and against liability caused by CONSULTANT'S negligence, in connection with the negligent performance of the services described herein.

10. **Affirmative Action and Business Registration Certificate Provisions** - This Agreement is subject to the following special provisions.

1. The mandatory language of P.L. 1975, C. 117 and applicable regulations promulgated by the Treasurer of the State of New Jersey pursuant thereto are attached at Appendix C of this Agreement and made a part hereof. CONSULTANT agrees to afford equal opportunity in performance of this AGREEMENT in accordance with an Affirmative Action Program approved by the appropriate authorities.

2. This Agreement is further subject to N.J.S.A. 52:32-44, which imposes the

following requirements on contractors and all subcontractors that knowingly provide goods or perform services for a contractor fulfilling this contract: 1) CONSULTANT shall provide written notice to its subcontractors to submit proof of business registration to CONSULTANT; 2) prior to receipt of final payment from a contracting agency, CONSULTANT must submit to CITY an accurate list of all subcontractors or attest that none was used; 3) during the term of this contract, CONSULTANT and its affiliates shall collect and remit, and shall notify all subcontractors and their affiliates that they must collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act, (N.J.S.A. 54:32B-1 et seq.) on all sales of tangible personal property delivered into this State.

A contractor, subcontractor or supplier who fails to provide proof of business registration or provides false business registration information shall be liable to a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration not properly provided or maintained under a contract with a contracting agency. Information on the law and its requirements is available by calling (609) 292-9292.

11. Political Contribution Disclosure – The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a “fair and open process” pursuant to *N.J.S.A. 19:44A-20.4, et seq.* As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm’s subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19-44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, C. 19, affect the Contractor’s eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

EXHIBITS AND SPECIAL PROVISIONS

Exhibits - The following are attached to and made a part of this Agreement:

Appendix A - Proposal submitted by Public Resources Advisory Group, LLC dated December 20, 2021, entitled "Administrative Services - Special Assessments and Payments in Lieu of Taxes ("PILOT")," which is attached hereto and made a part hereof as Appendix A.

Appendix B - Resolution adopted by CITY

Appendix C - Mandatory Affirmative Action

Appendix D - Americans with Disabilities Act Language.

ENTIRE AGREEMENT

This Agreement, together with the Exhibits identified as Appendix A, Appendix B, Appendix C, and Appendix D, above, constitutes the entire Agreement between CITY and CONSULTANT and supersedes all prior written or oral understandings. This Agreement and said Exhibits may only be amended, supplemented, modified or cancelled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

ATTEST:

CITY OF ASBURY PARK

Dated: _____

ATTEST:

PUBLIC RESOURCES ADVISORY GROUP, INC.



Wendell G. Gaertner
Senior Managing Director

Dated: November 17, 2022

November 17, 2022

Donna Vieiro
City Manager
City of Asbury Park
City Hall
One Municipal Plaza
Asbury Park, NJ 07712

RE: Municipal Advisory Services Required Disclosure

Dear Ms. Vieiro:

The City of Asbury Park, New Jersey (the "City") is retaining Public Resources Advisory Group ("PRAG") as an independent registered municipal advisor pursuant to an Agreement for RAB Special Assessment and PILOT Administrative Services between the City and PRAG (the "Agreement"). These activities qualify as municipal advisory activities pursuant to Section 15B of the Securities Exchange Act of 1934. As a registered municipal advisor, PRAG is required to have written documentation of its agreement with you and must provide certain information to you. This letter will serve as the written documentation required under MSRB Rule G-42 of certain specific terms, disclosures and other items of information relating to our municipal advisory relationship as of the date this letter is signed by PRAG and updates the disclosure provided in our proposal to the City dated December 20, 2021.

1. Scope of Services

(a) Services to be provided: The scope of services with respect to PRAG's engagement with the City (the "Scope of Services") are as described in the Agreement.

2. Term. We understand that the term of the engagement with the City will correspond to the term of the Agreement, currently December 31, 2023 and subject to renewal, extension and termination as provided for in the Agreement. In addition, we understand that our engagement may be terminated with or without cause by either party. In case of any termination, we believe that the terminating party should endeavor to provide reasonable notice of such termination to the other party so as to permit an orderly transition.

3. Municipal Advisor's Regulatory Duties When Servicing the City. MSRB Rule G-42 requires that PRAG make a reasonable inquiry as to the facts that are relevant to the City's determination whether to proceed with a course of action or that form the basis for the advice provided by PRAG to the City with respect to municipal financial products or the issuance of municipal securities, including with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues, based on all the facts and circumstances. The rule also requires that PRAG undertake a reasonable investigation to determine that it is not basing any recommendation on materially inaccurate or incomplete information. PRAG is also required under the rule to use reasonable diligence to know the essential facts about the City and the City of each person acting on the City's behalf.

Accordingly, PRAG will seek the City's assistance and cooperation, and the assistance and cooperation of the City's agents, with the carrying of these regulatory duties, including providing PRAG with accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties. In addition, if the City provides direction to PRAG to review a

recommendation made by a third party, PRAG requests that the City provide any information it has received from such third party relating to its recommendation.

4. Compensation. The form and basis of compensation for PRAG's services as municipal advisor are as provided in the Agreement.

5. Disclosures of Conflicts of Interest. MSRB Rule G-42 requires that municipal advisors provide to their clients disclosures relating to any actual or potential material conflicts of interest, including certain categories of potential conflicts of interest identified in Rule G-42, if applicable. Accordingly, PRAG makes the following disclosures with respect to material conflicts of interest in connection with the Scope of Services under this Agreement, together with explanations of how PRAG addresses or intends to manage or mitigate each conflict.

With respect to all of the conflicts disclosed below, PRAG mitigates such conflicts through its adherence to its fiduciary duty to the City, which includes a duty of loyalty to the City in performing all municipal advisory activities for the City. This duty of loyalty obligates PRAG to deal honestly and with the utmost good faith with the City and to act in the City's best interests without regard to PRAG's financial or other interests.

(a) Compensation-Based Conflicts: Under the Agreement, PRAG's fees are to be paid based on hourly fees of PRAG's personnel, with the aggregate amount equaling the number of hours worked by such personnel times agreed-upon hourly billing rate(s). This presents a potential conflict of interest because PRAG may have the incentive to spend more time than necessary on an engagement. If the hourly fees are subject to a maximum amount, the potential conflict of interest arises because of the incentive for PRAG to fail to do a thorough analysis of alternatives and/or recommend alternatives that would be less time-consuming for PRAG staff.

(b) Other Municipal Advisor Relationships: PRAG serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on the interests of the City. For example, PRAG serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to the City under this Agreement. These other clients may, from time to time and depending on the specific circumstances, have competing interests. In acting in the interests of its various clients, PRAG could potentially face a conflict of interest arising from these competing client interests.

6. Disclosures of Information Regarding Legal Events and Disciplinary History. MSRB Rule G-42 requires that municipal advisors provide to their clients certain disclosures of legal events or disciplinary history material to its client's evaluation of the municipal advisor or the integrity of the municipal advisor's management or advisory personnel. Accordingly, PRAG sets out below required disclosures and related information in connection with such disclosures.

There are no legal events or disciplinary history that are material to the City's evaluation of PRAG or the integrity of PRAG's management or advisory personnel disclosed, or that should be disclosed, on any Form MA and Form MA-I filed with the SEC. The City may electronically access PRAG's most recent Form MA and each of our most recent Form MA-I filed with the SEC at the following website: www.sec.gov/edgar/searchedgar/companysearch.html.

PRAG has not made any material, legal or disciplinary event disclosures on Form MA or any Form MA-I filed with the SEC.

7. Future Supplemental Disclosures. As required by MSRB Rule G-42, this letter may be supplemented or amended, from time to time as necessary, to reflect changed circumstances resulting in new conflicts of interest or changes in the conflicts of interest described above, or to provide updated information with regard to any legal or disciplinary events of PRAG. PRAG will provide the City with any such supplement or amendment as it becomes available throughout the term of the Agreement.

Required Disclosure Pursuant to MSRB Rule G-10

Public Resources Advisory Group, Inc. is currently registered as a Municipal Advisor with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board ("MSRB").

As a Municipal Advisor, we are required to provide the following written information to our municipal entity and obligated person clients in accordance with MSRB Rule G-10:

The MSRB website at www.msrb.org, includes the Municipal Advisory client brochure that describes the protections that may be provided by the MSRB Rules and how to file a complaint with an appropriate regulatory City.

Sincerely,

A handwritten signature in blue ink that reads "Wendell G. Gaertner".

Public Resources Advisory Group, Inc.
Wendell Gaertner
Senior Managing Director



150 SECOND AVENUE NORTH, SUITE 400
ST. PETERSBURG, FLORIDA 33701
TEL: (727) 822-3339 | FAX: (727) 822-3502

PUBLIC RESOURCES ADVISORY GROUP

December 20, 2021

Donna Vieiro, City Manager
City of Asbury Park
1 Municipal Plaza
Asbury Park, NJ 07712

Re: 2022 Administrative Services – Special Assessments and Payments in Lieu of Taxes (“PILOT”)

Dear Ms. Vieiro,

The purpose of this engagement letter (the "Agreement") is to document the relationship between Public Resources Advisory Group, Inc. ("PRAG") and the City of Asbury Park (“the City”). The City desires to utilize PRAG as an independent municipal advisor to perform administrative services related to special assessments and PILOTs billed to certain properties within the City’s Redevelopment Area Bond (“RAB”) program. It is our understanding that the following City redevelopment projects comprise the subject properties: Vive, Monroe, The Asbury Hotel, South Grand, 1101 Ocean, AP Triangle, and Block 4001 (collectively, the “Projects”).

PRAG

PRAG is an independent financial advisory firm and a leading national financial advisor, having advised issuers on over \$1 trillion of financings for a variety of purposes, including redevelopment projects and tax increment financing. Since the firm’s inception in 1985, PRAG has continuously provided independent and in-depth financing advice to state and local governments, authorities, and agencies nationwide. PRAG is registered as a Municipal Advisor with the Securities Commission (“SEC”) and the Municipal Securities Rulemaking Board (“MSRB”). PRAG provided these services to the City last year and desires to continue the relationship with the City.

Scope of Services

PRAG’s scope of services to the City for this engagement will include the following:

- a. Review the master special assessment agreement; review all financial agreements and special assessment agreements related to each of the Projects;
- b. Maintain all relevant data concerning the units of the respective Projects including but not limited to substantial completion date, offered sales price per special assessment agreement, initial transfer sales price (if applicable), current year assessed value;
- c. Maintain a tabulation of the City’s annual tax rates including municipal purposes rate by tax year;
- d. Calculate the annual total special assessments levied to all units in the respective Projects in accordance with the special assessment agreements;
- e. Calculate the pledged special assessment for all units in accordance with the corresponding special assessment agreement to determine the portion of the special assessment that the City will levy and remit to the trustee of the RABs upon collection;
- f. Calculate the annual PILOT payment due for all units in accordance with the corresponding financial agreement;

INDEPENDENT FINANCIAL ADVISORS



- g. Calculate the annual administrative fee due for all units in accordance with the corresponding financial agreements;
- h. Provide the City, in spreadsheet form, the annual total special assessments for each unit broken down by the pledged assessment and PILOT payment due;
- i. Calculate deficiency payments due from the master developer at the time of a unit's initial sale;
- j. Perform similar functions on a quarterly basis, as applicable;
- k. Other services as directed by the City; and,
- l. Attend in-person meetings and conference calls at the request of the City; however, it is expected that PRAG's work will be performed off-site.

Plan of Engagement

I will continue to serve as Project Supervisor and Mickey Johnston will continue to serve as Project Manager. It is anticipated that most of the work will be performed at the Project Manager level.

Compensation

PRAG will be paid for the Scope of Services described herein based on its hourly fee schedule as follows:

Position Title	Hourly Rate
Sr. Managing Director	\$275
Managing Director	\$200
Vice President	\$175

It is expected that the fees associated with the Scope of Services will not exceed \$35,000. PRAG will not charge the City for any clerical functions performed by PRAG's internal administrative staff. If the Scope of Services must expand, we will promptly communicate this to the City.

While PRAG expects to perform its work off-site, PRAG may charge the City for certain expenses incurred. Expenses shall include, but are not limited to, travel, hotel, and meals, air freight and courier charges, teleconferencing charges, allocation of computer software and information services. In no event will expenses exceed \$2,000 without the approval of the City.

We understand that our engagement may be terminated with or without cause by either party. In case of any termination, we believe that the terminating party should endeavor to provide reasonable notice of such termination to the other party so as to permit an orderly transition.

We look forward to continuing our relationship with the City and working with you on this project.

Sincerely,
PUBLIC RESOURCES ADVISORY GROUP, INC.

Wendell G. Gaertner
Senior Managing Director



Accepted:
The City of Asbury Park

Signature: _____
Printed Name: _____
Title: _____



Disclosure of Conflicts of Interest and Legal or Disciplinary Events (G-42)

Pursuant to Municipal Securities Rulemaking Board (“MSRB”) Rule G-42, on Duties of Non-Solicitor Municipal Advisors, Municipal Advisors are required to make certain written disclosures to clients which include, among other things, conflicts of interest and any legal or disciplinary events of Public Resources Advisory Group, Inc. (“PRAG”) and its associated persons. Accordingly, PRAG makes the following general disclosures with respect to conflicts of interest.

Conflicts of Interest (G-42)

Compensation-Based Conflicts: PRAG’s compensation may include a single or a variety of fee structures. Each of these arrangements may create a conflict as defined by MSRB Rule G-42. PRAG’s fees may be based on the size of the issue, and the payment of such fees may be contingent upon the delivery of the issue. While this form of compensation is customary in the municipal securities market, this may present a potential conflict of interest because it could create an incentive for PRAG to recommend unnecessary financings or financings that are disadvantageous to the client.

PRAG may also charge fees in a fixed amount as a retainer for services or as a transaction fee, and this arrangement could provide PRAG an incentive to recommend less time-consuming alternatives or fail to do a thorough analysis of the alternatives. In addition, fees may be paid based on hourly fees of PRAG’s personnel, with the aggregate amount equaling the number of hours worked by such personnel times agreed-upon hourly billing rate(s). This presents a potential conflict of interest because PRAG may have the incentive to spend more time than necessary on an engagement. If the hourly fees are subject to a maximum amount, the potential conflict of interest arises because of the incentive for PRAG to fail to do a thorough analysis of alternatives and/or recommend alternatives that would be less time-consuming for PRAG staff.

Other Municipal Advisor Relationships: PRAG serves a wide variety of other clients that may, from time to time, have interests that could have a direct or indirect impact on the interests of another PRAG client. These other clients may, from time to time and depending on the specific circumstances, have competing interests. In acting in the interests of its various clients, PRAG could potentially face a conflict of interest arising from these competing client interests.

With respect to all of the conflicts disclosed above, PRAG mitigates such conflicts through its adherence to its fiduciary duty to the client, which includes a duty of loyalty to the in performing all municipal advisory activities. This duty of loyalty obligates PRAG to deal honestly and with the utmost good faith with you and to act in your best interests without regard to PRAG’s financial or other interests.

If PRAG becomes aware of any additional potential or actual conflict of interest prior to, or during an engagement, PRAG will disclose the detailed information in writing within a timely manner.

Disclosure of Legal or Disciplinary Events (G-42)

PRAG has no legal or disciplinary events to disclose.

Other Required Disclosure (G-10)

The MSRB website at www.msrb.org, includes the Municipal Advisory client brochure that describes the protections that may be provided by the MSRB Rules and how to file a complaint with an appropriate regulatory authority.



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-31

Contract with BRS to continue managing our Brownfield and Petroleum Assessment grants



RESOLUTION NO. 2023-31

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AWARDING A CONTRACT FOR U.S. ENVIRONMENTAL PROTECTION AGENCY BROWNFIELDS COMMUNITY-WIDE HAZARDOUS SUBSTANCES ASSESSMENT GRANT AND PETROLEUM COMMUNITY-WIDE ASSESSMENT GRANT SERVICE TO BROWNFIELD REDEVELOPMENT SOLUTIONS, INCORPORATED (BRS)

WHEREAS, the City has a need for accessing environmental services for the implementation of US Environmental Protection Agency Brownfields Community -Wide Hazardous Substances Assessment Grant and Petroleum Community-Wide Assessment Grant; and

WHEREAS, the Mayor and Council have determined to appoint Brownfield Redevelopment Solutions (BRS) for 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, Brownfield Redevelopment Solutions (BRS), has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer has certified that funds are available through a grant from the United States Department of Environmental Protection Agency; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has

been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council;
and

WHEREAS, services shall not exceed \$25,000 for the calendar year; and

WHEREAS, the Chief Financial Officer has certified that funds are available in the
Current Fund 1-01-20-165-000-201; and

WHEREAS, the services to be provided are considered to be “professional services” under the
Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for
said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of
Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The firm Brownfield Redevelopment Solutions, Incorporated (BRS), is hereby
appointed to perform Environmental and Grant Management Services for the City for
2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, an Agreement
between the City of Asbury Park and BRS Incorporated, for the year 2023, or one
which is substantially similar thereto and which meets with the approval of the City
Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with
N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will
be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”)
process, pursuant to and in accordance with the Pay-to-Play Law, and further in
accordance with the approval received from the DLGS.
5. Notice of the adoption of this Resolution shall be published in a newspaper of general
circulation within the City.
6. A certified copy of this Resolution shall be provided to each of the following:
 - a. BRS, Incorporated
 - b. Donna Vieiro, City Manager
 - c. JoAnn Boos, Chief Financial Officer
 - d. Frederick C. Raffetto, Esq., Municipal Attorney

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-31 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

**SERVICE AGREEMENT
BY AND BETWEEN
THE CITY OF ASBURY PARK, NEW JERSEY
AND
BROWNFIELD REDEVELOPMENT SOLUTIONS, INC.**

This Service Agreement ("Agreement") is effective as of this ____ day of January 2023, by and between the **City of Asbury Park, New Jersey ("City")**, a public body corporate and politic of the State of New Jersey, having an address at **One Municipal Plaza, Asbury Park, New Jersey 07712**) and **Brownfield Redevelopment Solutions, Inc ("BRS")** having an address at 739 Stokes Road Units A&B Medford, NJ 08055, each being a "Party", and together are hereby referred to as the "Parties" to this Agreement.

WHEREAS, the City has a need for accessing environmental services for the implementation of the US Environmental Protection Agency Brownfields Community-Wide Hazardous Substances Assessment Grant and Community-Wide Petroleum Assessment Grant; and

WHEREAS; the City evaluated the proposal submitted by BRS to provide the necessary environmental services to the City; and

WHEREAS, the City Council authorized by Resolution 2023- the City to enter into a professional services agreement with BRS;

WHEREAS, the anticipated term of this contract is for one year, to expire one (1) year from the date of execution;

NOW THEREFORE, in consideration of the mutual promises, covenants and obligations, and agreements made and contained herein, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. Scope of Services

BRS will be responsible for services outlined in "**Proposed Scope of Work**" section of Brownfield Redevelopment Solutions, Inc. "Proposal City of Asbury Park Environmental Services for EPA Brownfield Grant" dated December 1, 2016, which is incorporated hereto as Attachment A; and Resolution 2023- entitled "A Resolution For U.S. Environmental Protection Agency Brownfields Community-Wide Hazardous Substances Assessment Grant and Community-Wide Petroleum Assessment Grant Services", which is incorporated hereto as Attachment B.

2. Payment Schedule and Compensation

Total compensation will not exceed Twenty Thousand Dollars (\$20,000) ("Contract Amount.").

All fees will be paid based upon the fee schedule outlined in BRS' proposal incorporated into Attachment A.

3. Non-Disclosure of Analysis

The City has right of ownership and dissemination of all data and other information derived from work performed in conjunction with this Agreement.

Except upon written approval of the City or otherwise stipulated herein, BRS shall not furnish or disclose to any person or organization, including but not limited to (1) any report, study, data or other information provided by or obtained from, the City in connection with this Agreement; (2) any grant application, reports, studies, recommendations, data or information relating to or made or developed in the course of the performance of this agreement; or (3) the results of the performance of any grant application, investigation and/or analysis except as may be required by law.

4. Compliance With Laws

BRS shall observe and comply will all state, local, federal laws, and the rules of any governing body having jurisdiction over the premises and/or its use.

5. Liability Insurance

BRS shall carry and maintain in full force and effect for the duration of this Professional Service Agreement and any supplement thereto the insurance coverages set forth below:

- A. Worker's Compensations and Employers Liability in accordance with State of New Jersey requirements, with a minimum limit of:
 - a. \$1,000,000 each accident for bodily injury by accident
 - b. \$1,000,000 each employee for bodily injury by disease
 - c. \$1,000,000 policy limit for bodily injury by disease
- B. Public Liability Insurance: Comprehensive General Liability, (bodily injury, personal injury, and property damage liability) including company's contingent Completed operations and contractual liability with a minimum:
 - a. \$1,000,000 each occurrence
 - b. \$1,000,000 personal and advertising injury
 - c. \$2,000,000 general aggregate; and
 - d. \$1,000,000 products/completed operations aggregate
- C. Comprehensive Automobile Liability Insurance. Covering all owned, hired and rented vehicles and equipment, with limits of liability of not less than \$1,000,000 for injuries to, or death of one or more persons resulting from any one occurrence and property damage limit of liability of not less than \$500,000 per occurrence.

All insurance certificates will name the City as an additional insured on the policy. Said Certificate must state that coverage cannot be cancelled or materially altered without thirty (30) days written notice to the City.

6. Indemnification and Allocation of Risk

BRS agrees to indemnify, save and hold harmless the City, its commissioners, directors, officers, employees, representatives or agents against any and all demands, claims, suits, losses, costs or direct damages to the extent caused by the negligent acts, omissions or misconduct of BRS, its officers, agents, employees and subcontractors in the performance of work by BRS under this Services Agreement.

7. Term of Agreement

The term of this Agreement shall be for a one year period from the date of execution.

8. Termination

A. Termination for Default

BRS' performance and fulfillment of its obligations under this Service Agreement shall be regularly evaluated by the City. If the City in their sole discretion determines that BRS has not met its obligations hereunder, the City reserves the right to terminate this Agreement upon giving not less than ten (10) days written notice to BRS. In the event that the City exercises their right to terminate the Agreement, BRS shall be entitled to payment for all work completed in accordance with the requirements of this Agreement up to and including the effective date of termination of this Agreement. Additionally, BRS shall also be entitled to payment for all non-cancelable commitments to third parties with respect to the scheduling and performance of the work tasks under the Scope of Work. In the event of termination pursuant to this Paragraph, the City shall be without further liability to BRS under this Agreement. Except as to the payments provided herein, BRS understands and agrees that it is not entitled to any damages whatsoever in the event of termination of this Agreement.

B. Termination for Convenience

Notwithstanding the provisions of paragraph 8(a), BRS understands and agrees that City hereby reserves the right to terminate this Service Agreement at any time, for any reason whatsoever, upon giving not less than twenty (20) days written notice to. In the event that the City exercises their right to terminate the Agreement, the City shall be without further liability to BRS under this Agreement. BRS understands and agrees that it is not entitled to any damages whatsoever in the event of termination of this Agreement. Notwithstanding the foregoing, in the event that the City exercises its right to terminate the

Agreement pursuant to this Paragraph, BRS shall be entitled to payment for all work completed in accordance with the requirements of this Agreement up to and including the effective date of the termination. Additionally, BRS shall also be entitled to payment for all non-cancelable commitments to third parties with respect to the scheduling and performance of work tasks under the Scope of Services.

9. The Service Agreement

This Service Agreement, and all other documents referred to herein and/or attached hereto, constitute the entire Agreement of the Parties on the subject matter hereof and supersede any and all prior representations, understandings, and agreements between the Parties with respect to such subject matter. The documents referred to herein and attached hereto shall be read together with this agreement to determine the Parties intent. If there is a conflict between and among such documents, this Agreement shall be the final expression of the Parties' intent. Any Amendment to this agreement must be in writing and signed by both parties or it is void.

10. Political Contribution Disclosure

The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his / her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one(1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor's eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date abovementioned:

ATTEST: _____

BY: _____
Donna M. Vieiro, City Manager
City of Asbury Park, New Jersey

WITNESS: _____

BY: _____
Michele Christina, President
BRS



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-32

Appointing Acacia Financial Group, Inc. To Serve as Financial Advisors for the City for 2023



RESOLUTION NO. 2023-32

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING ACACIA FINANCIAL GROUP, INC. TO SERVE AS FINANCIAL ADVISORS FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) desires to appoint a Financial Advisor for the City during the year 2023; and

WHEREAS, the Mayor and Council have determined to appoint the firm of Acacia Financial Group, Inc., to serve in this capacity for the year 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the firm of Acacia Financial Group Inc., has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing

that the value of the contract associated with the Attorney's services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State's Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City's Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The firm of Acacia Financial Group, Inc. is hereby appointed to serve as the Financial Advisor for the City for 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, the attached Agreement between the City of Asbury Park and Acacia Financial Group, Inc., for the year 2023, or one which is substantially similar thereto and which meets with the approval of the City Attorney.
3. Said contract is awarded as a "professional service" contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, "non-fair and open") process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS.
5. Acacia Financial Group, Inc. shall be paid in amount not to exceed \$40,000.00 for services enumerated herein.
6. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
8. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. JoAnn Boos, CMFO, Chief Financial Officer
 - d. Tracy Lizardi, Director of Purchasing, Assistant CFO
 - e. Acacia Financial Group

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-32 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



6000 Midlantic Drive
Suite 410 North
Mt. Laurel, NJ 08054

(856) 234-2266 Phone
(856) 234-6697 Fax

November 10, 2022

City of Asbury Park
One Municipal Plaza
Asbury Park, NJ 07712

Attention: Donna M. Vieiro
City Manager

Dear Ms. Vieiro:

This letter agreement (this “Agreement”), dated as of _____ (the “Effective Date”), will confirm the understanding and agreement between City of Asbury Park (the “Client”) and Acacia Financial Group, Inc. (“Acacia”) as follows:

1. ENGAGEMENT OF ACACIA. The Client engages Acacia to perform financial advisory services in connection with the Client’s issuance of bonds and/or notes and other general consulting services as required and directed by the Client (the “Advisory Services”). The following reflects the general services provided by Acacia in connection with the issuance of municipal securities. In certain transactions fewer or additional services may be required and Acacia will provide services as determined jointly between the Client and Acacia.

- a) Assist in the development of the plan of finance including: debt structure, method of sale, terms, timing, marketing and pricing.
- b) Prepare independent cash-flows relating to debt structures including scenario analysis as appropriate and development of final numbers.
- c) Assist in the preparation of the financing schedule, distribution list, meeting agendas, and other transaction management tasks
- d) Review the preliminary and final official statements and other documents related to the marketing and issuance of bonds.
- e) Participate in meetings and conference calls with the working group and other parties.
- f) Advise on the credit rating strategy and assist with obtaining credit ratings.
- g) In negotiated transactions: (i) analyze and advise on pricing levels based on the client’s historical pricing, results of recent comparable sales in the market, current market conditions and other factors that may impact the sale (such information to be provided in pre-pricing materials) and (ii) participate in negotiations with investment banking groups regarding pricing and final terms of the security offering on behalf of the Client.
- h) In competitive transactions: (i) assist in the overall coordination of the sale process, (ii) assist in the preparation of the notice of sale and bid specifications; (iii) conduct market outreach, (iv) apply for

CUSIPs as required by MSRB G-34 and (iv) independently review the bids for conformity to bid specifications and verify the true interest cost or net interest cost.

- i) Advise on direct bank loan structures including overall management of the RFP process.
- j) Assist in the evaluation and selection of underwriters/investment bankers, legal counsel, credit facility providers, trustees, verification agents, printers, and other professional service providers, including preparation of request for qualifications (RFQs) or requests for proposals (RFPs and the evaluation of statements of qualifications, proposals or bids submitted in response thereto (if requested).
- k) Monitor and evaluate refunding opportunities with respect to the Client's outstanding obligations.
- l) For refunding transactions, submit or assist with the submission of SLGS subscriptions, evaluate the efficiency of open market securities relative to SLGS and, if necessary or appropriate, prepare bid specifications and conduct the bid process for the purchase of open market securities.
- m) Analyze proposals presented by investment bankers and other parties related to the issuance of securities (as requested).
- n) Assist the Client, bond counsel and other transaction team members with the closing of the bonds and/or notes.
- o) Provide additional services as requested by the Client.

As a registered Municipal Advisor with the Municipal Securities Rulemaking Board ("MSRB") and the Securities Exchange Commission ("SEC"), Acacia also proposes to serve as Client's Independent Registered Municipal Advisor ("IRMA") for the purpose of complying with the Municipal Advisor Rule of the SEC approved on September 18, 2013.

The Client hereby acknowledges and agrees that the financial models and presentations used by Acacia in performing its Advisory Services hereunder have been developed by and are proprietary to Acacia and are protected under applicable copyright laws. The Client agrees that it will not reproduce or distribute all or any portion of such models or presentations without the prior written consent of Acacia.

2. FEES AND EXPENSES.

(a) Bond Transaction Fees. For financial advisory services rendered to the Client in connection with the sale of bonds, Acacia proposes to be compensated at a rate of \$0.85 per \$1,000 of par value issued, with a minimum fee of \$12,500 per bond issue, inclusive of expenses.

(b) Note Transaction Fees. For financial advisory services rendered to the Client in connection with the sale of notes with an official statement and credit ratings, Acacia proposes to be compensated a flat rate of \$8,500 per note issues, inclusive of expenses. For financial advisory services rendered to the Client in connection with the sale of notes without an official statement or rating, Acacia proposes to be compensated a flat rate of \$5,000 per note issue, inclusive of expenses.

*****Acacia anticipates that the City could have one general capital bond issue, one general capital note issuance and potentially two redevelopment area bond issuances in 2023. Assuming this, the not-to-exceed bond and notes fees would be approximately \$42,500.***

(c) Consulting Fees. For general consulting provided on projects other than the sale of bonds or notes (including redevelopment consulting), Acacia proposes that compensation be based upon the hourly rates established below:

Title	Hourly Rate
Co-President	\$195.00/hr.
Managing Director/Senior Vice President	\$185.00/hr.
Vice President	\$175.00/hr.
Assistant Vice President /Associate	\$165.00/hr.
Analyst	\$150.00/hr.

*****Acacia proposes that general consulting and redevelopment consulting hourly fees are estimated to not-to-exceed \$40,000 during 2023 based on previous years billings. Acacia is also willing to discuss a cap per project, if applicable.***

(d) Annual Disclosure Filing (Dissemination Agent). For services in connection with the on-going annual disclosure and the filing of certain financial information and notices in connection with the provisions of Rule 15C2-12(b)(5), Acacia proposes that compensation be an annual fee of \$750 billed at the time such services are rendered.

(e) Complex Financings/Transactions. If the Client requires assistance with a financing that includes a unique and/or complex structure or requires additional services or time beyond our typical scope, Acacia and the Client will in good faith negotiate the amount of the fee payable taking into account, among other things, the size, structure and complexity of the transaction.

3. INDEMNIFICATION.

(a) The Client hereby expressly agrees to indemnify and hold harmless Acacia, its affiliates and its officers, directors, partners, limited partners, members, employees, agents, consultants and controlling persons and their respective successors and assigns (Acacia and each such person being an “Indemnified Person”), from any and all losses, claims, damages and liabilities, joint or several, to which such Indemnified Person may become subject (i) arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in the Official Statement, including documents described in or incorporated by reference, or arising out of or based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, or (ii) arising in any manner out of or in connection with the services performed by Acacia or any other Indemnified Person or the matters that are the subject of this Agreement.

(b) The Client shall reimburse Acacia and any other Indemnified Person for all reasonable expenses (including reasonable fees and expenses of legal counsel) as incurred in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuits, investigations, claims or other proceedings arising in any manner out of or in connection with the services or matters that are the subject of this Agreement (including, without limitation, in connection with asserting or enforcing rights under this Agreement and the indemnification obligations set forth herein); provided, however, that the Client shall not be liable to indemnify any Indemnified Person in respect of any loss, claim, damage, liability or expense to the extent that it is finally judicially determined that such loss, claim, damage, liability or expense resulted directly from the gross negligence or willful misconduct of such Indemnified Person.

4. TERM AND TERMINATION.

(a) Term. The appointment and authorization of Acacia under this Agreement shall commence on the Effective Date and shall terminate at the earliest of (i) a date mutually agreed upon by the Client and Acacia in writing; or (ii) upon at least thirty (30) days' prior written notice of one party to the other parties specifying the date of termination (the "Term"). Notwithstanding any such termination of this Agreement, the Client shall remain responsible for any fees accrued during the Term, and the reimbursement of Acacia's expenses pursuant to Paragraph 2 of this Agreement incurred during the Term and not yet paid.

(b) Survival. The provisions of Paragraphs 3, 4, 7 and 8 of this Agreement shall survive the termination of this Agreement.

5. ACACIA'S DISCLOSURES PURSUANT TO MSRB RULE G-42

(a) Conflicts of Interest. Acacia receives compensation for municipal advisory activities to be performed that (i) is contingent upon the size of the transaction, which could create an incentive to otherwise increase the size of a transaction; or (ii) is contingent upon the closing of the transaction, which could create an incentive to otherwise close a transaction. Acacia manages this conflict by implementing written policies and procedures for supervision that ensure that Acacia adheres to its fiduciary duties to its municipal advisory clients. Acacia is not aware, after reasonable inquiry, of any other actual or potential material conflict of interest that could reasonably be anticipated to impair its ability to provide advice to or on behalf of its clients in accordance with its fiduciary duties to its clients.

(b) Legal or Disciplinary Events. Acacia does not have any legal or disciplinary events that are material to a client's evaluation of Acacia or the integrity of Acacia's management or advisory personnel, nor does Acacia have any legal or disciplinary events that are required to be disclosed on its Forms MA and MA-I, which are filed with the SEC. Copies of Acacia's most recent Forms MA and MA-I are accessible on the SEC's EDGAR system Company Search Page at <https://www.sec.gov/edgar/searchedgar/companysearch.html> by searching for either Acacia Financial Group, Inc. or Acacia's CIK number, which is 0001613001. Acacia has not made any material change or addition to the legal or disciplinary event disclosures on any Form MA or Form MA-I filed with the SEC since Acacia's initial filing of Form MA on July 25, 2014. On June 1, 2017, Acacia's principal place of business changed and a revised Form MA was filed on June 7, 2017 and MA-I filed on June 5, 2017.

6. ACACIA'S DISCLOSURES PURSUANT TO MSRB RULE G-10. Pursuant to MSRB Rule G-10, on Investor and Municipal Advisory Client Education and Protection, Municipal Advisors (such as Acacia Financial Group, Inc.) are required to provide certain written information to their municipal entity and obligated person clients which includes the following:

(a) Acacia Financial Group, Inc. is currently registered as a Municipal Advisor with the SEC and the MSRB.

(b) Within the MSRB website at www.msrb.org, municipal entity and obligated person clients of Acacia Financial Group, Inc. may obtain the Municipal Advisory client brochure that is posted on the MSRB website. The brochure describes the protections that may be provided by the MSRB Rules along with how to file a complaint with financial regulatory authorities.

7. DISPUTE RESOLUTION. All disputes, claims or controversies arising out of or in any way relating to this Agreement or the services rendered by Acacia (including with respect to enforcement of this Agreement) that are not resolved by mutual agreement shall be resolved solely and exclusively by binding arbitration to be conducted before the American Arbitration Association (the "AAA"). Arbitration proceedings

shall be held in New Jersey before a single arbitrator and shall be conducted in accordance with the commercial arbitration rules of the AAA unless specifically modified herein.

8. MISCELLANEOUS.

(a) Reliance on Client Information. Acacia may conclusively rely on the accuracy and completeness of the information provided to Acacia by the Client or the Client's representatives, including current and historical information with respect to the operations, assets, liabilities, and financial condition of the Client (the "Information"), and the Client acknowledges that Acacia has not been retained to (nor will it) independently verify any of such Information.

(b) Independent Contractor Status. The legal relationship of the Client and Acacia created by this Agreement is one of independent contractors only and no employer/employee, master-servant, co or joint ventures, licensor-licensee, partnership or other such relationship is intended or shall be deemed or construed.

(c) No Liability. The Client agrees that neither Acacia nor any of its controlling persons, affiliates, partners, directors, officers, employees, agents, advisors or consultants shall have any liability to the Client or any person asserting claims on behalf of or in right of the Client for any losses, claims, damages, liabilities or expenses arising out of or relating to this Agreement or the services to be rendered by Acacia hereunder, unless and until it is finally judicially determined that such losses, claims, damages, liabilities or expenses resulted directly from the gross negligence or willful misconduct of Acacia.

(d) Successors and Assigns. The benefits of this Agreement shall inure to the respective successors and assigns of the parties hereto and of the Indemnified Persons, and the obligations and liabilities assumed in this Agreement by the parties hereto shall be binding upon their respective successors and assigns. Other than pursuant to Paragraph 3, nothing in this Agreement is intended to confer upon any other person (including stockholders, employees or creditors of the Client) any rights or remedies hereunder or by reason hereof.

(e) Blue Pencil/Waiver. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect. Any of the terms and conditions of this Agreement may be waived at any time and from time to time in a writing signed by the party entitled to the benefit thereof, but a waiver in one instance shall not be deemed to constitute a waiver in any other instance. A failure to enforce any provision of this Agreement shall not operate as a waiver of this provision or of any other provision hereof.

(f) Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Client and Acacia with respect to the subject matter hereof and supersedes all prior understandings or agreements between and among the parties with respect thereto, whether oral or written, express or implied. This Agreement may not be amended or modified except in a writing signed by each of the parties hereto. No party may assign this Agreement to any entity other than an affiliated or related entity without the prior written consent of the other parties.

(g) Counterparts. This Agreement may be executed in any number of counterparts, by original, facsimile or electronic signature, each of which shall be deemed to be an original and all of which together shall be deemed to be the same agreement.

(h) Governing Law. THIS AGREEMENT AND, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL MATTERS ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW JERSEY (WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAW PROVISIONS THEREOF).

(i) Political Contribution Disclosure. The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm’s subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor’s eligibility to perform this Agreement, nor with the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in the elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

Contact Information:

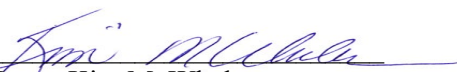
- In the event that you need to contact us on an emergency basis, please note the following:
 - Key Individual Contact – Jennifer G. Edwards
 - Phone Numbers:
 - Office – 856-234-2266
 - Cell – 856-912-2790
 - Email Addresses:
 - jedwards@acaciafin.com
 - jenedwards728@yahoo.com (back-up)
 - Alternate Mailing Address;
 - 1620 Chester Avenue, Manchester, New Jersey 08759

[Signature page to follow]

If the foregoing correctly sets forth the understanding and agreement among Acacia and the Client, please so indicate in the space provided for that purpose below, whereupon this Agreement shall constitute a binding agreement as of the Effective Date.

Sincerely,

ACACIA FINANCIAL GROUP, INC.

By: 
Name: Kim M. Whelan
Title: Co-President

Accepted by:

CITY OF ASBURY PARK

By: _____
Name: Donna M. Viero
Title: City Manager

[signature page to engagement letter]

Attachment: Acacia -Financial Advisor Services (2023-32 : Appointment of Financial Advisor 2023)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-33

Authorizing the Execution of an Agreement for Professional Appraisal Services to BRB Valuations Pamela J. Brodowski, MAI, ASA, CTA



RESOLUTION NO. 2023-33

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL APPRAISAL SERVICES TO BRB VALUATIONS PAMELA J. BRODOWSKI, MAI, ASA, CTA

WHEREAS, the City of Asbury Park (the “City”) requires professional services to be performed during the calendar year 2023 by an individual qualified to serve as the City’s real estate appraiser, who shall handle real estate appraisal work for the City on an as-needed basis per direction from the City; and

WHEREAS, the Mayor and Council have determined to appoint BRB Valuations Pamela J. Brodowski, MAI, ASA, CTA as the City’s Real Estate Appraiser for the City for 2023; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the City Real Estate Appraiser services may exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, in prior years the City determined to award a contract for these services through a “fair and open” process, pursuant to and in accordance with the Pay-to-Play Law; and

WHEREAS, the DLGS has provided its consent to permit the City to appoint and retain the City Real Estate Appraiser in 2023 without undertaking a new “fair and open” process so long as the City Real Estate Appraiser is not increasing his rates over the 2022 levels; and

WHEREAS, the City Real Estate Appraiser has agreed to maintain her rates at the 2022 levels; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. BRB Valuations Pamela J. Brodowski, MAI, ASA, CTA is hereby appointed to serve as “City Real Estate Appraiser” for the City for the year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and BRB Valuations Pamela J. Brodowski, MAI, ASA, CTA for the aforementioned services, for the year 2023, which contract shall be in a form satisfactory to the Municipal Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. BRB Valuations shall be paid an amount not to exceed \$15,000.00 for services enumerated herein.
5. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
6. A certified copy of this Resolution shall be provided to each of the following:
 - a. BRB Valuations Pamela J. Brodowski, MAI, ASA, CTA
 - b. Donna Vieiro, City Manager
 - c. JoAnn Boos, CMFO, Chief Financial Officer
 - d. Director of the N.J. Division of Local Government Services

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-33 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

AGREEMENT, made this _____, day of _____, 2022, by and between

THE CITY OF ASBURY PARK
a Municipal Corporation of the State of New Jersey
 One Municipal Plaza
 Asbury Park, New Jersey 07712
 (hereinafter "City");

AND

BRB VALUATION & CONSULTING SERVICES, LLC
 22 Windham Drive
 Eastampton, New Jersey 08060
 (hereinafter "Contractor")

WITNESSETH:

WHEREAS, the City requires professional services to be performed during the calendar year 2023 by an individual qualified to serve as the City's real estate appraiser, who shall handle real estate appraisal work for the City on an as-needed basis per direction from the City; and

WHEREAS, on January 1, 2023, the City adopted a Resolution authorizing the award of a professional services contract for the aforesaid services to the Contractor without competitive bidding pursuant to a restricted (or "non-fair and open") process in accordance with the New Jersey Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* and the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City and the Contractor wish to set forth their respective rights and responsibilities in the within Agreement.

NOW, THEREFORE, IT IS AGREED, as follows:

1. The City hereby appoints and employs the Contractor to perform such real estate appraisal work as may be directed from time to time by the City, subject to the terms and conditions contained herein.

2. The Contractor hereby accepts this appointment and agrees to serve as the City's real estate appraiser, for the term set forth herein, in accordance with the terms and conditions contained in this Agreement.

3. The City hereby agrees to pay the Contractor for the services to be rendered, subject to the availability of funds under the City's 2023 Budget, as follows:

- (a) Court Time (per hour plus expenses) \$125.00; and
- (b) Settlement Meetings and Court Preparation
(per hour plus expenses) \$110.00.

4. Subject the approval of the City's Chief Financial Officer, the City agrees to reimburse the Contractor for all costs and expenses advanced by the Contractor during the course of this Agreement, including but not limited to copying or printing costs, messenger fees, fax costs, and similar costs and expenses. All such costs and expenses must be fully itemized by the Contractor on invoices to be submitted to the City.

5. The fees and costs paid to the Contractor shall not exceed the amount budgeted for such purposes in budgets heretofore or hereafter adopted in the City of Asbury Park.

6. The Contractor shall bill the City monthly for all services rendered on vouchers as required by the City. The City agrees to process and pay said vouchers when audited and found correct. Payment will be made within thirty (30) days of the submission of an audited and approved voucher.

7. The Contractor is aware that the City has enacted Section 2-76 of the Asbury Park City Code, which requires public contracting reform and prohibits certain professional service contractors, during the term of their contracts with the City, from making contributions, or pledges thereof, of money or other in-kind donations, to any City of Asbury Park candidate or holder of the public office within the City having ultimate responsibility for the award of their

contracts, or to any City of Asbury Park or Monmouth County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting City of Asbury Park municipal candidates or municipal officeholders. The parties hereby recognize that the Contractor is subject to this prohibition. It shall, therefore, be a breach of this Agreement for the Contractor to violate the requirements of Section 2-76 of the City Code during the term of this Agreement.

8. Statutorily Required Affirmative Action Clause:

During the term of this Agreement, the City and the Contractor hereby incorporate into this Agreement the mandatory affirmative action language pursuant to N.J.S.A. 10:5-31, et seq. (P.L. 1975, C.127) N.J.A.C. 17:27, as amended and supplemented from time to time, as set forth in Exhibit "A" attached. The Contractor shall execute and comply with all requirements contained in the Affirmative Action Affidavit attached hereto as Exhibit "B." Both Exhibits are incorporated herein by reference. The Contractor shall submit a copy of the Certificate of Employee Information Report or Form AA-302 (Initial Employee Information Report) prior to any payments being made under this Agreement.

9. The Contractor shall also execute the "Americans With Disabilities Act of 1990" Certification attached hereto as Exhibit C, which shall be incorporated herein by reference.

10. Political Contribution Disclosure: The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Contractor, his Law Firm, his Law Firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his Law Firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or

19:444-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor's eligibility to perform this Agreement, nor will the Contractor or his Law Firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

11. Subject to the provisions of Paragraph 12 below, this Agreement shall expire on December 31, 2022, or until the appointment and qualification of a successor to the Contractor.

12. This Agreement may be terminated by either party, with or without cause, upon thirty (30) days advance written notice.

13. This Agreement is subject to the review and approval of the New Jersey Division of Local Government Services (the "Division"), in accordance with the Memorandum of Understanding executed by the Division and the City regarding the provision of State funding to the City.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

ATTESTING CLERK/WITNESS: THE CITY OF ASBURY PARK

By: _____
Lisa Esposito, City Clerk

By: _____
MAYOR JOHN B. MOOR

BRB VALUATION & CONSULTING
SERVICES, LLC

By: 
PAMELA J. BRODOWSKI, MAI, ASA, CTA
Managing Member



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-34

Appointing GJEM Insurance Agency to Serve as an Insurance Brokerage/Consultant/Risk Manager for 2023



RESOLUTION NO. 2023-34

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING GJEM INSURANCE AGENCY, TO SERVE AS AN INSURANCE BROKERAGE/CONSULTANT/RISK MANAGER, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL SERVICES ASSOCIATED THEREWITH

WHEREAS, there exists the need to obtain an Insurance Brokerage/Consultant/Risk Manager for the purpose of obtaining coverage for municipal risk management services and for the purpose of obtaining coverage, to include but not limited to: General Liability Insurance, Automobile Coverage and Workers' Compensation for the year 2023; and

WHEREAS, the Mayor and Council have determined to appoint GJEM Insurance Agency to serve as Insurance Brokerage/Consultant/Risk Manager for the City of Asbury Park for 2023; and

WHEREAS, the City's Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Attorney's services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State's Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, in prior years the City determined to award a contract for these services through a "fair and open" process, pursuant to and in accordance with the Pay-to-Play Law,

WHEREAS, the DLGS has provided its consent to permit the City to appoint and retain Insurance Brokerage/Consultant/Risk Manager in 2022 without undertaking a new "fair and open" process so long as the Labor Counsel is not increasing his rates over the 2022 levels; and

WHEREAS, the Insurance Brokerage/Consultant/Risk Manager has agreed to maintain his rates at the 2022 levels; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council;
and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. GJEM Insurance Agency is hereby appointed to serve as the Insurance Brokerage/Consultant/Risk Manager for the City of Asbury Park for the year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, an Agreement between the City of Asbury Park and GJEM Insurance Agency for the year 2023.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS.
5. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
6. That a certified copy of this Resolution shall be provided to each of the following:
 - a. GJEM Insurance Agency
 - b. Donna Vieiro, City Manager
 - c. JoAnn Boos, CMFO, Chief Financial Officer
 - d. Director of the N.J. Division of Local Government Services

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-34 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

RISK MANAGEMENT CONSULTANT'S AGREEMENT

THIS AGREEMENT entered into this 1st day of January, 2023 between the City of Asbury Park (hereinafter referred to as CITY) and GJEM Insurance Agency, Inc. / Otterstedt Insurance Agency, Inc. (hereinafter referred to as the CONSULTANT).

WHEREAS, the CONSULTANT has offered to the CITY professional risk management consulting services (as required in the bylaws of the New Jersey Intergovernmental Insurance Fund (FUND), and;

WHEREAS, the CITY desires these professional services pursuant to the resolution adopted by the governing body of the CITY at a meeting held January 1, 2023 and;

NOW, THEREFORE, the parties in consideration of the mutual promises and covenants set forth herein, agree as follows:

- I.*** For and in consideration of the amount stated hereinafter, the CONSULTANT shall:
 - a) Assist the CITY in identifying its insurable Property & Casualty exposures and to recommend professional methods to reduce, assume or transfer the risk or loss.
 - b) Assist the CITY in understanding the various coverages available from the New Jersey Intergovernmental Insurance Fund.
 - c) Review with the CITY any additional coverages that the CONSULTANT feels should be carried but are not available from the FUND and subject to the CITY's authorization, place such coverages outside the FUND.
 - d) Assist the CITY in the preparation of applications, statements of values, and similar documents requested by the Fund, it being understood that this Agreement does not include any appraisal work by the CONSULTANT.
 - e) Review Certificates of Insurance from contractors, vendors and professionals when requested by the CITY.
 - f) Review the CITY's assessment as prepared by the Fund and assist the CITY in the preparation of its annual insurance budget.

- g) Review the loss and generally assist the Safety Committee in its loss containment objectives.
- h) Assist where needed in the settlement of claims, with the understanding that the scope of the CONSULTANT'S involvement does not include the work normally done by a public adjuster.
- i) Perform any other risk management related services required by the FUND'S bylaws.

2. In exchange for the above services, the CONSULTANT shall be compensated in the following manner:

- a) The CONSULTANT shall be paid a fee as compensation for services rendered, an amount equal to *** 6.00% of the CITY's annual assessment as promulgated by the FUND. Said fee shall be paid to the CONSULTANT within (30) days of payment of the CITY's assessment. (Said fee is included in the CITY's assessment).
- b) For any insurance coverages authorized by the CITY to be placed outside the FUND, the CONSULTANT shall receive as compensation the normal brokerage commissions paid by the insurance company. The premiums for said policies shall not be added to the FUND'S assessment in computing the fee outlined in 2 (a).

The annual New Jersey Intergovernmental Insurance Fund costs paid in 2022 to the CONSULTANT was \$65,049.00. Additional ancillary policies earned to date commissions in 2022 payable to the CONSULTANT in the amount of \$2,735.07. Subject to any New Jersey Intergovernmental Insurance Fund increases which have not been released to date and changes in exposures to any policies the cost structure paid to the CONSULTANT shall remain the same in 2023 with a fee for compensation for services rendered, an amount equal to 6.00% of the City's assessment..

- 3. The term of this agreement shall be ONE (1) years. However, this agreement may be terminated by either party at any time by mailing to the other written notice, certified mail return receipt, calling for termination at not less than thirty (30) days thereafter. In the event of termination at not less than thirty (30) days thereafter. In

the event of termination of this Agreement, the CONSULTANT'S fee outlined in 2(a) above shall be prorated to date of termination.

4. Political Contribution Disclosure: The within Agreement has been awarded to the Contractor based upon the merits and abilities of our agency to provide the services described herein. This Agreement was not awarded through "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, *et seq.* As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor's eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

ATTEST:

CITY:

DATE: _____

ATTEST:

CONSULTANT:

Walter T. Thell

Ezio Altramura

DATE: November 7, 2022



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-35

Appointment of OPRA Attorney Parker McCay, P.A. 2023



RESOLUTION NO. 2023-35

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING LAW OFFICES OF PARKER MCCAY, P.A. TO SERVE AS OPRA COUNSEL FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) wishes to appoint a licensed attorney/law firm to serve as “OPRA Counsel” for the City for the calendar year 2023; and

WHEREAS, during the term of its appointment, said attorney/law firm shall handle legal issues for the City which relate to Open Public Records Act matters, as well as such other legal matters as may be referred to it from time to time by the City Manager and/or the Mayor and Council (collectively referenced as the “services”); and

WHEREAS, on October 29, 2020, a formal “Request for Qualification” (the (“RFQ”) was issued by the City pursuant to the “Fair and Open” process described in N.J.S.A. 19:44A-20.4, et. Seq., seeking interested firms to provide "OPRA Counsel" for the City; and

WHEREAS, in accordance with the RFQ, the City received and opened proposals from interested firms on November 17, 2020; and

WHEREAS, following review and evaluation of the proposals received, the Mayor and Council had determined to appointed the law firm of Parker McCay, P.A. to serve as the City's "OPRA Counsel" for 2021; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the City Engineer’s services may exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq. (the Pay-to-Play Law); and

WHEREAS, in prior years the City determined to award a contract for these services through a “fair and open” process, pursuant to and in accordance with the Pay-to-Play Law, which process is consistent with the requirements prescribed in the Memorandum of Understanding executed between the City and the State Division of Local Government Services (“DLGS”); and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The law firm of Parker McCay, P.A. is hereby appointed to serve as “OPRA Counsel” for the City for the calendar year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and Parker McCay, P.A. for the aforementioned services, for the calendar year 2023, which contract shall be in a form satisfactory to the Municipal Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS.
5. Parker McCay, P.A. shall be paid an amount not to exceed \$40,000.00 for the services enumerated herein.
6. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. JoAnn Boos, CMFO, Chief Financial Officer
 - c. Director of the N.J. Division of Local Government Services
 - d. Parker McCay, P.A.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-35 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

**SPECIAL COUNSEL
CONTRACT OF EMPLOYMENT**

THIS AGREEMENT, made this _____ day of January, 2023, between the **CITY OF ASBURY PARK**, a municipal corporate body politic, with its principal office located at 1 Municipal Plaza, Asbury Park, New Jersey 07712 (hereinafter referred to as the "City") and **PARKER McCAY P.A.**, a Firm of licensed New Jersey attorneys, with the Firm's principal office at 9000 Midlantic Drive, Suite 300, P. O. Box 5054, Mount Laurel, NJ 08054 (hereinafter referred to as the "Special Counsel"),

WITNESSETH the following:

WHEREAS, there exists a need for the City to obtain Special Counsel to provide legal services to the City for the year 2023 and appointment of a Special Counsel is authorized by State law;

WHEREAS, Parker McCay P.A. is a Firm of licensed New Jersey attorneys at law and is qualified and able to render legal services to the City as Special Counsel; and

WHEREAS, the Local Public Contracts Law [N.J.S.A. 40A:11-1, et seq.] permits the award of contracts for "professional services" without competitive bids, and the services contemplated to be rendered by the Special Counsel qualify as "professional services" under said law; and

WHEREAS, the City has reviewed existing appropriations of funds and represents that sufficient funds have been appointed to pay for the professional services rendered by the Special Counsel; and

WHEREAS, there is a need to reduce to writing the understanding and agreement that exists between the City and the Special Counsel;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained and for other good and valuable consideration, the parties hereto agree as follows:

1. SCOPE & TERM - The Special Counsel agrees to provide the City general legal services more particularly described within this Agreement for the fees specified herein for a term of one year, between January 1, 2023 and December 31, 2023, or until a successor is qualified and appointed, whichever later occurs. **George M. Morris, Esquire**, a member of the Firm, will be the attorney principally responsible for providing legal services to the City during the term of this contract.

2. COMPENSATION - For and in consideration of the services to be performed by the Special Counsel on behalf of the City, the City agrees to pay promptly upon receipt of an appropriate voucher all charges for services rendered and costs expended. The Special Counsel's fee shall be based on the fee schedule annexed hereto and made a part hereof as Exhibit A.

3. BILLING PROCEDURE - In accordance with this contract, the Special Counsel will provide billings on a periodic basis which will cover all fees and costs rightfully due and owing for the services they have performed or the out-of-pocket expenses they have incurred on behalf of the City.

4. AUTHORIZATION OF WORK - The fees referred to herein shall be applicable to all legal services rendered to the City. The Mayor, City Manager, City Clerk, and Deputy City Clerk in her absence shall have the power to authorize work under this contract to the extent that there are funds appropriated.

5. DUTIES - The City hereby authorizes the Special Counsel to be the legal advisors to the City regarding matters referred to Special Counsel under this Contract.

6. RECORDS AND PAPERS - All papers, documents, memoranda, plans, specifications and reports, and all material relating to the administration of the office of municipal attorneys shall be and remain the property of the City. The Special Counsel, upon termination or expiration of this contract, shall forthwith surrender to their successor all such property together with a written consent to use all such materials in the best interest of the City.

7. PUBLIC OFFICIAL - It is recognized that the Special Counsel, while operating under this contract, will be performing services for the municipality. It is hereby understood and agreed that the Special Counsel acts as quasi-public officials, subject to the rights, duties and privileges that such an office entails, including any and all rights, privileges and immunities the Special Counsel may enjoy under the New Jersey Tort Claims Act [N.J.S.A. 59:1-1, *et seq.*].

8. LIMITATIONS ON SCOPE OF WORK - This contract contemplates that the Special Counsel will provide the services outlined within this contract for the funds provided. However, this contract further contemplates that there will be no unusual, unreasonable or material changes in the required scope of legal services delineated herein which will frustrate the desired goals of the parties. In the event that either party shall determine in its or their opinion that the above situation has occurred, said party shall notify the other party to this contract, and upon such a determination the parties agree that the City may terminate further services in connection with the projects herein described until and unless additional funds are lawfully provided by the City, and the written contract, covering the services to be performed has been entered into between the parties hereto.

9. TERMINATION - The Special Counsel's contract with the City shall be deemed terminated upon action by the City Council and City Manager.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

CITY OF ASBURY PARK

A municipal corporation of New Jersey

By: _____,
_____, MAYOR

ATTEST: _____
Melody Hartsgrove, RMC/CMR
City Clerk

PARKER McCAY P.A.

A Firm of Attorneys-at-Law

By: _____
GEORGE M. MORRIS, ESQUIRE
A Member of the Firm

ATTEST: _____
CAROLYN J. RUTSKY, CFO/COO
PARKER McCAY P.A.



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-36

Affordable Housing Appointment Kyle & McManus 2023



RESOLUTION NO. 2023-36

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO THE FIRM OF KYLE + MCMANUS ASSOCIATES, LLC TO PERFORM PROFESSIONAL AFFORDABLE HOUSING PLANNING AND/OR CONSULTING SERVICES

WHEREAS, there is a need for the City of Asbury Park (the “City”) to appoint a licensed Planner/Consultant to perform certain professional affordable housing planning and/or consulting services (the “services”) for the City, for the time period from January 1, 2023 through December 31, 2023; and

WHEREAS, on October 29, 2020, a formal “Request for Qualification” (the (“RFQ”)) was issued by the City pursuant to the “Fair and Open” process described in N.J.S.A. 19:44A-20.4, et. Seq., seeking interested firms to provide professional affordable housing planning and/or consulting services for the City; and

WHEREAS, in accordance with the RFQ, the City received and opened proposals from interested firms on November 17, 2020; and

WHEREAS, following review and evaluation of the proposals received, the Mayor and Council had determined to appoint the firm of Kyle + McManus Associates to serve perform professional affordable housing planning and/or consulting services for the City for calendar year 2021; and

WHEREAS, in prior years the City determined to award a contract for these services through a “fair and open” process, pursuant to and in accordance with the Pay-to-Play Law, which process is consistent with the requirements prescribed in the Memorandum of Understanding executed between the City and the State Division of Local Government Services (“DLGS”) ; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the City Engineer’s services may exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq. (the Pay-to-Play Law); and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period,

commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The firm of Kyle + McManus Associates is hereby appointed to perform professional affordable housing planning and/or consulting services for the City for the calendar year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and Kyle + McManus Associates for the aforementioned services, for the calendar year 2023, which contract shall be in a form satisfactory to the Municipal Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS
5. Kyle + McManus Associates shall be paid an amount not to exceed \$30,000.00 for the services enumerated herein.
6. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Vieiro, City Manager
 - b. JoAnn Boos, CMFO, Chief Financial Officer
 - c. Director of the N.J. Division of Local Government Services
 - d. Kyle + McManus Associates

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-36 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

**CONTRACT FOR PROFESSIONAL PLANNING SERVICES
AS MUNICIPAL PLANNER (ANNUAL CONTRACT)
FOR THE CITY OF ASBURY PARK, MONMOUTH COUNTY NEW JERSEY**

THIS AGREEMENT is made as of this ____ day of _____, _____

BETWEEN:

**City of Asbury park
City Hall
One Municipal Plaza
Asbury Park, NJ 07712**

hereinafter referred to as CLIENT

AND

**Kyle + McManus Associates, LLC
2 East Broad Street, 2nd Floor
PO Box 236
Hopewell, NJ 08525**

who shall be the Borough's MUNICIPAL PLANNER hereinafter referred to as PLANNER.

WHEREAS, the CLIENT desires to engage the PLANNER to serve as the Borough's Municipal Planner for the purpose of rendering planning services when the need arises and upon the request of the Borough; and

WHEREAS, by entering into this CONTRACT, the CLIENT acknowledges that the services to be performed by the PLANNER shall be considered a "Professional Service" in accordance with N.J.S.A. 40A:11-1 et. seq.; and

WHEREAS, Elizabeth McManus, PP, AICP, of Kyle + McManus Associates, LLC shall be designated as the Municipal Planner on behalf of the CLIENT; and

WHEREAS, PLANNER certifies that it is in compliance with Pay-to-Play Laws, P.L.2004, c.19 and P.L.2005, c.271, including any applicable local ordinance(s) addressing political contributions, effective as of the date of this agreement.

NOW, THEREFORE, the CLIENT and PLANNER, in consideration of their mutual covenants and promises, agree as follows:

SECTION I -- PROFESSIONAL SERVICES OF THE PLANNER

The PLANNER shall provide basic professional planning services as required by CLIENT which may include the following:

1. Serve as Municipal consultant to the CLIENT;

2. Provide technical and planning advice to the CLIENT;
3. Review the applications, reports, and plans submitted by others to the CLIENT;
4. Consult with others and the CLIENT with respect to the foregoing matters, and all other planning matters, related to the duties and responsibilities of the CLIENT;
5. Furnish pertinent reports, counseling, and advice to the CLIENT as required;
6. Serve as Municipal planning consultant to the Governing Body and other municipal officials, boards, commissions and bodies of the CLIENT.
7. Review and/or prepare Master Plans and development ordinances as requested by the CLIENT.
8. Provide professional planning and zoning studies, reports and testimony as requested by the CLIENT.
9. Perform such other duties and functions as may be requested by the CLIENT; and
10. Attend meetings of the CLIENT as directed.

SECTION II -- CLIENT'S RESPONSIBILITIES

The CLIENT agrees to:

1. Make such records and information available to the PLANNER as may be required to assist him in the performance of his duties.
2. Authorize and direct committees, employees, and agents of the CLIENT to consult with the PLANNER at all reasonable times upon the request of the PLANNER regarding:
 - A. The work and services to be done or rendered by the PLANNER and/or others in the employ of the CLIENT;
 - B. The applications, plans, and reports to be reviewed by the PLANNER, submitted by others to the CLIENT;
 - C. The coordination of PLANNER'S professional services for any project or application; and,
 - D. Any and all other matters, as requested by the PLANNER, relating to the work and services of the PLANNER.
3. Submit to the PLANNER all relevant applications, plans, and reports prepared by others within such time to allow PLANNER ample opportunity to properly review same, consult with respect thereto and to make any necessary reports to the CLIENT, without the PLANNER causing a delay in the progress of the work.

4. Authorize the PLANNER to undertake additional services related to special projects ("Additional Services") if deemed necessary. Such authorization shall be by resolution of the CLIENT and memorialized in writing between the parties prior to commencement of said services. The PLANNER shall be compensated for Additional Services in accordance with the negotiated fee agreed to between CLIENT and PLANNER, which shall be memorialized in the resolution authorizing the Additional Services.

SECTION III -- COMPENSATION OF THE PLANNER

1. For the services rendered by the PLANNER under this Agreement, the CLIENT shall pay and the PLANNER shall receive the following described sums:

- A. Professional Services:

For all professional services provided pursuant to Section I of this Agreement, the PLANNER shall be compensated at a rate consistent with Exhibit B. On any task for which the PLANNER is to be compensated from an escrow account for review and/or inspection services, CLIENT shall cooperate with the PLANNER and communicate the escrow account status throughout the extent of the application process or construction to assist PLANNER in ensuring that there are adequate funds for the services requested. At any time an escrow account is less than \$1,500, CLIENT shall provide immediate notice to PLANNER so that PLANNER can assess the prospective services requested and compare same to the escrow account balance prior to any further performance. All other work performed by staff other than the PLANNER will be billed in accordance with the Rate Schedule attached as Exhibit B.

- B. Additional Services:

For the additional services performed under Section II of this Agreement, the PLANNER shall be compensated in accordance with the negotiated fee as set forth in writing between the parties.

- C. Attendance at Meetings:

The PLANNER shall attend scheduled workshop and public meetings of the CLIENT as requested. The PLANNER shall be compensated for said meetings at a consistent with Exhibit B. PLANNER shall be compensated for a minimum of two (2) hours of time for each meeting.

- D. Travel Expenses

The PLANNER shall not charge for travel time or mileage for regularly scheduled public Planning Board or Zoning Board of Adjustment meetings. Travel and mileage for all other meetings shall be paid consistent with Exhibit B.

E. Additional Expenses:

Expenses for postage and production of documents (including photo copies and color and/or other exhibits) and all other expenses specifically related to the work performed under this Agreement shall be reimbursed to the PLANNER in accordance Exhibit B.

2. Vouchers or invoices shall be issued monthly for services performed. Such billings shall be due when rendered. In the event CLIENT or a Developer/Applicant has a dispute with an invoice (or any portion of an invoice), CLIENT or Developer/Applicant shall nevertheless pay all undisputed invoices, or undisputed portions thereof, no later than 60 days from the date of the invoice. PLANNER agrees to negotiate any and all disputes in good faith with an effort of resolving the dispute within sixty (60) days of the subject invoice date.
3. In the event CLIENT requires PLANNER'S services beyond the termination date specified in SECTION V, PLANNER'S Schedule of Rates shall be subject to an equitable adjustment in January to reflect changes in the various elements that comprise the rates. All adjustments will be in pursuant to an agreement reached between the CLIENT and the PLANNER reduced to writing and deemed a modification of this Agreement.

SECTION IV -- PERIOD OF SERVICE

1. This Agreement shall have an effective commencement date of January 1, 2022 and shall terminate on December 31, 2022. Should the PLANNER'S services be required beyond that time, the PLANNER'S compensation for such work shall be subject to renegotiation, provided however, compensation shall not be lower than the rate provided in this agreement.

SECTION V -- STATUS OF PLANNER

1. To the extent permitted by law, the PLANNER, when engaged in the performance of duties and services as Borough Municipal PLANNER set forth herein (including specifically in Section I hereof), shall, only in the event of litigation, have the status of an agent of the Municipality for the sole and limited purposes of Title 59 Immunity (P.L.1972, c.45) allowing PLANNER to therefore be entitled to all immunities normally afforded to a MUNICIPAL employee or agent under Title 59.
2. The CLIENT, subject to appropriation and availability of funds, authorizes the PLANNER to secure any and all professional, technical and non-technical staff which may from time to time be necessary in the performance of the services required. It is expressly agreed and understood that services will be provided and certain functions will be performed on behalf of the CLIENT, pursuant to the terms of this proposal, by employees of Kyle + McManus Associates.
3. The professional, technical and non-technical staff referred to in subpart 2 hereof, when they are engaged on behalf of the CLIENT in the performance of the duties and services referred to in Section I

hereof, shall be afforded Title 59 Immunity, to the extent permitted by law, as set forth in subpart 1, hereof.

SECTION VI -- OWNERSHIP AND REUSE OF DOCUMENTS

1. All final plans and specifications, ordered by the CLIENT and prepared by the PLANNER shall become the joint property of the CLIENT and the PLANNER. At the completion of work or in the event of termination, all work sheets and internal office communications of the PLANNER, including drawings, sketches, calculations, field notes and memoranda are and shall remain the property of the PLANNER, as instruments of service. The CLIENT, at its expense, may obtain extra prints of final drawings and specifications.
2. All documents including drawings and specifications prepared by the PLANNER pursuant to this Agreement are Instruments of Service with respect to a specific project. They are not intended or represented to be suitable for reuse of the CLIENT or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by the PLANNER for the specific purpose intended will be at the CLIENT's sole risk, with no liability or exposure to PLANNER; and the CLIENT shall indemnify and hold harmless PLANNER from all claims, damages, losses and expenses including attorney's fees arising out of or resulting from such unauthorized use. Any such verification or adaptation will entitle PLANNER to further compensation at rates to be agreed upon by the CLIENT and PLANNER.

SECTION VII -- INSURANCE AND INDEMNIFICATION

1. PLANNER shall secure and maintain Workman's Compensation Insurance (as required by Law) and General Liability Insurance (as required by contract) to protect the PLANNER and/or Its Employees and agents from claims for bodily injury, death or property damage which may arise from the performance of services pursuant to this proposal. The limits of said Liability Insurance shall not be less than \$1,000,000 with a \$2,000,000 excess liability coverage. The PLANNER shall provide Certificates of Insurance to the CLIENT prior to the performance of any services.
2. PLANNER shall also provide and maintain Professional Liability (Errors and Omissions) Insurance for claims which arise from any negligent performance of the PLANNER pursuant to this agreement. The limits of PLANNER'S Professional Liability insurance are currently \$1,000,000 per claim.
3. The CLIENT acknowledges that although the PLANNER is to cooperate with and make recommendations to the CLIENT with respect to planning matters related to the services provided by PLANNER, the final decisions are within the CLIENT's discretion and are to be made by the CLIENT.
4. The PLANNER shall not be liable in any way for any decision of the CLIENT (or consequences thereof) which (i) are not in accordance with the recommendations of the PLANNER, or (ii) are based on or related to any failure on the part of the CLIENT to accept or follow any recommendations of the

PLANNER. In such event, the CLIENT hereby releases the PLANNER from any and all liability and waives any and all claims against the PLANNER arising out of or relating to any such decisions or the consequences thereof, and agrees to indemnify, defend, and save harmless the PLANNER against loss, liability, claim, damage, and expense, including reasonable counsel fees, arising out of or relating to any such decisions or the consequences thereof.

5. PLANNER agrees subject to the provisions herein, to indemnify and hold the CLIENT harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by PLANNER's negligent acts, errors or omissions (and those of his or her contractors, subcontractors or consultants or anyone for whom the PLANNER is legally liable) in the performance of professional services under this Agreement.
6. The CLIENT agrees subject to the provisions herein, to indemnify and hold PLANNER harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the CLIENT's negligent acts, errors or omissions.

SECTION VIII -- LITIGATION AND ADDITIONAL INVESTIGATION

1. If requested by the client or directed by subpoena or court order, or in response to an Open Public Records Act ("OPRA") request, the PLANNER shall prepare for AND appear in litigation matters or provide project documents on behalf of the CLIENT or make investigations or reports in connection therewith in accordance with Exhibit B, specifically the Public Client Litigation Rate Schedule, or other consideration for such additional compensation as the PLANNER and CLIENT shall previously agree to in writing.

SECTION IX -- ENTIRE AGREEMENT

1. This Agreement represents the entire agreement between the CLIENT and the PLANNER relating to the subject matter hereof and no representations or agreements made by either party or by any representative of either party in the negotiations leading to this Agreement or otherwise which are not expressed in this Agreement shall be binding on either party.
2. No change in, addition to, or modification of any provision of this Agreement shall be effective unless made by written agreement signed by the party to be charged with such change, addition, or modification.

SECTION X -- STATUTORILY REQUIRED AFFIRMATIVE ACTION CLAUSES

1. The PLANNER and the CLIENT hereby incorporate by reference into this Agreement the mandatory language of Subsection 3.4(a) and the mandatory language of Section 5.3 of the Regulations

promulgated by the Treasurer of the State of New Jersey pursuant to P.L. 1975, c. 127 and N.J.S.A. 10:5-31, as amended and supplemented from time to time, and PLANNER agrees to comply fully with the terms, provisions and conditions of Subsection 3.4(a), and Section 3.4(a) shall be applied subject to the terms of Subsection 3.4(d) of the Regulations. The Affirmative Action Language set forth in Exhibit A is also made a part hereof.

SECTION XI -- AMERICANS WITH DISABILITIES ACT

1. The PLANNER and the CLIENT do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990 ("Act") (U.S.C. Sec. 12101 et seq.), which prohibit discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this Agreement.

SECTION XII -- CONTROLLING LAW

1. The laws of the State of New Jersey shall govern this Agreement.

SECTION XIII -- SUCCESSORS AND ASSIGNS

1. Each Party to the Agreement is hereby bound to the terms and conditions contained in this Agreement and the legal representatives, successors and assignees of this Agreement, if any, shall also be bound to the terms and conditions contained herein.

SECTION XIV - SEVERABILITY

1. Any provision of this Agreement held to be void and unenforceable under any law or regulation shall be stricken, and all remaining provisions shall continue to be valid and binding upon the parties to this Agreement.

IN WITNESS WHEREOF, the CLIENT and PLANNER have caused this Instrument to be executed in its respective name and behalf as of the day and year herein written.

WITNESS

CITY OF ASBURY PARK

BY: _____ BY: _____
[Municipal Witness] [Municipal Signature]
Municipal Official

WITNESS

KYLE MCMANUS ASSOCIATES, LLC

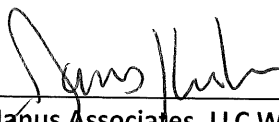
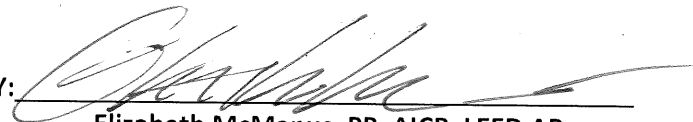
BY:  BY: 
[Kyle + McManus Associates, LLC Witness] Elizabeth McManus, PP, AICP, LEED AP
Principal

EXHIBIT A
N.J.S.A. 10:5-31 and N.J.A.C. 17:27
MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE
Goods, Professional Services and General Service Contracts
(Mandatory Affirmative Action Language)

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting for the provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2 or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

EXHIBIT B**2023 PUBLIC CLIENT RATE SCHEDULE**

Principal Planner \$147/hour
 Senior Associate Planner \$145/hour
 Associate Planner \$135/hour
 Senior Project Manager Planner \$130/hour
 Project Manager Planner \$125/hour
 Assistant Planner \$95/hour
 GIS Technician \$85/hour
 Assistant Professional \$80/hour
 Administrative Assistant \$65/hour

Outside (pass-thru) Services Cost +10%
 Postage, Federal Express, UPS, DHL Cost
 Paper Black/White Copy/Prints (8.5"x11") \$0.10/Sheet
 Paper Black/White Copy/Prints (11"x17") \$0.20/Sheet
 Paper Color Copy/Prints (8.5"x11") \$0.50/Sheet
 Paper Color Copy/Prints (11"x17") \$2.50/Sheet
 Large format Color Copy/Prints (24"x36") \$40/Sheet
 Travel For Regularly Scheduled Meetings No Charge
 Travel For All Other Meetings and Other Municipal Business At Rates Noted Above

2023 PUBLIC CLIENT LITIGATION RATE SCHEDULE

Principal Planner \$195/hour
 Senior Associate Planner \$195/hour
 Associate Planner \$180/hour
 Senior Project Manager Planner \$175/hour
 Project Manager Planner \$170/hour
 Assistant Planner \$140/hour
 GIS Technician \$130/hour
 Assistant Professional \$80/hour
 Administrative Assistant \$65/hour

Outside (pass-thru) Services Cost +10%
 Postage, Federal Express, UPS, DHL Cost
 Paper Black/White Copy/Prints (8.5"x11") \$0.10/Sheet
 Paper Black/White Copy/Prints (11"x17") \$0.20/Sheet
 Paper Color Copy/Prints (8.5"x11") \$0.50/Sheet
 Paper Color Copy/Prints (11"x17") \$2.50/Sheet
 Large format Color Copy/Prints (24"x36") \$40/Sheet
 Travel For Regularly Scheduled Meetings No Charge
 Travel For All Other Meetings and Other Municipal Business At Rates Noted Above



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-37

Labor Counsel Appointment Genova Burns, LLC for 2023



RESOLUTION NO. 2023-37

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING LAW OFFICES OF GENOVA BURNS, LLC TO SERVE AS LABOR COUNSEL FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) wishes to appoint a licensed attorney/law firm to serve as “Labor Counsel” for the City for the year 2023; and

WHEREAS, during the term of its appointment, said attorney/law firm shall handle legal issues for the City which relate to labor matters, as well as such other legal matters as may be referred to it from time to time by the City Manager and/or the Mayor and Council (collectively referenced as the “services”); and

WHEREAS, the Mayor and Council have determined to appoint the firm of Genova Burns, LLC., as “Labor Counsel” for the City for 2023; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the firm of Genova Burns, LLC., has completed and submitted a Business Entity Disclosure Certification and a Political Contribution Disclosure Form, which certifies they have not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one year and that the contract will prohibit the Professional from making any reportable contributions through the term of the contract; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council;
and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Attorney’s services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

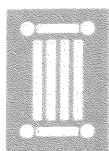
1. The law firm of Genova Burns, LLC is hereby appointed to serve as “Labor Counsel” for the City for the calendar year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and Genova Burns, LLC for the aforementioned services, for the calendar year 2023, which contract shall be in a form satisfactory to the Municipal Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq*
5. Legal services rendered to the City of Asbury Park by the Firm Genova Burns, LLC., or any other attorney of the firm Genova Burns, LLC at the following rates of:
Partners: \$165.00
Counsel: \$165.00
Of Counsel: \$165.00
Senior Associates: \$165.00
Junior Associates: \$165.00
Paralegals: \$90.00, as referenced in the attached proposal.
6. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
7. A certified copy of this Resolution shall be provided to each of the following:
 - a. Donna Viegro, City Manager

- b. JoAnn Boos, CMFO, Chief Financial Officer
- d. Tracy Lizardi, Director of Purchasing, Assistant CFO
- e. Law Offices of Genova Burns, LLC

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-37 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



**GENOVA
BURNS**
ATTORNEYS-AT-LAW

Genova Burns LLC
494 Broad Street, Newark, NJ 07102
Tel: 973.533.0777 Fax: 973.533.1112
Web: www.genovaburns.com

Rajiv D. Parikh, Esq.
Partner
Member of NJ and NY Bars
rparikh@genovaburns.com
Direct: 973-535-4446

November 17, 2022

Lisa Esposito, City Clerk
City of Asbury Park
One Municipal Plaza
Asbury Park, New Jersey 07712

Re: Agreement Regarding Legal Services

Dear Ms. Esposito:

We are pleased to have this opportunity to provide legal services to you. This correspondence is intended to inform you of the terms and conditions for our engagement for the matter described in detail below:

Client: City of Asbury Park, One Municipal Plaza, Asbury Park, NJ 07712, referred to as “You and “Your”, AND **Genova Burns LLC**, 494 Broad Street, Newark, NJ 07102, referred to as “we” or “us”.

Scope of Services: Labor Counsel and any other matters as assigned by you that we accept.

The legal services to be provided includes, if necessary, all court appearances, administrative proceedings, conferences, closings, negotiations, meetings, research, investigation, correspondence, telephone calls, preparation and drafting of pleadings and other legal documents, trial preparation and related work including opinion letters. You agreed that our representation of you does not give rise to a lawyer-client relationship between our firm and any of your affiliates. Accordingly, representation of you will not give rise to any conflict of interest (or cause for our disqualification) in the event other clients of the Firm are adverse to any of your affiliates.

Attachment: Genova Burns - Labor Attorney - Rajiv Parikh (2023-37 : Labor Counsel Appointment 2023)

Lisa Esposito, City Clerk
November 17, 2022
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Legal Fees and Result: We cannot predict or guarantee what your final bill will be. This will depend on the amount of time spent on your case and the amount of other expenses. Moreover, we cannot predict or guarantee the result of our representation in this matter.

Hourly Rate: You agree to pay us for legal services at the following hourly rates for services of all attorneys and paraprofessionals. These billing rates are subject to change from time to time, usually as of January 1 each year.

<u>Partners:</u>	\$165.00
<u>Counsel:</u>	\$165.00
<u>Of Counsel:</u>	\$165.00
<u>Senior Associates</u>	\$165.00
<u>Junior Associates</u>	\$165.00
<u>Paralegals:</u>	\$ 90.00

All Services Will Be Billed: You will be billed at the hourly rates set forth in above for all services rendered. All services are billed in increments of 1/10th of an hour. This includes telephone calls (minimum charge of six [6] minutes), drafting and reviewing letters, travel time to and from meetings and court, legal research, preparation of pleadings and documents, negotiations and any other services related to your matters, as required.

Retainer: You have agreed to pay \$0.00 as a retainer for the services to be provided. This sum will be deposited in our attorney trust account. Upon the issuance of a monthly invoice, a sum equal to the amount due in the invoice will be paid to us from the retainer. The amount of the retainer is not intended to be a cap on the fees that will be incurred in the provision of services. Moreover, we reserve the right to request an increase in your retainer or that the retainer be replenished on a monthly basis equal to the amount of the monthly invoice. Any fees incurred in excess of the balance of the retainer shall be due upon receipt of invoice. Any retainer balance remaining at the conclusion of our representation shall be refunded to you.

Future Proceedings: You agree that if the firm or an attorney of our firm is subpoenaed, deposed, called to testify or required to respond to discovery sought from the firm or attorney in the context of legal proceedings concerning any aspect of the legal services that we provide for you, we will be compensated for that person's services in connection therewith (including preparation) at his or her customary hourly rate to clients at the time of such proceedings. You also agree that we will be entitled to full reimbursement for costs incurred in connection with the production of documents in response to subpoenas and demands for the production of

Attachment: Genova Burns - Labor Attorney - Rajiv Parikh (2023-37 : Labor Counsel Appointment 2023)

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Page 3

documents issued in any such proceedings. Your obligations under this provision will survive any termination of our representation (whether by you or by us).

Costs and Expenses: In addition to legal fees, you must pay the following costs and expenses if they become necessary: experts' fees, court costs, filing fees, recording fees, accountants' fees, appraisers' fees, service fees, investigator fees, computerized legal research costs, electronic discovery collection, processing and hosting costs, deposition costs, messenger services, delivery charges, photocopying and supply charges, travel expenses, secretarial overtime, if necessary, and any other necessary costs and expenses in this matter. Expert fees will be discussed with and approved by you prior to being incurred. We may require that expert(s) be retained directly by you. You would then be solely responsible to pay the expert(s).

Statements: We will send you itemized statements on a monthly basis; although, in some instances we may defer sending you statements for one or more months. We may require that costs and expenses be paid in advance. All other statements for costs and legal expenses are due upon receipt. Each statement sets forth the service performed, the time expended and date performed. If we email statements to you, hard copies will be provided only upon your request. If you have any complaints or issues regarding the services rendered or billing issues, please advise us upon receipt of this statement. If you do not advise us of such complaints within 30 days of receipt of this statement, your right to raise a dispute will be waived and we will presume there are no disputes or issues.

Payment Due: Statements are due and payable by you upon receipt. We will deem a statement past due after thirty (30) days. We reserve the right to add a finance charge of six (6%) percent on all past due invoices. When a statement becomes past due, we reserve the right to terminate our services to you and proceed to pursue a collection action against you for unpaid invoices. The attorney fees and costs incurred in the collection matter, including an allowance for professional time expended by attorneys in our firm at their customary rates and reasonable expenses, will be included as part of our claim against you. You will be responsible for these additional attorney fees and costs whether the collection efforts are pursuant to our participation in the Supreme Court mandated fee arbitration program (R.1:20A) or as part of a law suit filed in state or federal court.

Retention of the Entire Firm: You have retained the entire law firm. While one attorney shall be primarily responsible for your matter and will directly supervise all aspects of it, we reserve the right to assign certain portions of the work in representing you to other attorneys within the

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firm. We also reserve the right to assign and utilize paralegals for appropriate tasks within our discretion.

Your Responsibility: You must fully cooperate with us and provide all information relevant to the issues involved in your matters. You must also pay all statements as required by this Agreement. You must promptly notify us of any change in your address, telephone number(s), email address(es) or other contact information. You can reduce your legal fees substantially by complying with our requests for information on a timely basis and in an organized form. If you do not comply with these requirements, we may withdraw from representing you consistent with our ethical obligations to you, at which time you will pay us the full amount owed to us.

Termination: You are free to obtain a new attorney at any time. In such event you will notify us in writing of your desire to obtain a new attorney as soon as possible. You will pay us what you owe up to the time of that written notice. We will forward a copy of your file to the attorney of your choice. You or your new attorney will be responsible for the costs of such duplication of your file. If permission from a Court is required to transfer your file to your new attorney, he or she shall have the responsibility for obtaining that permission. Additionally, we retain our right to terminate our representation of you, at any time and for any reason, in compliance with any applicable rules governing our professional conduct, and in accordance with any applicable orders of court.

Fee Arbitration: In the event of any fee dispute with you, you have the option to refer the matter to the appropriate Fee Arbitration Committee established by the New Jersey Supreme Court (R.1:20A). If you elect to pursue the fee dispute through fee arbitration, we will provide you with the applicable court rules for submission to fee arbitration upon your request and in accordance with any obligations to do so under applicable Court Rules.

Forum Selection: In the event of any dispute relating to this Agreement and/or the parties' relationship that cannot be resolved through fee arbitration (as set forth herein), you and we agree to the exclusive jurisdiction of the state and federal courts of New Jersey to hear and resolve such disputes.

Competent Services: We agree to provide conscientious, competent, ethical and diligent services and at all times will seek to achieve solutions which are just and reasonable for you. Our goal is the best net result for you, taking our fees and your costs into consideration.

No Guarantee: However, because of the uncertainty of legal proceedings, the interpretation and changes in the law and many unknown factors, we cannot and do not warrant, predict or

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guarantee results or the final outcome of any case or matter. . After the conclusion of our representation, changes may occur in the applicable laws or regulations that could have an impact upon your rights and liabilities. Unless you engage us after the conclusion of the matter to provide additional advice on issues arising from the matter, the firm has no continuing obligation to advise you with respect to future legal developments.

Reimbursement for Fees: If the nature of your case or matter seeks reimbursement from another party, insurer, or entity for your legal fees, we shall not endeavor to obtain such reimbursement for you.

Electronic Communications: It has become customary for attorney-client communications to use electronic mail transmitted via the internet, including the use of online commercial e-mail services that store information on their servers, notwithstanding that such use and storage may heighten the risk of inadvertent or unintended disclosures or other adverse consequences occurring. You hereby confirm that you invite and prefer the use of such communications and services, and of cellular telephones, text messaging and fax transmissions, because of their efficiency and convenience. You also confirm that you are aware of and accept the risks of any adverse consequences, which could include the loss of attorney-client privilege, attorney work product confidentiality, or other protections and the risk of inadvertent disclosure of your confidential information. . You acknowledge that we may seek your signature on documents by electronic means (e.g. pdf or any electronic signature complying with the U.S. Federal ESIGN Act of 2000, e.g., www.docusign.com). You consent to the firm's use of electronic means to share documents and information (and obtain signatures thereon) although such electronic communications are capable of being intercepted by others. You and the firm expressly disclaim any intention to limit or waive legal protections afforded to their communications by using any electronic means. You agree to inform the firm in writing if you desire that the firm not share any documents and information (or obtain any signatures thereon) through electronic means.

Technology: To enhance the efficiency of our practice, we use, and may further use, a variety of technology, including third party cloud based platforms to store documents, analyze discovery, communicate with clients and other activities. You consent to our use of these services to store your files, communicate with you and carry out other necessary tasks related to our representation.

Attachment: Genova Burns - Labor Attorney - Rajiv Parikh (2023-37 : Labor Counsel Appointment 2023)

Lisa Esposito, City Clerk
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Signatures: All of us have read and agree to this Agreement and are authorized to execute same on behalf of the entity(s) identified below. We have answered all of your questions and fully explained this Agreement to your complete satisfaction. You have been given a copy of this Agreement. Any electronic or facsimile signature shall be deemed an original.

Very truly yours,

GENOVA BURNS LLC

s/Rajiv D. Parikh
RAJIV D. PARIKH

Approved and Agreed:

CITY OF ASBURY PARK

By: _____

#16810239 (9998.070)

Attachment: Genova Burns - Labor Attorney - Rajiv Parikh (2023-37 : Labor Counsel Appointment 2023)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-38

Appointing CGP&H LLC as Affordable Housing Administrative Agent for the year 2023



RESOLUTION NO. 2023-38

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING COMMUNITY, GRANTS, PLANNING & HOUSING LLC TO SERVE AS AFFORDABLE HOUSING ADMINISTRATIVE AGENT FOR THE CITY OF ASBURY PARK

WHEREAS, the City of Asbury Park (the “City”) wishes to appoint Community, Grants, Planning & Housing LLC (CGP&H LLC) to serve in the capacity of Affordable Housing Administrative Agent for the City;

WHEREAS, the Mayor and Council have determined to appoint CGP&H LLC, as Affordable Housing Administrative Agent commencing on January 1, 2023 and continuing through December 31, 2023, or until a successor is duly appointed and qualified; and

WHEREAS, said appointment may thereafter be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Community, Grants, Planning & Housing LLC, services shall exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That Community, Grants, Planning & Housing LLC is hereby appointed to serve as Affordable Housing Administrative Agent for the City for the period commencing on January 1, 2023 and continuing through December 31, 2023, or until a successor is duly appointed and qualified. This appointment may thereafter be renewed upon further action of the City Council.
2. That the Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and Community, Grants, Planning & Housing LLC, which is consistent with the proposal and which is in a form satisfactory to the Municipal Attorney.
3. That said contract is awarded as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. That said contract has been awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law.
5. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
6. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Community, Grants, Housing & Planning;
 - b. Donna Vieiro, City Manager;
 - c. PFK O'Connor Davies, City Auditor;
 - e. JoAnn Boos, Chief Financial Officer;
 - f. Tracy Lizardi, Director of Purchasing, Assistant CFO; and
 - g. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-38 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT by and between the City of Asbury Park (hereinafter referred to as “City”), a Municipal Corporation of the State of New Jersey and CGP&H LLC, 1249 South River Road, Suite 301, Cranbury, NJ 08512 (hereinafter referred to as “CGP&H”); and

WHEREAS, both the City and CGP&H desire to set forth the various duties, terms and responsibilities of the parties hereto;

WHEREAS, the City Council hereby desires to approve of this Contract that was presented for the provision of said services.

WITNESSETH, that the parties hereto, for and in consideration of the mutual agreements herein contained, promise and agree as follows:

1. The term of the Agreement shall become effective as of the ____ day of _____, 20__ for a period of twelve (12) months terminating at the close of business on the 31st day of December, 2022. The Agreement may be terminated by either party, by giving one (1) month advanced written notice to the other.
2. CGP&H shall furnish all equipment and materials and shall perform the services set forth in Schedule A, Scope of Services and Compensation. Compensation will be provided as in this Agreement and as awarded in accordance with Compensation Schedule in strict accordance with the contract as the word “contract” is hereinafter defined and in accordance with all other terms and provisions.
3. The “contract” shall consist of the following:
 - a. This Agreement and all Schedules annexed thereto.
 - b. Resolution of appointment made by the Mayor and City Council.
 - c. All other terms required by law to be inserted in this contract, whether actually inserted or not.

- d. The Affirmative Action Requirements annexed hereto, applicable to this contract, as Schedule B.
4. CGP&H hereby represents to the City that CGP&H is qualified to fulfill the position set forth herein with applicable requirements. CGP&H further represents that CGP&H is familiar with all applicable statutes, laws, regulations, procedures and requirements in connection with this appointment.
 5. CGP&H hereby agrees to perform the services set forth under the Scope of Services and Compensation, Schedule A, for the City of Asbury Park during the period set forth herein above.
 6. CGP&H shall not assign this contract or any of its rights or monies due hereunder without the previous written consent of the City of Asbury Park as evidenced by a duly adopted Resolution.
 7. CGP&H represents that they currently have professional liability insurance in a minimum amount of \$1,000,000 per occurrence and \$2,000,000 aggregate, and that they shall supply a certificate to the City showing said coverage. CGP&H further covenants and agrees to protect, keep and hold the City of Asbury Park harmless against any and all actions, claims or demands for damages, which may be caused by the negligent error, act or omission of CGP&H or by the improper performance of the contract.
 8. Payment to CGP&H shall be made in strict accordance with the terms of this contract. It is understood and agreed that in the event CGP&H is required to perform services that are not contemplated and are not within the subject matter of this contract and are extraordinary and are of a kind which would not ordinarily be performed in the normal course of providing services, that CGP&H shall be paid additional sums of money based upon change orders duly approved by Resolution of the City of Asbury Park Council.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the covenants, conditions and agreements herein contained are binding of the parties hereto, their successors, assigns and legal representatives.

IN WITNESS WHEREOF, the parties hereto have caused their presents to be signed by the respective authorized officers and the proper corporate and/or municipal seals affixed hereto, the date and year first written above.

WITNESS:

CITY OF ASBURY PARK

BY: _____

BY: _____

NAME: _____

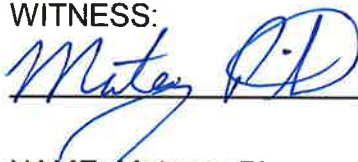
NAME: _____

TITLE: _____

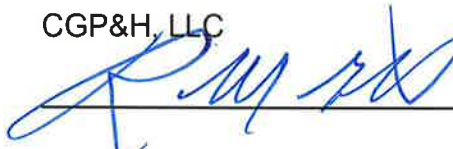
TITLE: _____

DATE: _____

WITNESS:


NAME: Mateusz Pitrus

CGP&H, LLC


NAME: Randall Gottesman, PP

TITLE: Business Operations Associate

TITLE: President

DATE: 12/20/2022

SCHEDULE A: SCOPE OF SERVICES AND COMPENSATION

For services rendered by the Consultant, the Consultant shall be compensated as follows:

ADMINISTRATIVE AGENT GENERAL SERVICES paid by Asbury Park	
1. Day-to-Day Administrative Agent Services	Not to exceed \$6,500 billed at an hourly rate of \$150 per hour for senior staff, and \$105 per hour for all other staff
2. Administrative Agent Resale Fee	\$2,000 flat fee payable by Asbury Park for each sale unit when home gets listed for sale; and A fee of 3% of the resale price will be paid from the seller at the closing to CGP&H.
3. Court Compliance related activities	Billed hourly at a rate of \$150 per hour for senior staff and \$105 per hour for all other staff. Budget will depend on the breadth and scope of the services required by the City.
4. Direct Costs	Up to \$300 per year for reimburseable expenses
5. Additional Advisory Services as requested by the City	Billed hourly at a rate of \$150 per hour for senior staff and \$105 per hour for all other staff. Budget will depend on the breadth and scope of the services required by the City. CGP&H will not bill for any time under this line item without written authorization from the City.

- 1. Day-to-Day Administrative Agent Services:** This includes creating and/or updating the Administrative Agent Operating Manual, and Affirmative Marketing Plan, if required. This also includes responding to general affordable housing inquiries, affirmative marketing, foreclosure prevention activities, and annual mailings to homeowners as well as preparing intent-to-sell packages and annual unit monitoring reports. It also includes advising Asbury Park on affordable housing requirements for new developments. CGP&H will strive to comply with all aspects of S2527 affirmative marketing legislation. However, CGP&H cannot ensure that all other administrative agents administering affordable housing units in the municipality are meeting the regulations until further direction is provided by the State of New Jersey.
- 2. Administrative Agent Resale Fee:** CGP&H will facilitate the resale of any affordable sales unit that is put up for sale by its current owner. The fees are all-inclusive of the services required to sell an affordable unit, including: certifying a buying household(s) as eligible, sending potential purchasers to the unit, facilitating an agreement between buyer and seller, and preparing and filing closing documents. The flat fee that is paid by Asbury Park will be billed once a notice of intent to sell is signed by the seller. In the event that the seller cancels the sale or should the unit not go to closing, this flat fee is still applicable and will not be returned or cancelled.
- 3. Direct Costs:** this includes, but is not limited to, reimbursement for direct costs for large scale printing jobs; postage; mailings; poster production; expedited mailings or messenger services, etc.

4. **Court Compliance related activities:** CGP&H will continue to work with the City, its planners and legal counsel to help resolve affordable housing compliance matters with the court and/or Fair Share Housing Center or other parties. Compliance work will also include any trust fund monitoring as well. In addition, this work may also include court required additional tasks in determining the status of investor/rental units currently in the City's RCA program. Administrative tasks may consist of affirmative marketing, creating a new waitlist, income qualifying existing tenants and future applicants, pricing units, and enforcement actions, etc.
5. **Additional Advisory Services as may be requested by the City:** These include special projects outside the scope of general administration or as otherwise identified above including, but not limited to; group home research to document creditworthiness, or other special projects such as extension of controls or implementing an affordability assistance program. CGP&H will not bill for any time under these services without written authorization from the City.

RENTAL & OWNERSHIP FEES PAID BY Developer/Landlord/Homeowner		
1. Rental Fees	Flat fee of \$800/rental certification. No charge for applicants found to be ineligible. <i>No charge to prescreen applicants and referring as many applicants to landlord as needed to fill each vacancy</i>	Developer/Landlord pays fee. <i>Asbury Park will help facilitate CGP&H going under contract with developers.</i> <i>Asbury Park may pay this fee if Developer will not contract with CGP&H.</i>
2. Waiting List Management Fee	\$30 per deed restricted unit annual fee payable upon commencement of affirmative marketing. Minimum fee of \$300 annually.	Developer/Landlord pays fee
3. Lease Renewal Fee	\$30 per lease renewal	Developer/Landlord pays fee
4. Ownership Fee: Resales	3% of the sale price of the home	Homeowner pays fee.
5. Ownership Fee: Refinance Requests	\$150 flat fee to process request	Homeowner pays fee
6. Ownership Fee: New Development	CGP&H will charge a fee of \$2,000 per sale unit. \$1,000 will be billed at the time each home goes under contract and \$1,000 will be billed at closing. In the event that a buyer goes under contract and does not close, the first \$1,000 payment would not be returned.	Developer/Landlord pays fee
7. Setup of New Projects	\$1,000 flat fee per new development	Developer/Landlord pays fee
Cost to Asbury Park for these services	\$0.00 anticipated cost to Asbury Park, unless Township takes on typical landlord fees/expenses	

1. **Rental Fees:** CGP&H will contact the next applicant on the waiting list to prescreen them for eligibility, refer them to the landlord, and invite them to submit a full application. CGP&H will collect and review documentation from the applicant households to determine their eligibility. Eligibility determination fees do not include credit or background checks, which are generally done by the landlord. The Developer/Landlord may pay rental certification fees.
2. **Waiting List Management Fee:** The waiting list management fee will allow us to maintain the waiting list on our web-based Affordable Homes New Jersey Profile (affordablehomesnewjersey.com). This unique online system provides around-the-clock, user-friendly and robust online tools for applicants, while also increasing our turnaround times. After initial lease-up, all applicants will be required to update their information annually.
3. **Lease Renewal Fee:** CGP&H will advise the Developer of the maximum rental amount before each new lease is executed and we will review all executed leases and maintain copies in our files, as required by UHAC.
4. **Ownership Fee: Resales:** CGP&H will charge the seller a fee as a percent of the sales price to refer interested buyers, coordinate with both the seller and all interested applicants throughout the duration of the sale process, income certify prospective buyers, prepare the closing documents, attend closings whenever required, and perform other duties related to the closing. This fee is paid by the owner directly to CGP&H at closing.
5. **Ownership Fee: Refinance Requests:** CGP&H charges existing homeowners a fee per request to process requests for subordination or home equity loans. This fee will be paid by the homeowner requesting the review.
6. **Ownership Fee: New Development:** After random selection is completed, CGP&H will process the pre-applications, screen pre-applicants, and refer eligible households to the developer, income certify all buyers, coordinate with mortgage providers, and prepare affordable housing related closing documents for the project.
7. **Setup of New Projects:** CGP&H will charge new developers a flat fee for project set-up activities. This includes pricing of units, preparation of deed restriction, affirmative marketing, and all other set-up activities.

RCA Housing Rehabilitation Program Administrative Services

1. Initial Program Setup	Billed hourly at blended rate of \$128 per hour. Not to exceed \$1,500 (initial contract year only).
2. Ongoing Day-to-Day Program Administration	Billed hourly at blended rate of \$128 per hour. Not to exceed \$15,000 per contract year.
3. Shared Services	\$1,200 per year billed monthly at \$100 per month.
4. Direct Costs	Reimbursement for expenses. Not to exceed \$300 per contract year.
Total Paid by Asbury Park City	Not-to-exceed \$18,000

- 1. Initial Program Setup:** this includes, but is not limited to, creation of or revisions to Policies and Procedure Manual for administration of the Municipality's Housing Rehabilitation Program, creation of corresponding program forms, and program marketing materials.
- 2. Ongoing Day-to-Day Program Administration:** includes, but is not limited to maintaining a waiting list of interested residents; ongoing landlord and single family owner outreach efforts, educating landlords and reviewing landlord applications, reviewing rental/owner assistance applications to determine initial eligibility. This category also includes reporting, ongoing updates as needed and all other Housing Rehabilitation administrative tasks.
- 3. Shared Services:** This includes contractor outreach, intake of new interested contractors' applications, qualifying new contractors, maintaining contractor database and individual records, updates to rehab work specifications templates and compliance research.
- 4. Direct Costs:** this includes, but is not limited to, reimbursement for direct costs for large scale printing jobs; postage; mailings; poster production; expedited mailings or messenger services, etc.

RCA Housing Rehabilitation Program Implementation	
1. Milestone 1: Eligibility Determination	Flat fee of \$1,280 payable upon certification of applicant's eligibility. Discounted flat fee of \$850 for each additional unit within a multi-family dwelling.
2. Milestone 2: Loan Closing	Flat fee of \$3,200 payable upon execution of construction documents. Discounted flat fee of \$1,250 for each additional unit within a multi-family dwelling.
3. Milestone 3: Final Inspection	Flat fee of \$1,920 payable upon satisfactory final inspection. Discounted flat fee of \$900 for each additional unit within a multi-family dwelling.
4. Title Search Fee	\$100 per property
5. Subordination Requests	\$175 flat fee to process refinancing requests. This fee is paid by the owner.
Total Paid by Asbury Park City	Estimated not-to-exceed \$32,500 assuming no more than 5 single family unit cases are completed in the contract year.

- Milestone 1: Eligibility Determination:** this includes the introductory setup of a case through the processing of applications and determining the applicant's eligibility for the program.
- Milestone 2: Loan Closing:** this includes comprehensive inspection of home to determine code violations, repair needs; developing a detailed cost estimate and work specifications for review and approval by homeowner; preparing bid documents for contractors to bid; review of bids received, preparing contractor contracts and homeowner agreements with the Municipality, and preconstruction meeting/contract signing/loan closing.
- Milestone 3: Final Inspection:** this includes working with contractors and homeowners throughout construction to finalize the rehabilitation work, troubleshooting any difficulties that arise, progress inspections, and case closeout.
- Title Search Fee:** Per property title search fee to confirm ownership and property liens.
- Subordination Requests:** includes the cost of processing of subsequent Program Mortgage Subordination Requests during the affordability control period. The homeowner will be charged a flat fee per request.

Lead Risk Assessment and Testing Services (if requested by City)

1. Lead Risk Assessment and Report	Flat fee of \$600 per unit (includes dust wipes and soil sample as needed)
2. Lead Clearance Testing	Flat fee of \$330 per unit.
3. Direct Costs for Lead Clearance Lab Tests	Flat fee of \$15 per dust wipe and soil sample

1. **Lead Risk Assessment and Report:** Only applicable to houses built prior to 1978.
2. **Lead Clearance Testing:** Only necessary if lead risk assessment findings have actionable lead level.
3. **Direct Costs for Lead Clearance Lab Tests:** Per each dust wipe and soil sampling needed for an applicable property lead clearance. Typically, no more than 12 samples per lead clearance. This price includes shipping from the lab.

Charges to be paid by the Housing Rehabilitation Contractor to CGP&H

Circumstance	Contractor Penalty
1. Failed Final Inspection	\$375 per failed inspection paid by the contractor directly to CGP&H. \$250 plus additional dust wipes (\$15 each) for repeat lead clearance if needed.
2. Unjustified Construction Delays	\$50 per day paid by the contractor directly to CGP&H.

1. **Failed Final Inspection:** If a contractor requests a final inspection, and fails to meet the specifications of the Work Write-Up, the contractor will be charged a flat fee to partially cover the cost of having to conduct a second inspection and preparing the accompanying inspection reports. Charges for each failed final inspection will be issued directly from the contractor to CGP&H, as specified in the construction agreement. CGP&H will notify the Municipality if this penalty is ever levied against a contractor.
2. **Unjustified Construction Delays:** If the contractor delays construction without appropriate justification which requires CGP&H's additional follow-up with contractor, a weekly penalty will be charged to the contractor during the delay period. This will be specified in the construction agreement as a weekly penalty to the contractor paid directly to CGP&H if the penalty is imposed. CGP&H will notify the Municipality if this penalty is ever levied against a contractor.

The following fees may apply to the Municipality only if the need arises:

Additional Housing Rehabilitation Services, as Needed	Fee
Services related to any cases that are terminated due to circumstances outside the control of CGP&H, including determination of either participant or property ineligibility, voluntary withdrawal by the program participant, or a participant failure to follow other program rules, including violations of local ordinances, falsification of eligibility documents, etc.	Hourly per case up to milestone cap.
For services related to the program inspector's discovery during the initial property inspection of non-compliant occupancy or recently completed or ongoing home improvements without required municipal permits, the CGP&H will bill hourly for all work required to get the program participant to rectify the situation and become municipally compliant before the case can continue in the program with the standard case processing procedures. *Municipality has the option to pass on this additional cost to the owner.	Hourly, up to 3 hours per case for compliance items*
If the program participant delays the preconstruction process for any reason, including rectifying non-compliance discovery (see above section), which then makes the state mandated certificate of eligibility period expire prior to the signing of the construction agreement, CGP&H will be required to reverify household income. Re-verification of income will be billed hourly. *Municipality has the option to pass on this additional cost to the owner.	\$750 per re-verification of income*
On occasion, there are secondary or supplemental funding sources available to assist a unit get fully up to code in cases where the program's funding limits and the program participant's ability to provide their own funding is insufficient. To avoid abandoning the case since it cannot be brought up to code with available funding, we can partner with other funding sources in some cases to make the project work. CGP&H will bill hourly up to the limit per case (see right) for initial research to determine if partnering source is an option for the particular case, and if so, then coordination of same with secondary funding source. If more time beyond the limit per case is needed to finalize the partnering of funds to bring the unit up to code to obtain State credit for that unit, CGP&H will not continue without additional direct written authorization from the Municipality.	Hourly, up to 3 hours per case for initial research and coordination of partnering funds
While extremely rare, if during or after the completion of a housing rehabilitation case there are contract disputes, warranty claims or other kinds of disputes causing the Municipality to request mediation or intervention by CGP&H, this work will only proceed upon written authorization from the municipality and will be conducted at our regular hourly rates. When a program participant or contractor contacts CGP&H directly, CGP&H can bill additional hours to attempt to resolve it expediently, prior to seeking written authorization from the municipality.	Hourly, up to 3 hours per case for warranty claims or up to 6 hours per case for contract disputes.
While rare, cases that require more than one bid opening (due to non-receipt of a qualified bid, contractor replacement or specialty contractor need on portion of rehab work) and/or more than one loan closing and related documents preparation; CGP&H will bill hourly per each re-bid process which includes re-sending updated bid notice and bid packages, additional bid opening, and review of bids received and/or each additional set of loan closing documents and/or additional loan closing	\$525 per case for re-bid process and \$525 per case for each additional needed loan closing and/or additional loan closing documents.

Exclusions:

The following services are specifically excluded from the scope of services to be provided under this agreement:

1. All engineering and architectural services related to the rehabilitation of residential structures, and the coordination thereof. In the rare cases where such funding is needed, the homeowner is responsible for those costs.
2. All legal services as may be required to administer the program or resolve a dispute between a program participant and a contractor.
3. Direct costs such as advertising, reproduction, and expedited mail or messenger services more than amount identified above in this proposal.
4. Relocation assistance, in the extremely rare event that a household must be relocated during the construction phase.
5. CGP&H is not responsible for serving as the property manager of any rental units.

SCHEDULE B

N.J.S.A. 10-5-31 et seq., (N.J.A.C. 17-27)

MANDATORY AFFIRMATIVE ACTION LANGUAGE

GOODS PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

- a. The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.
- b. The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.
- c. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The contractor or subcontractor, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to **N.J.S.A. 10:5-31 et seq.** as amended and supplemented from time to time and the American with Disabilities Act.
- e. The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C 17:-5.2. or a binding determination of the applicable county employment goals determined by the Division pursuant to N.J.A.C.17:27-5.2.

- f. The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.
- g. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal Law and applicable Federal Court decisions.
- h. In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions
- i. The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:
 - Letter of Federal Affirmative Action Plan Approval
 - Certificate of Employee Information Report
 - Employee Information Report Form AA302
- j. The contractor and its subcontractor shall furnish such reports or other documents to the Division of Contract Compliance and EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance and EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C.17:27.**

COMPANY CGP&H, LLC

SIGNATURE 

TITLE PRESIDENT

DATE 12/20/2022



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-39

Appointing the Firm of Surenian, Edwards & Nolan, LLC To Serve as Special Affordable Housing Counsel



RESOLUTION NO. 2023-39

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING THE FIRM OF SURENIAN, EDWARDS & NOLAN, LLC TO SERVE AS SPECIAL AFFORDABLE HOUSING COUNSEL FOR THE CITY OF ASBURY PARK

WHEREAS, the City of Asbury Park (the “City”) wishes to appoint a licensed attorney/law firm to serve in the capacity of “Special Affordable Housing Counsel” for the City, for the year 2023; and

WHEREAS, the Special Affordable Housing Counsel shall handle affordable housing matters involving the City during the term of its appointment, per the direction of the City Manager (the “services”); and

WHEREAS, the law firm of Surenian, Edwards & Nolan, LLC specializes in providing affordable housing legal services to municipalities and is well suited to provide the services to the City; and

WHEREAS, the Mayor and Council have determined to appoint the law firm of Surenian, Edwards & Nolan, LLC to this position for the period from January 1, 2023 through December 31, 2023, or until a successor is duly appointed and qualified; and

WHEREAS, said appointment may thereafter be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*, because the services will be performed by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Special Affordable Housing Counsel’s services may exceed \$17,500.00; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the law firm of Surenian, Edwards & Nolan, LLC is hereby appointed to serve as Special Affordable Housing Counsel for the City for the period commencing on January 1, 2022 and continuing through December 31, 2022, or until a successor is duly appointed and qualified. This appointment may thereafter be renewed upon further action of the City Council.
2. That the Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and the law firm of Surenian, Edwards & Nolan, LLC., which is in a form satisfactory to the Municipal Attorney.
3. That said contract is awarded as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession.
4. That said contract has been awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law.
5. That there shall be a cap on expenditures associated with this contract in the total amount of \$120,000. Expenditures beyond that total amount shall require further approval from the City Council.
6. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Surenian, Edwards & Nolan, LLC;
 - b. Donna Vieiro, City Manager;
 - c. JoAnn Boos, Chief Financial Officer;
 - d. Tracy Lizardi, Director of Purchasing, Assistant CFO;
 - e. Edward Sasdelli, Fiscal Monitor; and
 - f. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-39 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

CONTRACT FOR PROFESSIONAL SERVICES

This Agreement is made this _____ day of January 2023 by and between:

City of Asbury Park, a Municipal Corporation of the State of New Jersey
One Municipal Plaza
Asbury Park, NJ 07712

Hereinafter referred to as the “CITY”

And: **SURENIAN, EDWARDS & NOLAN LLC**
311 Broadway, Suite A
Point Pleasant Beach, NJ 08742

Hereinafter referred to as “Special Counsel”, “Contractor” or “Firm”.

In the event that Surenian, Edwards & Nolan LLC is reconstituted, references to “Special Counsel”, “Contractor” or “Firm” shall include references to the new entity.

WITNESSETH:

1. The City hereby appoints and employs the Special Counsel to assist the City and its legal counsel in helping the City address its responsibilities with respect to its affordable-housing obligations in any proceeding involving (a) a New Jersey court of competent jurisdiction, and/or (b) the New Jersey Council on Affordable Housing (“COAH”) should it resume its duties.

2. Special Counsel shall bill the City at the following rates:

- (a) \$200.00 per hour for Jeffrey R. Surenian, Esq. or Michael J. Edwards, Esq.
- (b) \$185.00 per hour for Erik C. Nolan, Esq.
- (c) \$175.00 per hour for Nancy L. Holm, Esq., Christine M. Faustini, Esq., or William E. Olson, Esq.
- (c) \$90.00 per hour for all paralegal work;
- (d) For any new hires, Firm will communicate with the City prior to the commencement of any work.

3. The City shall pay all disbursements incurred by the Firm, including, but not limited to, photocopying and printing charges (at \$0.25 per page); facsimile charges (at \$1.00 per page);

telephone charges; travel expenses, mileage (at standard IRS rate, plus tolls); video conferencing charges; scanning charges (at \$0.25 per page); messenger fees; filing fees; recording fees, etc.

4. The Special Counsel shall bill the City on a monthly basis. In the event that the bills exceed the amount budgeted, the City shall either make another appropriation or advise the Special Counsel to stop work immediately.

5. The City shall pay all bills within forty-five (45) days from date mailed.

6. As a prerequisite to payment, Special Counsel shall complete and execute vouchers provided by the City, which the Firm shall be free to submit with each bill, so that said bill may be paid upon approval.

7. The Firm is aware that the City has enacted Section 2-76 of the Asbury Park City Code, which requires public contracting reform and prohibits certain professional service contractors, during the term of their contracts with the City, from making contributions, or pledges thereof, of money or other in-kind donations, to any City of Asbury Park candidate or holder of the public office within the City having ultimate responsibility for the award of their contracts, or to any City of Asbury Park or Monmouth County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting City of Asbury Park municipal candidates or municipal officeholders. The parties hereby recognize that the Firm is subject to this prohibition. It shall, therefore, be a breach of this Agreement for the Firm to violate the requirements of Section 2-76 of the City Code during the term of this Agreement.

8. Political Contribution Disclosure: The within Agreement has been awarded to the Firm based upon the merits and abilities of the Firm to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to N.J.S.A.

19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Attorney's Law Firm, and the Law Firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of the Law Firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Firm's eligibility to perform this Agreement, nor will Law Firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

9. Attached hereto and incorporated herein are:

Attachments

- Mandatory Equal Employment Opportunity Language
- Affirmative Action
- Americans with Disabilities Act language
- Business Entity Disclosure Certification
- Political Contribution Disclosure Form
- W9
- Disclosure of Investment Activities in Iran
- Certificate of Liability Insurance
- Business Registration Certificate

10. Any portion or clause of this Agreement that is deemed unenforceable shall be severed from this Agreement with the surviving portion remaining in full force and effect.

11. The terms of this Agreement shall be in effect from January 1, 2023 until December 31, 2023.

CITY OF ASBURY PARK

ATTEST:

By _____, Mayor

SURENIAN, EDWARDS & NOLAN LLC

WITNESS:


Laura Nelson

Date: 11/4/2022

By 
Jeffrey R. Surenian, Managing Member



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-40

Resolution Appointing City Prosecutor James Butler



RESOLUTION NO. 2023-40

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING CITY PROSECUTOR

WHEREAS, the City of Asbury Park has a need to engage the services of a City Prosecutor for the year 2023, to provide services as per N.J.S.A. 2B:25-5 et. al.; and

WHEREAS, the City of Asbury Park is required to comply with the New Jersey Pay-to-Play Law (P.L. 2004 c. 19, N.J.S.A. 19:44-20.4 et.seq.) (“Act”); and

WHEREAS, in prior years the City determined to award a contract for these services through a “fair and open” process, pursuant to and in accordance with the Pay-to-Play Law; and

WHEREAS, the DLGS has provided its consent to permit the City to appoint and retain the Municipal Prosecutor in 2023 without undertaking a new “fair and open” process so long as the Municipal Prosecutor is not increasing his rates over the 2022 levels; and

WHEREAS, the Municipal Prosecutor has agreed to maintain his rates at the 2022 levels and;

WHEREAS, the CFO has certified the availability of funds for said contract

WHEREAS, the anticipated term of this contract is for twelve (12) month period, commencing on January 1, 2023 and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, following said review, the City Council wishes to reappoint James N. Butler Jr. to the professional service contract to provide prosecutor services in the amount of \$650.00 per court session and \$150.00 per hour for matters held in Superior Court, for the remainder of the year 2023.

NOW, THEREFORE, BE IT RESOLVED that the award of the professional service contract for City Prosecutor services is hereby made to James N. Butler Jr., Attorney at Law, in an amount of \$650.00 per court session and \$150.00 per hour for all Court matters held in Superior Court, for the calendar year 2023.

BE IT FURTHER RESOLVED that James N. Butler, Jr. shall be paid a fee not to

exceed \$50,000.00 for services herein enumerated.

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the newspaper(s) of record.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to sign all documents associated with the contract.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-40 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

**AGREEMENT FOR PROFESSIONAL SERVICES
MUNICIPAL PROSECUTOR, CITY OF ASBURY PARK**

THIS AGREEMENT, made the _____ day of _____, 2023, by and between THE CITY OF ASBURY PARK, a Municipal Corporation of the State of New Jersey, located at One Municipal Plaza, Asbury Park, New Jersey 07712 (hereinafter the “City”) and JAMES N. BUTLER, JR., ESQUIRE, An Attorney at Law of the State of New Jersey, located at 601 Bangs Avenue, Suite 507, Asbury Park, New Jersey, 07712 (hereinafter the “Attorney” or “Municipal Prosecutor”);

AND, IT APPEARING that the City has a need to engage the services of a Municipal Prosecutor for the calendar year 2023 who shall perform all of the duties prescribed in N.J.S.A. 2B:25-5, *et seq.*, including, but not limited to the prosecution of criminal, quasi-criminal, and disorderly persons offenses, along with motor vehicle offenses, and any other matters for which the City’s Municipal Court has jurisdiction pursuant to law and rule of the Supreme Court of the State of New Jersey;

AND IT FURTHER APPEARING that on January 1, 2023, the City of Asbury Park intends to adopt a Resolution authorizing the award of a professional services contract for the aforesaid services to the Attorney pursuant to the “fair and open” process in accordance with the New Jersey Public Contracts Law, N.J.S.A. 40A:11-5(1)(a), *et seq.* and the New Jersey Local Unit Pay-to-Play Law, N.J.S.A. 19:44A20.4, *et seq.*;

AND the City and Attorney wish to set forth their respective rights and responsibilities in the within Agreement;

THEREFORE, IT IS AGREED as follows:

1. The City hereby appoints and employs the attorney to serve as the Municipal Prosecutor in accordance with the statutes and ordinances pertaining thereto, subject to the terms and conditions contained herein.

2. The Attorney hereby accepts this appointment and agrees to serve as the Municipal Prosecutor for of one year, from January 1, 2023 through December 31, 2023, and in accordance with the terms and conditions contained in this Agreement.

3. The City hereby agrees to pay the Attorney for the services performed by him in his capacity as Municipal Prosecutor for the calendar year 2023:

(a) \$650.00 per municipal court session; and

(b) \$150.00 per hour for all Court matters held in Superior Court.

4. The fees and costs paid to the Attorney shall not exceed the amount budgeted for such purposes in budgets heretofore or hereafter adopted by the City of Asbury Park.

5. The Attorney shall bill the City monthly for all services rendered on vouchers as required by the City. The City agrees to process and pay said vouchers when audited and found correct. Payment will be made within (30) days of the submission of an audited and approved voucher.

6. The Attorney is aware that the City has enacted Section 2-76 of the Asbury Park City Code which requires public contracting reform and prohibits certain professional service contractors, during the term of their contracts with the City, from making contributions, or pledges thereof, of money or other in-kind donations to any City of Asbury Park candidate or holder of a public office within the City having ultimate responsibility for the award of his contract, or to any City of Asbury Park or Monmouth County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting Asbury Park City

municipal candidates or municipal officeholders. The parties hereby recognize that the Attorney is subject to this prohibition. It shall, therefore, be a breach of this Agreement for the Attorney to violate the requirements of the Section 2-76 of the City Code during the term of this agreement.

7. Statutorily Required Affirmative Action Clause:

During the term of this agreement, the City and the Attorney hereby incorporate into this Agreement the mandatory affirmative action language pursuant to N.J.S.A. 10:5-31, et seq. (P.L. 1975, C 127) N.J.A.C. 17:27, as amended and supplemented from time to time as set forth Exhibit “A” attached. The Attorney shall execute and comply with all requirements contained in the Affirmative Action Affidavit attached hereto as “Exhibit “B”. Both Exhibits are incorporated hereby by reference. The Attorney shall submit a copy of the Certificate of Employee Information Report Form AA302 (Initial Employee Information Report) prior to any payments being made under this Contract.

8. Political Contribution Disclosure:

The within Agreement has been awarded to the Contractor (Attorney) based upon the merits and abilities of the Contractor (Attorney) to provide the services described herein. This Agreement was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Contractor (Attorney) his/her firm, his/her firm’s subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of this/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor’s (Attorney’s) eligibility to perform this Agreement, nor will the Contractor (Attorney) or his/her firm make a reportable contribution during the term of the within Agreement to any

political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

9. The Attorney shall also execute the "Americans with Disabilities Act of 1990" Certification attached hereto as Exhibit "C" which shall be incorporated herein by reference.

10. Subject to the provision of Paragraph 11 below, this Contract shall commence on January 1, 2023 and expires on December 31, 2023, or until the appointment and qualification of a successor to the Attorney.

11. This Agreement may be terminated by either party, with or without cause, upon thirty (30) days advance written notice.

12. This Contract is subject to the review and approval of the New Jersey Division of Local Government Services (the "Division"), in accordance with the Memorandum of Understanding executed by the Division and the City regarding the provision of state funding to the City.

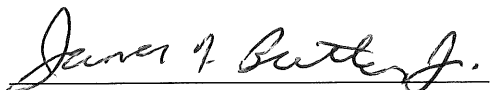
IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

ATTEST CLERK/WITNESS

BY: _____
LISA ESPOSITO, RMC,
CITY CLERK

CITY OF ASBURY PARK

BY: _____
JOHN B. MOOR, MAYOR


JAMES N. BUTLER, JR., ESQUIRE

Attachment: James Butler - Municipal Prosecutor (2023-40 : Appointing City Prosecutor 2023)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-41

Resolution Appointing Alternate City Prosecutor James Carton, Esq,



RESOLUTION NO. 2023-41

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING ALTERNATE CITY PROSECUTOR

WHEREAS, the City of Asbury Park has a need to engage the services of an Alternate City Prosecutor for the year 2023, to provide services as per N.J.S.A. 2B:25-4 et. al., on an as-needed basis; and

WHEREAS, following said review, the City Council wishes to appoint James Carton, Esq. as the Alternate City Prosecutor for the year 2023; and

WHEREAS, the City of Asbury Park is required to comply with the New Jersey Pay-to-Play Law (P.L. 2004 c. 19, N.J.S.A. 19:44-20.4 et.seq.) (“Act”); and

WHEREAS, the City of Asbury Park followed the guidelines as set forth in the New Jersey Local Unit Pay-to-Play Law issued by the New Jersey Department of Community Affairs; and

WHEREAS, this contract shall be effective from January 1, 2023 through December 31, 2023; and

WHEREAS, the CFO has verified that funds exist for this activity in account 2-01-25-275-000-202; and

WHEREAS, this contract is being awarded the under non-fair and open process.

NOW, THEREFORE, BE IT RESOLVED that the award of the professional service contract for alternate prosecutor services is hereby made to James Carton, Esquire., for the year 2023.

BE IT FURTHER RESOLVED that this contract shall commence effective January 1, 2023 through December 31, 2023.

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the newspaper(s) of record.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign all

documents associated with the contract and City Clerk will attest, so long as said documents are in form satisfactory to the City Attorney

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-41 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is made as of January 1, 2023 between the City Council of the City of Asbury Park, County of Monmouth, State of New Jersey, and Carton Law Firm, L.L.C.

WHEREAS, on January 1, 2023, the City Council of the City of Asbury Park appointed James D. Carton, IV, Esquire as Alternate Prosecutor for the calendar year 2023 and wishes to set forth the terms governing the provision of services to be provided by the City Council Attorney and the compensation to be paid for said services in an Agreement, as required by the provisions of the Local Public Contract Law, N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, the Local Public Contract Law, N.J.S.A. 40A:11-5(1),

authorizes the retention of such counsel without competitive bidding; and

WHEREAS, the City Council did adopt a Resolution authorizing the Mayor of the City of Asbury Park to enter into the within Agreement,

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. James D. Carton, IV, Esquire is specifically retained as Alternate Prosecutor for a term beginning on January 1, 2023 and expiring on December 31, 2023, to complete all legal services required by a Prosecutor.

2. The Prosecutor will be compensated for services rendered as follows:

A. \$650.00 per session or \$150.00 per hour in Superior Court.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals
this _____ day of _____, 2023.

ATTEST:
BOROUGH COUNCIL OF THE
CITY OF ASBURY PARK

Municipal Clerk
By: _____

Mayor
By: _____
JAMES D. CARTON, IV, ESQ.
FOR THE FIRM

CITY OF ASBURY PARK
COUNTY OF MONMOUTH
STATE OF NEW JERSEY

SWORN STATEMENT BY PROFESSIONAL SERVICES PROVIDER

I understand that the City of Asbury Park (the "City") Code requires that, prior to awarding any contract or agreement to procure services, with any professional service provider, the City or any of its purchasing agents or agencies, as the case may be, shall receive a sworn statement from the professional service provider made under penalty of perjury that the bidder or offeror has not made a contribution in violation of Section 2-76 of the Asbury Park City Code.

I have received and reviewed a full copy of Section 2-76 of the Asbury Park City Code.

I hereby swear and affirm, under penalty of perjury, that I, my family or my firm has not made a contribution in violation of Section 2-76 of the Asbury Park City Code.

By: _____
(Firm's Name) Carton Law Firm
(signature) [Signature]
(print name) James D. Carton IV
(title) Partner

Subscribed and sworn to before me this 10 day of Nov, 2022
[Signature]
Notary Public
HOLLY H. SZABADAY
A Notary Public of New Jersey
My Commission Expires 10/19/2027



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-42

Public Defender Appointment Matthew Sage for 2023



RESOLUTION NO. 2023-42

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING CITY PUBLIC DEFENDER

WHEREAS, the City of Asbury Park has a need to engage the services of a City Public Defender for the year 2023, to provide services as per N.J.S.A. 2B:24-6 et. al.; and

WHEREAS, the Mayor and Council have determined to appoint Matthew Sage, Esq. to serve as the Public Defender for the City for 2023; and

WHEREAS, in prior years the City determined to award a contract for these services through a “fair and open” process, pursuant to and in accordance with the Pay-to-Play Law; and

WHEREAS, the City of Asbury Park is required to comply with the New Jersey Pay-to-Play Law (P.L. 2004 c. 19, N.J.S.A. 19:44-20.4 et.seq.) (“Act”); and

WHEREAS, the City of Asbury Park followed the guidelines as set forth in the New Jersey Local Unit Pay-to-Play Law issued by the New Jersey Department of Community Affairs; and

WHEREAS, this contract shall be effective from January 1, 2023 through December 31, 2023; and

WHEREAS, this contract is being awarded the under non-fair and open process.

WHEREAS, following said review, the City Council wishes to appoint Matthew Sage, Esq. as the City Public Defender for the year 2023.

NOW, THEREFORE, BE IT RESOLVED that the award of the contract for City Public Defender services is hereby made to the Matthew Sage, Esq., for all Court matters held in Municipal and Superior Court, for the calendar year 2023.

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq*; and

WHEREAS, the City’s Chief Financial Officer as certified the availability of funds for said contract

BE IT FURTHER RESOLVED that the contract shall commence January 1, 2023.

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the newspaper(s) of record.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign all documents associated with the contract and City Clerk will attest, so long as said documents are in form satisfactory to the City Attorney

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-42 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

AGREEMENT, made this ___ day of January, 2023, by and between

THE CITY OF ASBURY PARK

a Municipal Corporation of the State of New Jersey

One Municipal Plaza

Asbury Park, New Jersey 07712

(hereinafter the "City");

AND

MATTHEW R. SAGE, ESQ.

The Law Office of Matthew Sage, LLC

625 Atlantic City Blvd

Beachwood, New Jersey 08722

(hereinafter the "Attorney" or "City Public Defender")

WITNESSETH:

WHEREAS, the City of Asbury Park has a need to engage the services of a City Public Defender for the year 2023, to provide services as per N.J.S.A. 2B:24-6, et seq.; and

WHEREAS, the City authorized the award of a professional services contract for the aforesaid services to the Attorney without competitive bidding pursuant to a restricted (or "non-fair and open") process in accordance with the New Jersey Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, et seq. and the New Jersey Local Public Contracts Law, N.J.S.A. 404:11-1, et seq.; and

WHEREAS, the City and the Attorney wish to set forth their respective rights and responsibilities in the within Agreement.

NOW, THEREFORE, IT IS AGREED, as follows:

1. The City hereby appoints and employs the Attorney to serve as the City Public Defender in the City's Municipal Court for the year 2023, in accordance with the statutes and ordinances pertaining thereto, subject to the terms and conditions contained herein.
2. The Attorney hereby accepts this appointment and agrees to serve as the City Public Defender, for the term set forth herein, in accordance with the terms and conditions contained in this Agreement.
3. The City hereby agrees to pay the Attorney for the services performed by him in his capacity as City Public Defender, as follows:

(a) \$500.00 per municipal court session; and

(b) \$150.00 per hour for matters held in Superior Court.

4. The City shall reimburse the Attorney for all out-of-pocket costs and expenses advanced by the Attorney or the Attorney's law firm, including but not limited to Court costs, excessive copying or printing costs, excessive postage costs, messenger fees, filing fees, transcript costs, Westlaw or other computerized legal research charges, and for all other similar costs and expenses.

5. The Attorney shall bill the City monthly for all legal services rendered on vouchers as required by the City. The City agrees to process and pay said vouchers when audited and found correct. Payment will be made within thirty (30) days of the submission of an audited and approved voucher.

6. The Attorney is aware that the City has enacted Section 2-76 of the Asbury Park City Code, which requires public contracting reform and prohibits certain professional service contractors, during the term of their contracts with the City, from making contributions, or pledges thereof, of money or other in-kind donations, to any City of Asbury Park candidate or holder of the public office within the City having ultimate responsibility for the award of their contracts, or to any City of Asbury Park or Monmouth County Party Committee, or to any political action committee (PAC) that is organized for the primary purpose of promoting or supporting City of Asbury Park municipal candidates or municipal officeholders. The parties hereby recognize that the Attorney is subject to this prohibition. It shall, therefore, be a breach of this Agreement for the Attorney to violate the requirements of Section 2-76 of the City Code during the term of this Agreement.

STATUTORILY REQUIRED AFFIRMATIVE ACTION CLAUSE

During the term of this Agreement, the City and the Attorney hereby incorporate into this Agreement the mandatory affirmative action language pursuant to N.J.S.A. 10:5-31, et seq. (P.L. 197 5, C.127) N.J.A.C. 17:27, as amended and supplemented from time to time, as set forth in Exhibit "A" attached. The Attorney shall execute and comply with all requirements contained in

the Affirmative Action Affidavit incorporated herein by reference as Exhibit B. The Attorney shall submit a copy of the Certificate of Employee Information Report or Form AA-302 (Initial Employee Information Report) prior to any payments being made under this Agreement.

7. The Attorney shall also execute the "Americans 'With Disabilities Act of 1990"

Certification attached hereto as Exhibit C, which shall be incorporated herein by reference.

g. Political Contribution Disclosure: The within Agreement has been awarded to the Attorney based upon the merits and abilities of the Attorney to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Attorney, his Law Firm, his Law Firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his Law Firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Attorney's eligibility to perform this Agreement, nor will the Attorney or his Law Firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

8. Subject to the provisions of Paragraph 11 below, this Agreement shall expire on December 31, 2023, or until the appointment and qualification of a successor to the public defender position.

9. This Agreement may be terminated by either party, with or without cause, upon thirty (30) days advance written notice.

10. If applicable, this Agreement is subject to the review and approval of the New Jersey Division of Local Government Services (the "Division"), in accordance with the Memorandum of Understanding executed by the Division and the City regarding the provision of State funding to the City.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

CITY OF ASBURY PARK

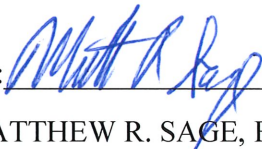
BY: _____

MAYOR JOHN B. MOOR

ATTEST CLERK/WITNESS

By: _____

MELODY HARTSGROVE,
CITY CLERK

By:  _____

MATTHEW R. SAGE, ESQ



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-43

Appointment of Alternate Public Defender -Donald K. Greer, Jr., Esquire.



RESOLUTION NO. 2023-43

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING ALTERNATE PUBLIC DEFENDER

WHEREAS, the City of Asbury Park has a need to engage the services of an Alternate City Public Defender for the year 2023, to provide services as per N.J.S.A. 2B:25-4 et. al., on an as-needed basis; and

WHEREAS, following said review, the City Council wishes to appoint Donald K. Greer Jr., Esq. as the Alternate Public Defender for the year 2023; and

WHEREAS, the City of Asbury Park is required to comply with the New Jersey Pay-to-Play Law (P.L. 2004 c. 19, N.J.S.A. 19:44-20.4 et.seq.) (“Act”); and

WHEREAS, the City of Asbury Park followed the guidelines as set forth in the New Jersey Local Unit Pay-to-Play Law issued by the New Jersey Department of Community Affairs; and

WHEREAS, this contract shall be effective from January 1, 2023 through December 31, 2023; and

WHEREAS, the CFO has verified that funds exist for this activity in account 2-01-43-495-000-020; and

WHEREAS, this contract is being awarded the under non-fair and open process.

NOW, THEREFORE, BE IT RESOLVED that the award of the professional service contract for alternate public defender services is hereby made to Donald K. Greer Jr., Esquire., for the year 2023.

BE IT FURTHER RESOLVED that this contract shall commence effective January 1, 2023 through December 31, 2023.

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the newspaper(s) of record.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign all

documents associated with the contract and City Clerk will attest, so long as said documents are in form satisfactory to the City Attorney

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-43 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

GREER LAW FIRM, LLC**DONALD K GREER, JR**

Certified by the Supreme Court of New Jersey as a Civil Trial Attorney

November 18, 2022

Lisa Esposito, RMC
Municipal Clerk
City of Asbury Park
One Municipal Plaza
Asbury Park, NJ 07712

Re: Alternate City Public Defender

Dear Ms. Esposito:

With respect to the position for the position of Alternate Public Defender for 2023, I enclose a proposed contract/agreement. The payment terms of the prior year's contract shall remain the same.

Thank you for considering me for the position.

If you require anything additional, please feel free to contact me.

Very truly yours,

DONALD K. GREER, JR.

DKG/cb

DKG@DKGREERLAW.COM

732.449.7900 OFFICE | 732.449.7901 FAX

617 UNION AVENUE, BUILDING 3, SUITE 21, BRIELLE, NJ 08730

Attachment: Donald K. Greer - Alt Municipal Public Defender (2023-43 : Resolution Appointing Alternate Public Defender)

AGREEMENT FOR CONFLICT PUBLIC DEFENDER SERVICES

AGREEMENT made this ____ day of December, 2022:

Between GREER LAW FIRM and the CITY OF ASBURY PARK:

WHEREAS, pursuant to law, the parties herein agree and enter into an AGREEMENT for professional services of City Conflict Public Defender.

THE PARTIES HEREBY AGREE:

Greer Law Firm shall serve as City Conflict Public Defender for the year commencing January 1, 2023 until December 31, 2023.

Said services shall be provided at a rate of \$500.00 per Conflict Public Defender session. The total amount per year shall not exceed the amount appropriated by Asbury Park and shall be paid upon receipt and approval of a voucher from Law Firm.

All normal services of Conflict Public Defender shall be provided by the firm as authorized by Asbury Park.

The parties agree to incorporate into this Agreement the mandatory language of subsection 3.4 (a) of the regulations of Treasurer pursuant to NJSA 10:5-31 and NJAC 17.27 as amended or supplemented from time to time.

The parties agree the Agreement incorporates the mandatory language of Section 5.3 of P.L. 1975, c 127 and JJAA 17:27 as amended and supplemented from time to time.

The mandatory language of Affirmative Action is incorporated into this Agreement as well as mandatory Equal Opportunity language.

Law Firm has submitted a Political Disclosure Form and this contract was not awarded through a fair and open process. Firm attests that no political contribution was made in the past 12 months which would affect the ability of Firm to perform the duties under this Agreement. Firm has not, and will not, make a reportable political contribution to any political party committee in Asbury Park if a member is serving in elected

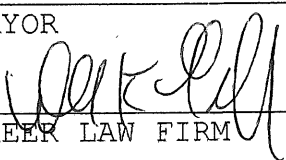
office in Asbury Park. This Agreement has been awarded to the Contractor based upon the merits and abilities of Greer law Firm to provide the services listed above. As such, the undersigned do hereby attest that the Contractor and any principals controlling in excess of 10 per cent of the Firm have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to NJSA 19:44A-8 or 19:44A-16, in the one year preceding the award of the Agreement that would affect the Firm's eligibility to perform this Agreement, nor will Firm make a reportable contribution during the term of this Agreement to any political party committee in Asbury Park if a member of said committee is serving in elected public office in Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in elected public office of Asbury Park when the Agreement is awarded.

Firm has provided the proper proof of insurance. Said coverage remains in full force and effect.

IN WITNESS THEREOF, the parties have executed this Agreement.

CITY OF ASBURY PARK, Municipal Clerk

MAYOR



GREER LAW FIRM



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-44

Appointing Gregory B. Pasquale, Esquire, to Serve as Special Tax Counsel



RESOLUTION NO. 2023-44

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING GREGORY B. PASQUALE, ESQUIRE, TO SERVE AS SPECIAL TAX COUNSEL FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL LEGAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) wishes to appoint a licensed attorney to serve in the capacity of “Special Tax Counsel” for the City for the year 2023; and

WHEREAS, the Special Tax Counsel shall handle tax appeal matters involving the City during the term of his appointment as well as any other tax-related matters as requested by the City (collectively, the “services”); and

WHEREAS, the Mayor and Council have determined to appoint the firm of Shain Schaffer, PC to serve as the Special Tax Counsel for the City for 2023; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the Special Tax Counsel’s services may exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, said contract has been awarded through a restricted non-fair and open process pursuant to and in accordance with the Pay-to-Play Law; and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. Gregory B. Pasquale, Esq. is hereby appointed to serve as the “Special Tax Counsel” for the City for the year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, the Agreement between the City of Asbury Park and Gregory B. Pasquale, Esq., for the year 2023, or one which is substantially similar thereto and which meets with the approval of the City Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person authorized by law to practice a recognized profession.
4. Said contract has been awarded through a restricted (a/k/a, “non-fair and open”) process, pursuant to and in accordance with the Pay-to-Play Law, and further in accordance with the approval received from the DLGS.
5. Gregory B. Pasquale, Esq. shall be paid a fee of \$165.00 per hour for the services herein enumerated.
6. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. A certified copy of this Resolution shall be provided to each of the following:
 - a. Gregory B. Pasquale, Esq., Special Tax Counsel
 - b. Donna Vieiro, City Manager
 - c. JoAnn Boos, CMFO, Chief Financial Officer
 - d. Director of the N.J. Division of Local Government Services

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-44 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

AGREEMENT FOR PROFESSIONAL SERVICES

2023 Special Tax Counsel

THIS AGREEMENT, made this _____ day of January, 2023, between the **CITY OF ASBURY PARK**, in the County of Monmouth, a municipal corporation of the State of New Jersey, with offices located at City Hall, One Municipal Plaza, Asbury Park, New Jersey 07712 (hereinafter, "**CITY**") and **SCHAFFER SHAIN JALLOH PC**, a Professional Corporation of the State of New Jersey with offices located at 150 Morristown Rd., Suite 105, Bernardsville NJ 07924.

WITNESSETH:

WHEREAS, the **CITY** requires the services of Special Tax Counsel ("Legal Services"); and

WHEREAS, the **CITY COUNCIL** passed Resolution # _____ on January _____, 2023, appointing the law firm of **SCHAFFER SHAIN JALLOH PC**, as the Special Tax Counsel capable of, and willing to, perform such services; and

WHEREAS, it is the intention of the parties to this Agreement that neither **SCHAFFER SHAIN JALLOH PC** nor its attorneys be considered an employee of the **CITY** but rather as providing legal services under contract,

NOW, THEREFORE, IT IS AGREED by and between the parties hereto as follows:

1. **SCOPE OF SERVICES.** **SCHAFFER SHAIN JALLOH PC** agrees to provide all of the necessary and proper Legal Services as defined below and as required by the **CITY**, and shall do, perform and carry out the Legal Services in a satisfactory and proper manner.
2. **COMPENSATION.** **SCHAFFER SHAIN JALLOH PC** will bill monthly at the hourly rate of \$165.00 for all attorneys, billed in tenth of an hour increments, with a minimum increment of two tenths of an hour. Paralegals will be billed at \$75.00 per hour. The Firm shall provide all required legal services on behalf of the City of Asbury Park in connection with tax appeals filed or to be filed with the Monmouth County Board of Taxation and/or the Tax Court of New Jersey, including but not limited to, the defense of tax appeals, the filing of Answers and Counterclaims, Chapter 91 or other Motion practice,

negotiations with adverse counsel, and appearances before the Tax Court of New Jersey and/or Monmouth County Board of Taxation. Fees for matters appealed to the Superior Court Appellate Division will also be billed at the hourly rate of \$165.00. Out-of-pocket disbursements and costs incurred on behalf of the City will be itemized on each bill at the actual cost incurred.

3. **TERM OF AGREEMENT.** Legal Services under this Agreement shall be performed for the period commencing on January 1, 2023 and ending on December 31, 2023.

4. **BILLING.** The compensation referred to in Paragraph 2, above, shall be payable on a monthly basis upon submission of an appropriate voucher accompanied by a statement to the CITY setting forth the Legal Services rendered during the period. **SCHAFFER SHAIN JALLOH PC** makes every effort to ensure accurate billings. However, recognizing that inadvertent errors may occur, the CITY shall review all bills promptly upon receipt and bring any billing issues to the attention of **SCHAFFER SHAIN JALLOH PC** for prompt review so that any errors may be addressed.

5. **AFFIRMATIVE ACTION.** The parties to this contract agree to incorporate into this contract the mandatory language of subsection 3.4(a) of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time and the contractor or subcontractor agrees to comply fully with the terms, provisions, and obligations of said subsection 3.4(a) provided that said subsection shall be applied subject to the terms of subsection 3.4(d) of said Regulations. The parties to this contract agree to incorporate into this contract the mandatory language of section 5.3 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the contractor agrees to comply fully with the terms, provisions, and obligations of said section 5.3. See Exhibit A.

6. **POLITICAL CONTRIBUTION DISCLOSURE.** This contract is awarded based upon the merits and abilities of **SCHAFFER SHAIN JALLOH PC** to provide the goods or services described herein. This contract was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4 *et seq.* As such, the undersigned does hereby attest that **SCHAFFER SHAIN JALLOH PC** its, subsidiaries

and assigns or principals controlling in excess of 10 % of the company has neither made a contribution that is reportable pursuant to the election law enforcement commission pursuant to N.J.S.A. 19:44A-8 or 19:99A-16, in the one year period preceding the award of the contract that would affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the municipality if a member of that political party is serving in an elective public office of the municipality when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the municipality when the contract is awarded.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

CITY OF ASBURY PARK

Lisa Esposito, City Clerk

By: _____
Mayor John B. Moor

WITNESS:

SCHAFFER SHAIN JALLOH PC

Jennifer Clark

By: _____
Gregory B. Pasquale
Partner



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-45

Resolution appointing the Gene J Anthony Attorney at Law as the Rent Leveling Board Attorney for the calendar year of 2023.



RESOLUTION NO. 2023-45

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION APPOINTING THE FIRM OF GENE J ANTHONY, ESQUIRE TO
SERVE AS RENT LEVELING BOARD ATTORNEY FOR THE CITY, AND
AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL
SERVICES ASSOCIATED THEREWITH.**

WHEREAS, on November 6, 2021 the City of Asbury Park solicited request for qualifications for a Rent Leveling Board Attorney; and

WHEREAS, in accordance with the RFQ, the City received and opened proposals from four interested firms; and

WHEREAS, following review and evaluation of the proposals received, the Mayor and Council had determined to appoint the firm of Gene J Anthony Attorney at Law to serve as the Rent Leveling Board Attorney for the City for calendar year 2022; and

WHEREAS, the hourly fee for the work provided by the Rent Leveling Attorney shall be billed at a rate of \$150.00 per hour for year 2023; and

WHEREAS, the proposal is attached to this Resolution; and

WHEREAS, the Chief Financial Officer has certified that funds are available in account 2-01-20-100-000-209.

WHEREAS, the City Manager is hereby authorized to sign any contracts with the vendor.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Asbury Park, County of Monmouth, State of New Jersey, awards Gene J. Anthony Attorney at Law as the Rent Leveling Board Attorney.

NOW, THEREFORE, BE IT FURTHER RESOLVED that a copy of this Resolution be provided by the City Clerk to the City Manager, CFO and the Director of Purchasing.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-45 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

AGREEMENT, made this _____ day of January, 2023
by and between

THE CITY OF ASBURY PARK,
a municipal corporation of the State of New Jersey,
(hereinafter "City") and **ASBURY PARK RENT
LEVELING BOARD** (hereinafter "Board")

AND

GENE J. ANTHONY, ESQ.
48 South Street
Eatontown, New Jersey 07724
(hereinafter "Attorney").

WITNESSETH:

1. Purpose. The City Council hereby appoints and employs the Attorney to represent, appear and act for the City and Board in the capacity of Attorney for the Asbury Park Rent Leveling Board in accordance with applicable statutes, regulations and ordinances pertaining thereto and in particular a resolution adopted by the City Council on January _____, 2023, and to perform all legal activities and duties required of the Board Attorney and as the Board may direct.

2. Duties/Compensation. The City hereby agrees to pay the Attorney \$150.00 per hour for all duties as follows:

a. Represent the City and the Board in all legal matters relating to the City's Rent Leveling Laws, and advise and assist the Board, the City Council and the City Manager, as needed in the administration of the City's Rent Leveling Laws;

b. Attend meetings of the Board, and give opinions and rulings on questions of law, which may arise at the Board Meetings.

c. Assist and advise the Board with hearings and mediation of tenant and landlord petitions regarding the adjustment of rents under the City's Rent Leveling Laws;

Attachment: Gene Anthony - Rent Leveling Board Attorney (2023-45 : Rent Leveling Board Attorney Appointment 2023)

- d. Prepare or approve all legal instruments relating to the business of the Board;
- e. Represent the City and the Board in any litigation relating to the City's Rent Leveling Laws or the business of the Board;
- f. Perform such other services as are requested by the Board, the City Council and/or the City Manager, and for all other legal services, including, but not limited to, office conferences, telephone consultations, requested attendance at meetings other than Rent Leveling Board Meetings stated above, litigation, review and preparation of ordinances and resolutions, opinions, correspondence and legal research.

Additional duties of the Attorney shall include:

- a. Maintain records of all actions, suits, proceedings and matters which relate to the City's interest, and report thereon as the Board, City Manager or City Council may require.
- b. Have the power to enter into any agreement, compromise or settlement of any litigation which the City is involved, subject to the prior approval or ratification of the City Council.
- c. Upon the termination of said service by the Attorney, the Attorney shall forthwith surrender to his successor all City property, papers and records, together with written consent to substitution of the successor in any pending actions or proceedings.

In addition, in order to reduce the cost of representation, certain legal research assignments may be delegated to a paralegal under the supervision of the Attorney for which the Attorney shall bill the City at an hourly rate of \$100.00 an hour; payable on a monthly basis upon submission of an appropriate voucher.

3. Attorney Costs and Expenses. The City shall pay all costs and expenses advanced by the Attorney for out-of-pocket costs, including, but not limited to, copying, printing or faxing costs at \$.35 per page and any messenger fees, filing fees, transcript costs and similar costs and expenses as charged to the Attorney at the time.

4. Payment. As a prerequisite to payment, the Attorney shall submit an invoice or voucher on a monthly basis for all work performed, and the Board shall pay said invoice or voucher on a monthly basis.

5. Assignment. The Attorney, in an emergency situation only, may assign certain appearances to an associate who is a member of the legal profession and licensed as an Attorney-At-Law by the State of New Jersey, compensation for whose services shall be paid in accordance with paragraph 2 above.

6. Term. The term of this Agreement is the term set forth more fully in the Board Resolution for January 1, 2023 to December 31, 2023.

7. Statutorily Required Affirmative Action Clause. See attached.

8. Compliance with Americans With Disabilities Act of 1990. See attached.

9. Campaign Contribution Regulation. The undersigned certifies that he is not in violation of any local Ordinance, and that he has not made a contribution that would bar the award of this contract under New Jersey State Statute, Chapter 19:44A-1, as amended, which took effect January 1, 2007. The undersigned has also complied with N.J.S.A. 19:44A-20.27, including filing of annual disclosure report.

10. Political Contribution Disclosure. The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a “fair and open process” pursuant

to N.J.S.A.19:44A-20.4, *et seq.* As such, the undersigned does hereby attest that the Contractor, his/her firm, his/her firm’s subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor’s eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee or any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

WITNESS:

CITY OF ASBURY PARK

By_____


JUDITH ANTHONY



GENE J. ANTHONY, ESQ.

Attachment: Gene Anthony - Rent Leveling Board Attorney (2023-45 : Rent Leveling Board Attorney Appointment 2023)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-46

Appointing Various Firms to Provide Architectural Services for the City, and Authorizing the Execution of an Agreement for Professional Architectural Services Associated Therewith



RESOLUTION NO. 2023-46

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING VARIOUS FIRMS TO PROVIDE ARCHITECTURAL SERVICES FOR THE CITY, AND AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES ASSOCIATED THEREWITH

WHEREAS, the City of Asbury Park (the “City”) is interested in appointing various architecture firms for the City for the year 2023; and

WHEREAS, the Mayor and Council have determined the following firms can meet the City's needs for architectural services for the City for 2023; and

WHEREAS, the firms are:

1. DMR Architects
2. Netta Architects
3. Arcari & Iovanio

WHEREAS, this appointment does not guarantee work; and

WHEREAS, the City’s Chief Financial Officer has determined and certified in writing that the value of the contract associated with the architectural services may exceed \$17,500.00, and therefore that the contract is subject to the provisions of the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the contract is intended to be awarded through a restricted (a/k/a “non-fair and open”) process, pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the Pay-to-Play Law); and

WHEREAS, the anticipated term of this contract is for a twelve (12) month period, commencing on January 1, 2023, and expiring on December 31, 2023, or until a successor has been duly appointed and qualified; and

WHEREAS, said contract may only be renewed upon further action of the City Council; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.*; and

WHEREAS, the City’s Chief Financial Officer has certified the availability of funds for said contract.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. The firms of DMR Architects and Netta Architects and Arcari & Iovino, Architects are hereby appointed to provide architectural services for the City for the year 2023.
2. The Mayor is hereby authorized to execute, and the City Clerk attest, a contract between the City and the above-named firms for the aforementioned services, for the year 2023, which contract shall be in a form satisfactory to the Municipal Attorney.
3. Said contract is awarded as a “professional service” contract in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services will be performed by a person(s) authorized by law to practice a recognized profession
5. Notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
6. The Business Entity Disclosure Certification, Political Contribution Disclosure Form, Business Registration Certificate, the Determination of Value and the proposal of the Professional are on file and available for public inspection at the office of the Municipal Clerk.
7. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Architectural firms named herein
 - b. Donna Vieiro, City Manager
 - c. JoAnn Boos, CMFO, Chief Financial Officer
 - d. Director of the N.J. Division of Local Government Services

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-46 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



AIA® Document B102™ – 2017

Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Asbury Park
1 Municipal Plaza
Asbury Park, NJ 07712
Telephone Number: 732-775-2100

and the Architect:
(Name, legal status, address and other information)

Arcari + Iovino Architects, P.C.
One Katherine Street
Little Ferry, NJ 07643
Telephone Number: 201-641-0600
Fax Number: 201-641-0626

for the following (hereinafter referred to as "the Project"):
(Insert information related to types of services, location, facilities, or other descriptive
information as appropriate.)

City of Asbury Park
1 Municipal Plaza
Asbury Park, NJ 07712

Appointment for Architectural Services for the Calendar Year 2023.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Attachment: Acari + Iovino -Architectural Services (2023-46 : Architect Appointment 2023)

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§ 1.5.1 Commercial General Liability with policy limits of not less than one million (\$1,000,000.) for each occurrence and two million (\$2,000,000.) in the aggregate for bodily injury and property damage.

§ 1.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million (\$1,000,000.) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 1.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 1.5.1 and 1.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 1.5.4 Workers' Compensation at statutory limits.

§ 1.5.5 Employers' Liability with policy limits not less than one hundred thousand (\$100,000.) each accident, one hundred thousand (\$100,000.) each employee, and five hundred thousand (\$500,000.) policy limit.

§ 1.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than two million (\$2,000,000.) per claim and two million (\$2,000,000.) in the aggregate.

§ 1.5.7 **Additional Insured Obligations.** If requested by the Owner, to the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 1.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 1.5.

ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 2.2 The Owner identifies the following representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

(List name, address, and other contact information.)

Donna Vieiro, City Manager
City of Asbury Park
1 Municipal Plaza
Asbury Park, NJ 07712

§ 2.3 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope

of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 2.4 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 2.5 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 2.6 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 3 COPYRIGHTS AND LICENSES

§ 3.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 3.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 3.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for the purposes of evaluating, constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 5 and Article 6. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 5.4, the license granted in this Section 3.3 shall terminate.

§ 3.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 3.3.1. The terms of this Section 3.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 5.4.

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 3.5 Except as otherwise stated in Section 3.3, the provisions of this Article 3 shall survive the termination of this Agreement.

ARTICLE 4 CLAIMS AND DISPUTES

§ 4.1 General

§ 4.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 4.1.1.

§ 4.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 4.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 5.7.

§ 4.2 Mediation

§ 4.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 4.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 4.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 4.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 4.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 4.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

(Paragraphs Deleted)

§ 4.4 The provisions of this Article 4 shall survive the termination of this Agreement.

ARTICLE 5 TERMINATION OR SUSPENSION

§ 5.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 5.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 5.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 5.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 5.6 If the Owner terminates this Agreement for its convenience pursuant to Section 5.5, or the Architect terminates this Agreement pursuant to Section 5.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

(Paragraphs Deleted)

§ 5.8 Except as otherwise expressly provided herein, this Agreement shall terminate
(Check the appropriate box.)

☐ One year from the date of commencement of the Architect's services

☐ One year from the date of Substantial Completion

☒ Other

(Paragraph Deleted)

If the Owner and Architect do not select a termination date, this Agreement shall terminate one year from the date of commencement of the Architect's services.

§ 5.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 3 and Section 5.7.

ARTICLE 6 COMPENSATION

§ 6.1 The Owner shall compensate the Architect as set forth below for services described in Section 1.1, or in the attached exhibit or scope document incorporated into this Agreement in Section 9.2.

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(Insert amount of, or basis for, compensation or indicate the exhibit or scope document in which compensation is provided for.)

Projects with tasks that can be quantified ahead of time can be performed at a negotiated fixed fee if mutually agreed upon otherwise, services required for a particular project will be charged at the hourly rates listed below:

Principal Architect \$160.
Project Architect \$135.
Project Manager \$125.
Sr. Technical Staff \$100.
Draftsperson \$ 85.

§ 6.2 Compensation for Reimbursable Expenses

§ 6.2.1 Reimbursable Expenses are in addition to compensation set forth in Section 6.1 and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

(Paragraphs Deleted)

- 1 Printing, reproductions, plots, and standard form documents;
- 2 Postage, handling and delivery;

(Paragraphs Deleted)

§ 6.2.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent (%) of the expenses incurred.

§ 6.2.3 Architect's Insurance. If the types and limits of coverage required in Section 1.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Paragraph Deleted)

§ 6.3 Payments to the Architect

§ 6.3.1 Initial Payments

§ 6.3.1.1 An initial payment of zero (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 6.3.2 Progress Payments

§ 6.3.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice.

(Paragraph Deleted)

§ 6.3.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 6.3.2.3 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 4.3.

§ 7.2 Except as separately defined herein, terms in this Agreement shall have the same meaning as those in AIA Document A201™-2017, General Conditions of the Contract for Construction.

§ 7.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 7.4 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 7.4.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 7.5 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 7.6 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 7.7 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 7.8 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 7.8 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 5.4.

§ 7.9 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 7.9.1. This Section 7.9 shall survive the termination of this Agreement.

§ 7.9.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively

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for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 7.9.

§ 7.10 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 8 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

"Political Contribution Disclosure: The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor's eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded."

ARTICLE 9 SCOPE OF THE AGREEMENT

§ 9.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 9.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B102™-2017, Standard Form Agreement Between Owner and Architect

(Paragraphs Deleted)

(Paragraphs Deleted)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

(Printed name and title)



ARCHITECT (Signature)

Anthony Iovino, President

(Printed name, title, and license number, if required)

AGREEMENT FOR PROFESSIONAL ARCHITECTURAL SERVICES

between

CITY OF ASBURY PARK

and

DMR ARCHITECTS, INC

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the “Agreement”) is made as of the 1st day of January, 2023, by and between the **CITY OF ASBURY PARK**, located at 1 Municipal Plaza, Asbury Park, NJ 07712 (the “City”) and **DMR ARCHITECTS**, a corporation, registered in the State of New Jersey, having its principal office located at 777 Terrace # 607, Hasbrouck Heights, New Jersey 07604 (“DMR”).

WITNESSETH

WHEREAS, the City requires an architectural firm to provide, on-call, architectural services on an as needed basis, during the course of the term; and

WHEREAS, the City desires to re-appoint DMR Architects as the City’s architect of record for the calendar year of 2023 through the “non-fair and open process” as permitted by applicable law; and

WHEREAS, DMR represents that it is capable of and willing to perform such services; and

WHEREAS, the City desires to retain DMR and DMR desires to perform the required services, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual premises, covenants and conditions set forth herein, the parties hereto agree as follows:

1. **SCOPE OF SERVICES.** DMR agrees to render and provide professional architectural services as may be required by the City and as assigned and directed by the City. Upon being presented with a project, DMR and the City will mutually agree on a scope of services, which shall be in writing and executed by the Parties. All services shall be performed in accordance with the level of care and skill of similarly architects practicing in the same locale.

2. **TERM.** Notwithstanding the date of this Agreement, the services to be provided under the terms of this Agreement shall begin on January 1, 2023, through the date of the Reorganization Meeting of the City in January, 2024. Notwithstanding anything herein to the contrary, the City may terminate this Agreement at any time during its term for cause.

3. **COMPENSATION.**

3.1. DMR shall perform professional architectural services (which may include sub-

contracted engineering services) either on fixed fee as mutually agreeable by the Parties, based on the scope of services, or on an Hourly Billing basis, pursuant to the hourly rates set forth in Exhibit A and attached hereto. Said hourly rates are the same as prior calendar year rates. The Parties shall mutually agree on the methodology of compensation. All services authorized by City shall be billed to the City on a monthly basis. Payment shall be due on a 30 day basis.

3.2 Not-to-Exceed Amount Under a “non-fair and open process,” the maximum amount of a contract issued by a public entity is \$44,000.00 (*see* N.J.S.A. 40A:11-3), if the public entity employs a Qualified Purchasing Agent (QPA) or \$17,500.00 (*see* N.J.S.A. 40A:11-3(2)), if the City does not employ a QPA. It is DMR Architects understanding that the City employs a QPA and, thus, **the not-to-exceed amount for this contract shall be \$44,000.00.** (If the City does not employ a QPA for calendar year 2022, the not-to-exceed amount for this contract shall be \$17,500.00.

3.3 Reimbursement of Expenses. DMR shall be reimbursed for reasonable and necessary expenses incurred in connection with the services rendered, with a ten percent markup and a prevailing IRS reimbursable mileage rates.

4. SUBCONTRACTS. DMR agrees that it shall not perform any portion of the professional architectural services that are the subject of this Agreement through the use of sub-consultants. Should a project require engineering services or other related services, DMR shall retain a sub-consultant for these services.

5. INSURANCE. DMR shall maintain professional liability/errors and omissions/ malpractice insurance in the minimum amount of \$3,000,000 per occurrence and \$3,000,000 in the aggregate per year to cover such claims as may be caused by any act, omission and negligence of its officers, agents, representatives, assigns and subcontractors, and submit proof of such coverage to the City at the time of execution of this Agreement.

6. INDEMNIFICATION. DMR shall indemnify and hold the City, its members, directors, officers, employees, agents and servants harmless from and against any and all claims, demands, suits, damages, recoveries, settlements, actions, costs, counsel fees, expenses, judgments, orders or decrees arising from or as a result of any acts or omissions of DMR, its members, directors, officers, employees, agents, servants, independent contractors or subcontractors.

7. INDEPENDENT CONTRACTOR. It is understood that DMR is an independent contractor and engaged in the operation of its own businesses. Except as specifically set forth herein, DMR is not to be considered the agent of the City for any purpose whatsoever, and, except as specifically set forth herein, DMR has no authority to enter into any contract or assume any obligation for the City or to make any

warranty or representation on behalf of the City. DMR shall be fully responsible for its own employees, servants and agents, who shall not be deemed to be employees, servants or agents of the City for any purpose whatsoever.

8. **AFFIRMATIVE ACTION.** DMR shall comply with the requirements of all applicable statutes, laws and regulations regarding non-discrimination and affirmative action in the employment of workers, and in particular, with the provisions of NJSA 10:5-31 et seq. (P.L. 1975, C. 127) and NJAC 17:27. The parties to this Agreement agree to incorporate into this Agreement the mandatory language of the Regulations promulgated pursuant to P.L. 1975, c.127, as amended and supplemented from time to time and incorporated herein as evidenced by Exhibit B and Exhibit C.

9. **AMERICANS WITH DISABILITIES ACT.** DMR shall comply with the requirements of the Americans with Disabilities Act of 1990. The parties to this Agreement agree to incorporate into this Agreement the language set forth as Exhibit D.

10. **CAMPAIGN CONTRIBUTION LAWS AND REGULATIONS.** For all periods relevant to this Agreement, DMR has and shall continue to comply with N.J.A.C. 6A:23A-6.3(a)1 *et seq.* and any applicable City ordinances (i.e., §2-76 *et seq.*), bylaws or resolutions regarding campaign contributions. DMR represents that it has not made a contribution to any member of the City that is reportable pursuant to N.J.S.A. 19:44A-1 *et seq.* during the one-year period prior to the commencement of the term of this Agreement that would bar the award of this Agreement, and shall not make a reportable contribution to any member of the City during the term of this Agreement in violation of N.J.A.C. 6A:23A-6.3(a)2. DMR also acknowledges its responsibility to file an annual statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.27 in the event DMR receives contracts in excess of \$50,000 from public entities in a calendar year. It is the responsibility of DMR to determine if such a filing is necessary. Additional information on this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us.

11. **POLITICAL CONTRIBUTION DISCLOSURE.** The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44A-20.4, et. seq. As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm’s subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor’s eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any

political part committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.”

12. **CONFIDENTIALITY**. All information obtained, learned, developed or filed in connection with the professional services to be provided hereunder, including data contained in official files or records, shall be kept confidential by DMR and shall not be disclosed to any third party except with the prior written consent of the City, or as authorized or required by law. All reports, information or data, furnished to or prepared, assembled or used by DMR under this Agreement shall be kept confidential by DMR, and shall not be published or made available to any person or party without the prior written consent of the City or as authorized or required by law.

13. **NO CONFLICTS**. DMR represents that the execution and delivery of this Agreement and performance of the obligations set forth in this Agreement: (i) shall not be a breach or violation of any agreement to which DMR is a party; and (ii) does not conflict with any agreement or other instrument, order, judgment, injunction, award or decree of any governmental body, administrative agency, court, law, rule or regulation affecting DMR.

14. **ASSIGNMENT**. Neither of the parties shall assign this Agreement without the prior written consent of the non-assigning party.

15. **COMPLETE AGREEMENT**. This Agreement is the entire and only agreement between the City and DMR. This Agreement replaces and cancels any previous agreements between the parties. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged herein. This Agreement may not be amended or modified except in writing signed by both parties hereto.

16. **PARTIES LIABLE**. This Agreement is binding upon all parties who sign it and all who succeed to their rights and responsibilities.

17. **GOVERNING LAW AND DISPUTE RESOLUTION**. This Agreement shall be governed by and construed in accordance with the laws of the state of New Jersey, without giving effect to any choice of law or conflict of law provisions.

18. **COUNTERPARTS**. This document may be executed in any number of counterparts any one of which shall constitute an original hereof. When counterparts have been executed by all parties, they shall have the same effect as if the signatures thereto and hereto were upon the same document. The parties agree that all such signatures may be transferred to a single document for purposes of convenience and/or

recording.

IN WITNESS WHEREOF, the parties hereto have executed this Professional Services Agreement as of the day and year first above written.

Attest:

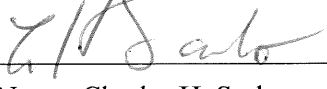
Attest:


Megan Apostol
11/10/22

CITY OF ASBURY PARK

By: _____
Name: _____ Date: _____

DMR ARCHITECTS

By: 
Name: Charles H. Sarlo
Vice President & General Counsel
Dated: November 10, 2022

Attachment: DMR Architects - Municipal Architect - Lloyd Rosenberg (2023-46 : Architect Appointment 2023)



AIA® Document B172™ – 2013

Standard Form of Agreement Between Owner and Architect for Architect of Record Services

AGREEMENT made as of the 1st day of November in the year 2021
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Asbury Park
One Municipal Plaza
Asbury Park, New Jersey 07712
(732) 775-2100

and the Architect:
(Name, legal status, address and other information)

Netta Architects, LLC
1084 Route 22 West
Mountainside, New Jersey 07092

for the following Project:
(Name, location and detailed description.)

2022 On-Call Municipal Architect

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Attachment: Netta Architects - Municipal Architect - Nicholas Netta (2023-46 : Architect Appointment 2023)

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ARTICLE 1 INITIAL INFORMATION AND DEFINITIONS

§ 1.1 Initial Information

This Agreement is based on the Initial Information set forth in this Section 1.1.

(Note the disposition of the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution," or "to be determined later by mutual agreement." If the Transfer Package is complete at the time of execution of this Agreement, and the requested information is contained in the Transfer Package, insert "see Transfer Package" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Identify the documentation setting forth the Owner's program for the Project, or if the Owner's program for the Project is not complete at the time of this Agreement, state the manner in which the program will be developed and provided to the Architect.)

To Be Determined by Project/Task

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements for the Project, including the Design Standards and Transfer Package, if completed.)

To Be Determined by Project/Task

§ 1.1.3 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

To Be Determined by Project/Task

§ 1.1.4 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

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(Provide the Owner's total budget for the Cost of the Work and, if known, a line item breakdown.)

§ 1.1.5 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

To Be Determined by Project/Task

.2 Commencement of construction:

To Be Determined by Project/Task

.3 Substantial Completion date or milestone dates:

To Be Determined by Project/Task

.4 Other:

To Be Determined by Project/Task

§ 1.1.6 The Owner intends the following procurement or delivery method for the Project:

(Identify the procurement and delivery method such as competitive bid, negotiated contract or construction management.)

Competitive Bid

§ 1.1.7 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

(List number and type of bid/procurement packages.)

Competitive Bid

§ 1.1.8 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

To Be Determined by Project/Task

§ 1.1.9 The Owner identifies the following representative in accordance with Section 5.4:

(List name, address and other information.)

Nicholas J. Netta, AIA, NCARB, Principal of the Firm
Netta Architects, LLC
1084 Route 22 West
Mountainside, New Jersey 07092
(973) 379-0006 phone
(973) 379-1061 fax

§ 1.1.10 The persons or entities, in addition to the Owner's representative who are required to review the Architect's submittals to the Owner are as follows:

(List name, address and other information of additional persons or entities required to review the Architect's submittals such as the Program Manager, Design Manager or other Owner consultants and contractors.)

To Be Determined by Project/Task

§ 1.1.11 The Owner will retain the following consultants and contractors:

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(List name, legal status, address and other information.)

.1 Program Manager:

To Be Determined by Project/Task

.2 Design Manager:

To Be Determined by Project/Task

.3 Cost Consultant:

To Be Determined by Project/Task

.4 Scheduling Consultant:

To Be Determined by Project/Task

.5 Geotechnical Engineer:

To Be Determined by Project/Task

.6 Civil Engineer:

To Be Determined by Project/Task

.7 Other, if any:

(List any other consultants or contractors retained by the Owner, such as a construction contractor, or construction manager as constructor.)

To Be Determined by Project/Task

§ 1.1.12 The Architect identifies the following representative in accordance with Section 2.3:

(List name, address and other information.)

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Nicholas J. Netta, AIA, NCARB, Principal of the Firm
 Netta Architects, LLC
 1084 Route 22 West
 Mountainside, New Jersey 07092
 (973) 379-0006 phone
 (973) 379-1061 fax

§ 1.1.13 The Architect will retain the consultants identified in Sections 1.1.13.1 and 1.1.13.2:
(List name, legal status, address and other information.)

§ 1.1.13.1 Consultants retained under Basic Services:

.1 Structural Engineer:

To Be Determined by Project/Task

.2 Mechanical Engineer:

To Be Determined by Project/Task

.3 Electrical Engineer:

To Be Determined by Project/Task

§ 1.1.13.2 Consultants retained under Additional Services:

To Be Determined by Project/Task

§ 1.1.14 Other Initial Information on which the Agreement is based:

§ 1.2 The Owner and Architect may rely on the Initial Information set forth in Section 1.1. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

§ 1.3 Definitions

§ 1.3.1 Transfer Package

The Transfer Package shall be prepared by an individual or entity lawfully licensed to practice architecture in the jurisdiction where the Project is located. The Transfer Package shall consist of the Design Development documents, Design Standards, a detailed estimate of the Cost of the Work, and other documentation as appropriate to communicate the scope, quality, budget and intent of the Project, and a preliminary schedule indicating the design and construction milestone dates through final completion of the Project. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project.

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§ 1.3.2 Design Standards

The Design Standards shall provide a functional, aesthetic, and quality framework for the Project and shall include the following: planning criteria (area, volume, equipment, finish, technical services and other relevant functional requirements for typical spaces); specifications and performance requirements (including any sustainable design criteria) for materials, systems, components and assemblies organized by classification system as agreed upon with the Owner; drawing, building information modeling, and documentation standards (including requirements for interim and final contract document deliverables); typical design details of selected conditions; and procurement, contracting and general requirements.

§ 1.3.3 Design Development Documents

The Design Development Documents shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include draft specifications that identify major materials and systems and establish in general their quality levels.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost as set forth in Section 11.8.3.

§ 2.5.1 Comprehensive General Liability with policy limits of not less than 1,000,000 (\$ 2,000,000) for each occurrence and in the aggregate for bodily injury and property damage. The Owner shall be named as an additional insured on the Architect's Comprehensive General Liability insurance policy.

§ 2.5.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than 1,000,000 (\$ 1,000,000) combined single limit and aggregate for bodily injury and property damage. The Owner shall be named as an additional insured on the Architect's Automobile Liability insurance policy.

§ 2.5.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies. The Owner shall be named as an additional insured on the Architect's umbrella or excess insurance policy.

§ 2.5.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than 1,000,000 (\$).

§ 2.5.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than 2,000,000 (\$ 2,000,000) per claim and in the aggregate.

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§ 2.5.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.5. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, and umbrella or excess policies.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria to the extent necessary to further develop the design in order to complete the Construction Documents, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.4 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.5 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Transfer Package and Owner Provided Information Review Phase

§ 3.2.1 Upon receipt of the Transfer Package from the Owner, the Architect shall review the Transfer Package along with any other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 Information contained in the Transfer Package is intended to communicate the scope, quality, budget and intent of the Project and provide the functional, aesthetic and quality standards for the project. All dimensions, engineering data and calculations, and any information required for compliance with the laws, codes and regulations shall be independently confirmed by the Architect.

§ 3.2.3 The Architect shall prepare an evaluation of the Transfer Package and any other information furnished by the Owner, including schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) additional design development or other information or consulting services that may be reasonably needed for the Architect to proceed with its services for the Project. The Architect shall present its evaluation to the Owner, and discuss any necessary modifications. The Owner shall make any agreed upon modifications to the Transfer Package or authorize the Architect, in writing, to proceed as if those changes were made to the Transfer Package when developing the Construction Documents.

§ 3.2.4 Based on the Transfer Package, as agreed upon with the Owner, the Architect shall proceed with the preparation of Construction Documents as set forth in Section 3.3.

§ 3.3 Construction Documents Phase

§ 3.3.1 Based on the design intent and information contained in the Transfer Package and other Owner supplied information, as well as the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the design, and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the

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construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.5.4.

§ 3.3.2 During the development of the Construction Documents, the Architect shall submit the Construction Documents to the Owner at the approximate mid-point of their completion and again just prior to their completion for the Owner's review and to allow for updates to the estimate of the Cost the Work, unless a different interval is agreed to below:

(If the Architect is required to submit Construction Documents at intervals other than at the approximate mid-point of their completion and again just prior to their completion, set forth such intervals below.)

- .1 percent (%) Construction Documents Phase
- .2 percent (%) Construction Documents Phase

The Architect shall review input provided by the Owner, and incorporate that input into the Construction Documents as appropriate.

§ 3.3.3 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.3.4 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.3.5 Upon receipt of the Owner's estimate of the Cost of the Work at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.5 and request the Owner's approval of the Construction Documents.

§ 3.4 Bidding or Negotiation Phase Services

§ 3.4.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

§ 3.4.2 Competitive Bidding

§ 3.4.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.4.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.4.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders. If a proposed substitution modifies the Design Standards or design intent contained in the Transfer Package, then the Architect shall submit the proposed substitution to the Owner for review and approval.

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§ 3.4.3 Negotiated Proposals

§ 3.4.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.4.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.4.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors. If a proposed substitution modifies the Design Standards or design intent contained in the Transfer Package, then the Architect shall submit the proposed substitution to the Owner for review and approval.

§ 3.5 Construction Phase Services

§ 3.5.1 General

§ 3.5.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.5.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.5.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.5.2 Evaluations of the Work

§ 3.5.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.5.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.5.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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§ 3.5.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents. If an interpretation involves the Design Standards or design intent contained in the Transfer Package, then the Architect shall refer the matter to the Owner for review.

§ 3.5.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.5.3 Certificates for Payment to Contractor

§ 3.5.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.5.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.5.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.5.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.5.4 Submittals

§ 3.5.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.5.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.5.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.5.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. If a request for information relates to the Design Standards or design intent contained

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in the Transfer Package, then the Architect shall send the request for information to the Owner for review and comment. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.5.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.5.5 Changes in the Work

§ 3.5.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. If a proposed change would modify any aspect of the Design Standards or design intent contained in the Transfer Package, the Architect shall send the proposed change to the Owner for review and approval. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.5.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.5.6 Project Completion

§ 3.5.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.5.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.5.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.5.6.4 The Architect shall forward to the Owner the following information received from the Contractor:

- (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment;
- (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and
- (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.5.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.) To Be Determined by Project/Task

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
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§ 4.1.1	Measured drawings		
§ 4.1.2	Existing facilities surveys		
§ 4.1.3	Site Evaluation and Planning (B203™–2007)		
§ 4.1.4	Building information modeling		
§ 4.1.5	Civil engineering		
§ 4.1.6	Landscape design		
§ 4.1.7	Architectural Interior Design (B252™–2007)		
§ 4.1.8	Value Analysis (B204™–2007)		
§ 4.1.9	Detailed cost estimating		
§ 4.1.10	On-site project representation (B207™–2008)		
§ 4.1.11	Conformed construction documents		
§ 4.1.12	As-designed Record Drawings		
§ 4.1.13	As-constructed Record Drawings		
§ 4.1.14	Post occupancy evaluation		
§ 4.1.15	Facility Support Services (B210™–2007)		
§ 4.1.16	Tenant-related services		
§ 4.1.17	Coordination of Owner's consultants		
§ 4.1.18	Telecommunications/data design		
§ 4.1.19	Security Evaluation and Planning (B206™–2007)		
§ 4.1.20	Commissioning (B211™–2007)		
§ 4.1.21	Extensive environmentally responsible design		
§ 4.1.22	LEED® Certification (B214™–2012)		
§ 4.1.23	Fast-track design services		
§ 4.1.24	Historic Preservation (B205™–2007)		
§ 4.1.25	Furniture, Furnishings, and Equipment Design (B253™–2007)		

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

To Be Determined by Project/Task

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;

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- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in the Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner: **To Be Determined by Project/Task**

- .1 () reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 () visits to the site by the Architect over the duration of the Project during construction
- .3 () inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 () inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within **To Be Determined by Project/Task** () months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 If the Transfer Package is not an exhibit to the Agreement, or has not been previously provided to the Architect, the Owner shall provide the Transfer Package to the Architect as soon as practical following execution of the Agreement and prior to the Architect providing services under Article 3.

§ 5.2 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and (3) reasonable contingencies

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related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.5 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.6 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.7 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.8 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.9 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.10 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.11 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.12 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.13 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

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§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Section 5.3.

§ 6.3 The Owner shall include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work provided by the Owner as the Architect progresses with its services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to inaccuracies or incompleteness in the cost estimates. The Architect may review the estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.4 If at any time the estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

§ 6.5 The Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by cost estimates, or contractor bids or proposals, that exceed the Owner's budget for the Cost of the Work. If, however, the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment, defined in or anticipated by the Transfer Package, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work and the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

☒ [X] Arbitration pursuant to Section 8.3 of this Agreement

☐ [] Litigation in a court of competent jurisdiction

☐ [] Other: *(Specify)*

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§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

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§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials and shall provide professional credit for the Design Manager, or other Owner consultant contributing to the Project design, as appropriate. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1.

Init.

§ 10.8.1 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party may disclose such information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The Party receiving such information may also disclose it to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

To Be Determined by Project/Task

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

To Be Determined by Project/Task

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (%), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Transfer Package and Owner Provided Information Review Phase:	percent (	30	%)
Construction Documents Phase:	percent (	45	%)
Bidding or Negotiation Phase:	percent (	5	%)
Construction Phase:	percent (	20	%)
Total Basic Compensation	One hundred percent (	100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Please see attached Schedule of Rates

Init.

Employee or Category**Rate****§ 11.8 Compensation for Reimbursable Expenses**

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's consultants' expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus 1.2 percent (20 %) of the expenses incurred.

§ 11.8.3 If the insurance requirements listed in Section 2.5 exceed the types and limits the Architect normally maintains and the Architect incurred additional costs to satisfy such requirements, the Owner shall reimburse the Architect for such costs as set forth below:

§ 11.9 Compensation for Use of Architect's Instruments of Service

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

§ 11.10 Payments to the Architect

§ 11.10.1 An initial payment of NA (\$) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid after (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

1.5 % per month for the period the statement remains unpaid after the initial 30 days.

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

Init.

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(1415136878)

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Attachment: Netta Architects - Municipal Architect - Nicholas Netta (2023-46 : Architect Appointment 2023)

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

To Be Determined by Project/Task

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B172™–2013, Standard Form Agreement Between Owner and Architect for Architect of Record Services
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Protocol Exhibit, if completed, or the following:

To Be Determined by Project/Task

- .3 Other documents:
(List other documents, if any, including additional scopes of service, if any, forming part of the Agreement.)

To Be Determined by Project/Task

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

(Printed name and title)

ARCHITECT (Signature)

Nicholas J. Netta, AIA, NCARB, Principal

(Printed name and title)

Attachment: Netta Architects - Municipal Architect - Nicholas Netta (2023-46 : Architect Appointment 2023)

Init.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Nicholas J. Netta, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:25:39 ET on 11/10/2022 under Order No. 2114332859 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B172™ – 2013, Standard Form of Agreement Between Owner and Architect for Architect of Record Services, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

President

(Title)

November 10, 2022

(Dated)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-47

Authorizing the Award of a Contract to The Firm of ENGenuity Infrastructure to Perform
Special Project Engineering Services



RESOLUTION NO. 2023-47

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO THE FIRM OF ENGENUITY INFRASTRUCTURE TO PERFORM SPECIAL PROJECT ENGINEERING SERVICES

WHEREAS, there is a need for the City of Asbury Park (the “City”) to appoint a licensed Professional Special Project Engineer to perform certain professional special project engineering services (the “services”) for the City, for the time period from January 1, 2023 through December 31, 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq. (specifically at N.J.S.A. 40A:11-5(1)(a)), as the services are being provided by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, on November 6, 2021, the City of Asbury Park solicited a request for qualifications (RFQ) for a licensed Professional Special Project Engineer; and

WHEREAS, the firm of ENGenuity Infrastructure (also referenced as the “Firm”) of Red Bank, New Jersey, submitted the attached proposal to provide the necessary professional services to the City; and

WHEREAS, following review and evaluation of the proposals received, the Mayor and Council have determined to appoint the firm of ENGenuity Infrastructure to serve as the Special Project Engineer for the City for calendar year 2023; and

WHEREAS, said appointment shall be subject to and contingent upon certification of adequate funding for the services by the City’s Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. That ENGenuity Infrastructure (the “Firm”) is hereby appointed to perform professional special project engineering services for the City, for the time period from January 1, 2023 through December 31, 2023.

2. That this appointment is subject to and contingent upon certification of adequate funding for the services by the City's Chief Financial Officer.
3. That, subject to the provisions of Paragraph 2 above, the Mayor is hereby authorized to execute, and the City Clerk to attest, the contract between the City and the Firm for the aforementioned professional services, for the year 2023, which contract shall be in a form satisfactory to the Municipal Attorney.
4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. ENGenuity Infrastructure;
 - b. Donna M. Vieiro, City Manager;
 - c. JoAnn Boos, Chief Financial Officer;
 - d. Tracy Lizardi, Director of Purchasing; and
 - e. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-47 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Contract Agreement for Professional Services as:

Special Projects Engineer

For:

The period commencing January 1, 2023 and ending December 31, 2023

THIS AGREEMENT is made as of **November 17, 2022**, between **the City of Asbury Park** located at **Municipal Plaza, Asbury Park NJ 07712**, hereinafter referred to as "CLIENT"; and **ENGenuity Infrastructure, LLC, 2 Bridge Avenue, Suite 323, Red Bank, NJ 07701**, hereinafter referred to as ENGINEER.

WHEREAS, The CLIENT desires to engage the ENGINEER to serve as the **Special Projects Engineer** for the purpose of rendering professional services upon the request of the CLIENT; and the ENGINEER has submitted a proposal as part of this Agreement to serve as **Special Projects Engineer**, the terms and conditions of said proposal, including fees, are satisfactory to the CLIENT, and are set forth herein; and **Jaclyn Flor, PE, PP, CME the President and CEO of ENGenuity Infrastructure**, shall be designated as the Engineer in Responsible Charge on behalf of the CLIENT; and

NOW, THEREFORE, The CLIENT and ENGINEER, in consideration of their mutual covenants and promises, agree as follows:

SECTION 1 -- PERIOD OF SERVICE

This Agreement shall have an effective commencement date of **January 1, 2023** and shall terminate on **December 31, 2023**. If the ENGINEER'S services be required beyond that time, the ENGINEER and CLIENT shall agree on the terms of the extended period of service.

SECTION 2 -- PROFESSIONAL SERVICES OF THE ENGINEER

The ENGINEER upon the request of the CLIENT shall provide professional services requested by CLIENT which shall include, but not be limited to:

1. Serve as **Special Projects Engineer** for the CLIENT;
2. Provide professional services for the consulting projects identified by CLIENT, as directed;
3. Provide technical and engineering advice to the CLIENT;
4. Consult with others and the CLIENT with respect to the foregoing matters, and all other engineering matters, related to the duties and responsibilities of the CLIENT;
5. Furnish pertinent reports, counseling, and advice to the CLIENT, as required;



6. Provide other professional services requested by the CLIENT which are offered directly by ENGINEER or through sub-consultant agreements authorized by CLIENT, including but not limited to: land surveys; preparation of grant applications; additional inspection or observation of projects; planning; or similar services;
7. Provide Additional Services that may be requested by CLIENT; *and*
8. Perform such other duties and functions as may be requested by the CLIENT.

SECTION 3 -- ENGINEERS RESPONSIBILITIES

The ENGINEER agrees to:

- A. Provide, with the usual thoroughness and competence of the Engineering profession, the professional services noted and set forth in Section 2 above;
- B. Obtain the services of sub-contractors or sub professionals as required and/or ordered by the CLIENT for the compensation provided herein;

SECTION 4 -- CLIENT'S RESPONSIBILITIES

The CLIENT agrees to:

- A. Make such records and information available to the ENGINEER as may be required to assist him in the performance of his duties;
- B. Authorize and direct committees, employees, and agents of the CLIENT to consult with the ENGINEER at all reasonable times upon the request of the ENGINEER regarding the services performed as described in this Agreement;
- C. Submit to the ENGINEER all relevant applications, plans, and reports prepared by others within such time to allow ENGINEER ample opportunity to properly review same, consult with respect thereto and to make any necessary reports to the CLIENT, without the ENGINEER causing a delay in the progress of the work; *and*
- E. Authorize the ENGINEER to undertake additional services related to special projects ("Additional Services") if deemed necessary. Such authorization shall be memorialized in writing between the parties prior to commencement of said services. The ENGINEER shall be compensated for Additional Services in accordance with the negotiated fee agreed to between CLIENT and ENGINEER.

SECTION 5 -- COMPENSATION OF THE ENGINEER

- A. For the services rendered by the ENGINEER under this Agreement, the CLIENT shall pay and the ENGINEER shall receive the following described sums:



1. Professional Services:

For all professional services provided pursuant to this Agreement, the ENGINEER shall be compensated in accordance with the **2023 Schedule of Hourly Billing Rates/Expenses** attached hereto as **EXHIBIT D**.

2. Additional Services:

For any Additional Services performed under Section 4 of this Agreement, the ENGINEER shall be compensated in accordance with the negotiated fee as set forth in writing between the parties.

3. Attendance at Meetings:

The ENGINEER, or her representative, shall attend scheduled workshop and public meetings of the CLIENT as requested. The ENGINEER shall be compensated for said meetings in accordance with the **2023 Schedule of Hourly Billing Rates/Expenses** attached hereto as **EXHIBIT D**.

4. Additional Expenses:

Expenses for postage, and telephone are specifically included in the hourly rates set forth in the **2023 Schedule of Hourly Billing Rates/Expenses** attached hereto as **EXHIBIT D**. All other expenses specifically related to the work performed under this Agreement shall be reimbursed to the ENGINEER.

B. Vouchers or invoices shall be issued monthly by ENGINEER for services performed. Such billings shall be due when rendered. In the event CLIENT has a dispute with an invoice (or any portion of an invoice), CLIENT shall nevertheless pay all undisputed invoices, or undisputed portions thereof, no later than 60 days from the date of the invoice. CLIENT and ENGINEER agree to negotiate any and all disputes in good faith with an effort of resolving the dispute within sixty (60) days of the subject invoice date.

C. In the event CLIENT requires ENGINEER's services beyond the termination date specified in Section 1, ENGINEER's Schedule of Hourly Billing Rates/Expenses shall be subject to an equitable adjustment to reflect changes in the various elements that comprise the rates. All adjustments will be pursuant to an agreement reached between the CLIENT and the ENGINEER which such agreement shall be reduced to writing and deemed a modification of this Agreement.

SECTION 6 -- STATUS OF ENGINEER

A. To the extent permitted by law, the ENGINEER, when engaged in the performance of duties and services set forth herein (including specifically those services provided in Section 2 hereof), shall, in the event of litigation, act as and have the status of an employee or an agent of the Municipality for the sole and limited purposes of Title 59 Immunity allowing ENGINEER to therefore be entitled to all immunities normally afforded to a municipal employee or agent under Title 59.



- B. The CLIENT, subject to appropriation and availability of funds, authorizes the ENGINEER to secure any and all professional, technical and non-technical staff which may from time to time be necessary in the performance of the services required. It is expressly agreed and understood that services will be provided and certain functions will be performed on behalf of the CLIENT, pursuant to the terms of this proposal, by ENGINEER's employees.
- C. The professional, technical and non-technical staff referred to in Subpart B hereof, when they are engaged on behalf of the CLIENT in the performance of Engineering duties and services referred to in Section 2 hereof, shall be afforded Title 59 Immunity, to the extent permitted by law, as set forth in Subpart A, hereof.

SECTION 7 -- INSURANCE AND INDEMNIFICATION

- A. ENGINEER shall secure and maintain Workman's Compensation Insurance (as required by Law) and General Liability Insurance to protect the ENGINEER and/or Its Employees and agents from claims for bodily injury, death or property damage which may arise from the performance of services pursuant to this Agreement. The limits of said Liability Insurance shall not be less than \$1,000,000 with a \$2,000,000 excess liability coverage. If requested, The ENGINEER shall provide Certificates of Insurance to the CLIENT prior to the performance of any services.
- B. ENGINEER shall also provide and maintain Professional Liability (Errors and Omissions) Insurance for claims which arise from any negligent performance of the ENGINEER pursuant to this agreement. The limits of ENGINEER'S Professional Liability insurance shall not be less than \$2,000,000 per claim.
- C. The CLIENT acknowledges that although the ENGINEER is to cooperate with and make recommendations to the CLIENT with respect to Engineering matters related to the services provided by ENGINEER, the final decisions are within the CLIENT's discretion and are to be made by the CLIENT.

The ENGINEER shall not be liable in any way for any decision of the CLIENT (or consequences thereof) which (i) are not in accordance with the recommendations of the ENGINEER, or (ii) are based on the acts or omissions of a contractor or other third party that is not a party to a written agreement with ENGINEER by which ENGINEER assumes responsibility for the contractor or third party, or (iii) are based on or related to any failure on the part of the CLIENT to accept or follow any recommendations of the ENGINEER. The CLIENT hereby releases the ENGINEER from any and all liability and waives any and all claims against the ENGINEER arising out of or relating to any such decisions or the consequences thereof, and agrees to indemnify, defend, and save harmless the ENGINEER against loss, liability, claim, damage, and expense, including any consequential damages or reasonable counsel fees, arising out of or relating to any such decisions or the consequences thereof.

- D. ENGINEER agrees subject to the provisions herein, to indemnify and hold the CLIENT harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by ENGINEER's negligent acts, errors or omissions (and those of his or her contractors, subcontractors or consultants or anyone for whom the ENGINEER is legally liable) in the performance of professional services under this Agreement.



The CLIENT agrees subject to the provisions herein, to indemnify and hold ENGINEER harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the CLIENT's negligent acts, errors or omissions.

SECTION 8 -- OWNERSHIP AND REUSE OF DOCUMENTS

1. All final plans and specifications, ordered by the CLIENT and prepared by the ENGINEER shall become the joint property of the CLIENT and the ENGINEER. At the completion of work or in the event of termination, all work sheets and internal office communications of the ENGINEER, including drawings, sketches, calculations, field notes and memoranda are and shall remain the property of the ENGINEER, as instruments of service. The CLIENT, at its expense, may obtain extra prints of final drawings and specifications.
2. All documents including drawings and specifications prepared by the ENGINEER pursuant to this Agreement are instruments of service with respect to a specific project. They are not intended or represented to be suitable for reuse of the CLIENT or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by the ENGINEER for the specific purpose intended will be at the CLIENT'S sole risk, with no liability or exposure to ENGINEER; and the CLIENT shall indemnify and hold harmless ENGINEER from all claims, damages, losses and expenses including attorney's fees arising out of or resulting from such unauthorized use. Any such verification or adaptation will entitle ENGINEER to further compensation at rates to be agreed upon by the CLIENT and ENGINEER.

SECTION 9 – ADDITIONAL TERMS

1. **Affirmative Action.** The ENGINEER and the CLIENT hereby incorporate by reference into this Agreement the mandatory Affirmative Action language of Subsection 3.4(a) and the mandatory language of Section 5.3 of the Regulations promulgated by the Treasurer of the State of New Jersey pursuant to P.L. 1975, c. 127 and N.J.S.A. 10:5-31, as amended and supplemented from time to time; and ENGINEER agrees to comply fully with the terms, provisions and conditions of Subsection 3.4(a), and Section 3.4(a) shall be applied subject to the terms of Subsection 3.4(d) of the Regulations. The **Affirmative Action Language** set forth in **EXHIBIT A** is also made a part hereof.
2. **Americans with Disabilities Act.** The ENGINEER and the CLIENT do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990 ("Act") (U.S.C. Sec. 12101 et seq.), which prohibit discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this Agreement.
3. **Controlling Law.** The laws of the State of New Jersey shall govern this Agreement.
4. **Successors and Assigns.** Each Party to the Agreement is hereby bound to the terms and conditions contained in this Agreement and the legal representatives, successors and assignees of this Agreement, if any, shall also be bound to the terms and conditions contained herein.



5. **Severability.** Any provision of this Agreement held to be void and unenforceable under any law or regulation shall be stricken, and all remaining provisions shall continue to be valid and binding upon the parties to this Agreement.
6. **Entire Agreement.** This Agreement represents the entire agreement between the CLIENT and the ENGINEER relating to the subject matter hereof and no representations or agreements made by either party or by any representative of either party in the negotiations leading to this Agreement or otherwise which are not expressed in this Agreement shall be binding on either party.

No change in, addition to, or modification of any provision of this Agreement shall be effective unless made by written agreement signed by the party to be charged with such change, addition, or modification.

7. **Political Contribution Disclosure:** The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, et seq. As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor's eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded.

IN WITNESS WHEREOF, the CLIENT and ENGINEER have caused this Instrument to be executed in its respective name and behalf as of the day and year herein written.

WITNESS:

BY: _____
[Municipal Witness]

BY: _____
[Municipal Signature]
[Municipal Title]

DATE: _____

WITNESS:

BY: Amanda Schumel
[ENGenuity Witness]

BY: Jaclyn J. Flor
Jaclyn J. Flor, PE, PP, CME
President and CEO
ENGenuity Infrastructure

DATE: 10/17/2022



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-48

Award of Contract to the Firm Dynamic Traffic



RESOLUTION NO. 2023-48

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO THE FIRM OF DYNAMIC TRAFFIC, LLC TO PERFORM SPECIAL PROJECT ENGINEERING SERVICES

WHEREAS, there is a need for the City of Asbury Park (the “City”) to appoint a licensed Professional Special Project Engineer to perform certain professional special project engineering services (the “services”) for the City, for the time period from January 1, 2023 through December 31, 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.* (specifically at N.J.S.A. 40A:11-5(1)(a)), as the services are being provided by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, on November 6, 2021, the City of Asbury Park solicited a request for qualifications (RFQ) for a licensed Professional Special Project Engineer; and

WHEREAS, the firm of Dynamic Traffic, LLC (also referenced as the “Firm”) of Lake Como, New Jersey, submitted the attached proposal to provide the necessary professional services to the City; and

WHEREAS, following review and evaluation of the proposals received, the Mayor and Council have determined to appoint the firm of Dynamic Traffic, LLC to serve as the Special Project Engineer for the City for calendar year 2023; and

WHEREAS, said appointment shall be subject to and contingent upon certification of adequate funding for the services by the City’s Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. That Dynamic Traffic, LLC (the “Firm”) is hereby appointed to perform professional special project engineering services for the City, for the time period from January 1, 2023 through December 31, 2023.

2. That this appointment is subject to and contingent upon certification of adequate funding for the services by the City's Chief Financial Officer.
3. That, subject to the provisions of Paragraph 2 above, the Mayor is hereby authorized to execute, and the City Clerk to attest, the contract between the City and the Firm for the aforementioned professional services, for the year 2023, which contract shall be in a form satisfactory to the Municipal Attorney and shall not exceed \$100,000.
4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Dynamic Traffic, LLC;
 - b. Donna M. Vieiro, City Manager;
 - c. JoAnn Boos, Chief Financial Officer;
 - d. Tracy Lizardi, Director of Purchasing; and
 - e. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-48 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

CITY OF ASBURY PARK
Monmouth County, New Jersey

Service Agreement

THIS AGREEMENT, made this ____ day of, 2022, between the City of Asbury Park, in the County of Monmouth, a municipal corporation of the State of New Jersey (hereinafter “Asbury Park”), and **Dynamic Traffic LLC**, having its principal place of business at **1904 Main Street, Lake Como, NJ 07719** (hereinafter “Consultant”).

WHEREAS, Asbury Park desires to procure **Special Project Engineer Services** for the City of Asbury Park; and

WHEREAS, the Consultant has been chosen by Asbury Park to perform said services as per Resolution 2022-____; and

WHEREAS, the Consultant has submitted a proposal for Special Project Engineer Services dated November 30, 2021, outlining the terms and conditions concerning the work to be performed by the Consultant.

WHEREAS, the Consultant has completed and submitted a Business Entity Disclosure Certification which certifies that the Consultant has not made any reportable contributions to a political or candidate committee in the City of Asbury Park in the previous one (1) year;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, it is agreed by and between the parties hereto as follows:

1. The Consultant covenants and agrees with Asbury Park to furnish services on an as needed basis not to exceed \$100,000 in accordance with the hourly rate schedule set forth in the proposal.

CITY OF ASBURY PARK
Monmouth County, New Jersey

2. The Consultant will furnish and supply the work and services contained in the aforementioned proposal in a diligent and professional manner and in accordance with all of the terms contained in said proposal and in a manner consistent with the standard of care for Consultant's profession.
3. The compensation to be paid to the Consultant will be in accordance with the hourly rates contained in the proposal and shall be paid monthly at the time that the work therein stipulated is performed and completed.
4. This Agreement shall not be assigned or transferred by the Consultant without the prior written consent of Asbury Park.
5. The Consultant agrees to indemnify and save harmless Asbury Park, its agents, servants, and employees (collectively, the "Indemnified Parties"), from any and all liability for damages from injury to person and property, and against and from all suits and actions arising out of or resulting from the negligence of the Consultant, or as a result of the willful misconduct of the Consultant or its Employees with respect to the performance of its Work and services under this Agreement; provided, however, that the foregoing does not in any manner relieve Indemnified Parties of their own obligations under statutory workers' compensation law and other laws regarding employer obligations as to Indemnified Parties' own employees and provided Consultant shall not indemnify the Indemnified Parties' own employees, and provided Consultant shall not indemnify the Indemnified Parties for such claims caused by the sole negligence or willful misconduct of any Indemnified Party or for damages which are determined by a court of competent jurisdiction to have been caused by the contributory or comparative negligence of an Indemnified Party.

CITY OF ASBURY PARK
Monmouth County, New Jersey

6. The Consultant, before the commencement of the work, agrees to deliver to Asbury Park a Certificate of Personal Injury and Property Damage Liability Insurance and a Certificate of Professional Liability Insurance. The Certificate of Personal Injury and Property Damage Liability Insurance shall contain minimum coverage of two million (\$2,000,000.00) dollars. The Certificate of Professional Liability shall contain minimum coverage for errors and omissions of four million (\$4,000,000.00) dollars from a company acceptable to Asbury Park. Each certificate of insurance must contain a provision that the insurer may not cancel or non-renew the policy unless thirty (30) days prior written notice is provided to the City of Asbury Park. In addition, Consultant agrees to submit to Asbury Park Certificate of Insurance covering worker's compensation under the laws of the State of New Jersey.
7. The Consultant agrees to perform the work in an expeditious manner and to complete the same as soon as possible. Consultant shall furnish sufficient manpower to properly perform the term of this Agreement.
8. The parties to this Agreement hereby agree that the provisions of N.J.S.A 10:5-31 et. seq. dealing with discrimination in employment of public contracts, and the rules and regulations promulgated pursuant thereto including NJAC 17:27 et. seq. are made a part of this Agreement and are binding on them.
9. The Consultant is prohibited from making any contributions to a political or candidate committee during the term of this Agreement.
10. "Political Contribution Disclosure: The within Agreement has been awarded to the Contractor based upon the merits and abilities of the Contractor to provide the services as described herein. This Agreement was not awarded through a "fair and open process"

CITY OF ASBURY PARK
Monmouth County, New Jersey

pursuant to *N.J.S.A. 19:44A-20.4, et seq.* As such, the undersigned do hereby attest that the Contractor, his/her firm, his/her firm's subsidiaries and assigns, and any principals controlling in excess of ten percent (10%) of his/her firm, have neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to *N.J.S.A. 19:44A-8* or *19:44A-16*, in the one (1) year period preceding the award of the Agreement that would, pursuant to P.L. 2004, c. 19, affect the Contractor's eligibility to perform this Agreement, nor will the Contractor or his/her firm make a reportable contribution during the term of the within Agreement to any political party committee in the City of Asbury Park if a member of that political party is serving in an elective public office of the City of Asbury Park when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office of the City of Asbury Park when the Agreement is awarded."

IN WITNESS WHEREOF, Asbury Park has caused these presents to be signed by the Manager of the City and its corporate seal to be hereto affixed and attested by the City Clerk, and Consultant has caused these presents to be signed by a Principal of the firm, and its corporate seal to be hereto affixed the day and year first above written.

THE CITY OF ASBURY PARK

BY _____
Donna Vieiro
City Manager

Attest:

BY _____
Melody Hartsgrrove, RMC, CMR
City Clerk

Dynamic Traffic, LLC

BY  _____
John McCormack, PE, PTOE
Principal

Attest:

BY  _____
Cailin Bradley
Secretary/Witness

CITY OF ASBURY PARK
Monmouth County, New Jersey

2022 PROFESSIONAL SERVICE RATE SCHEDULE

Licensed Professional Engineer – Director	\$200.00/hour
Licensed Professional Engineer – Senior Principal	\$200.00/hour
Environmental Professional – Senior Principal	\$200.00/hour
Licensed Professional Land Surveyor – Senior Principal	\$200.00/hour
Senior Geotechnical Engineer – Project Manager	\$200.00/hour
Licensed Professional Engineer – Principal	\$200.00/hour
Licensed Professional Engineer – Branch Manager	\$200.00/hour
Licensed Professional Land Surveyor – Principal	\$200.00/hour
Environmental Professional – Principal	\$200.00/hour
Environmental Professional - Senior Project Manager	\$200.00/hour
Senior Geotechnical Engineer	\$200.00/hour
Licensed Professional Engineer – Senior Project Manager	\$200.00/hour
Licensed Professional Land Surveyor – Senior Project Manager	\$200.00/hour
Environmental Professional – Project Manager	\$200.00/hour
Licensed Professional Engineer – Project Manager	\$180.00/hour
Licensed Professional Land Surveyor – Project Manager	\$180.00/hour
Environmental Scientist	\$180.00/hour
Environmental Technician	\$170.00/hour
Licensed Professional Engineer	\$165.00/hour
Licensed Environmental Professional	\$165.00/hour
Licensed Professional Land Surveyor	\$165.00/hour
Project Manager	\$165.00/hour
CAD Director	\$155.00/hour
Field Survey Crew - Two Man	\$210.00/hour
Field Survey Crew - Three Man	\$265.00/hour
Licensed Landscape Architect	\$155.00/hour
Project Engineer	\$150.00/hour
Construction Services Manager	\$150.00/hour
Construction Materials Testing Supervisor	\$150.00/hour
Geotechnical Engineer/Geologist	\$150.00/hour
Senior Project Surveyor/Party Chief	\$150.00/hour
Senior Technical Professional/Senior Engineering Technician	\$145.00/hour
Senior Design Engineer	\$140.00/hour
Technical Professional	\$140.00/hour
Project Surveyor	\$135.00/hour
CAD Manager	\$130.00/hour
Senior Survey Technician	\$125.00/hour
Design Engineer	\$120.00/hour
Staff Engineer	\$115.00/hour
Staff Engineer (Half-Day Rate)	\$625.00
Project Coordinator	\$115.00/hour
Survey Technician	\$115.00/hour
Senior CAD Designer	\$115.00/hour
Assistant Project Coordinator	\$105.00/hour
CAD Designer	\$100.00/hour
Assistant Professional	\$ 95.00/hour
Senior Administrative Assistant	\$ 90.00/hour
Assistant Survey Technician	\$ 85.00/hour
Administrative Assistant	\$ 85.00/hour
Engineering Technician	\$ 85.00/hour
Engineering Technician (Half-Day Rate)	\$475.00
Traffic Enumerator	\$ 60.00/hour

Professional Services for the purposes of litigation matters, court appearances and attendance at other legal proceedings shall be billed at 1.5 times the above rates.

CITY OF ASBURY PARK
Monmouth County, New Jersey
2022 REIMBURSABLE RATES

Outside (pass-thru) Services	cost
Postage, Federal Express, UPS, DHL	cost
Travel (meals, tolls, etc.)	cost
Paper Black/White Copy/Prints – A Size (8.5"x11")	\$ 0.15/sheet
Paper Black/White Copy/Prints – B Size (11"x17")	\$ 0.30/sheet
Paper Color Copy/Prints – A Size	\$ 3.00/sheet
Paper Color Copy/Prints – B Size	\$ 5.50/sheet
Paper Plots and Printing – B Sheet	\$ 2.00/sheet
Paper Plots and Printing – C Sheet (18"x24")	\$ 2.75/sheet
Paper Plots and Printing - D Sheet (24"x36")	\$ 3.50/sheet
Paper Plots and Printing - E Sheet (30"x42")	\$ 4.00/sheet
Signed/Sealed Plots – C Sheet	\$ 4.00/sheet
Signed/Sealed Plots – D Sheet	\$ 4.50/sheet
Signed/Sealed Plots – E Sheet	\$ 5.00/sheet
Mylar Plots	\$ 5.75/sq. ft.
Color Plots – D Sheet	\$ 30.00/sheet
Color Plots – E Sheet	\$ 40.00/sheet
Exhibit Mounting – D Size	\$ 75.00/board
Exhibit Mounting – E Size	\$100.00/board
Reports (Size ¼" – ¾")	\$ 10.00 - \$20.00
Reports (Size 1" – 2")	\$ 25.00 - \$50.00
Notary Public Services	\$ 10.00
High Resolution Aerial Imagery	\$ 95.00/image
Digital Signatures (Initial)	\$200.00/each
Digital Signatures (Each Additional)	\$ 50.00/each
CD/DVD Preparation	\$ 30.00/each
USB – Memory Stick/Thumb Drive	\$ 40.00/each
Electronic Document Preparation	\$ 25.00 up to the first 5 sheets Plus \$5.00/sheet over 5 sheets
Tax Maps	\$ 35.00/sheet
FTP Site Usage	\$ 25.00/unit
Mileage	As published by the IRS
Moisture Content Determination	\$ 50.00/each
Moisture Content Determination (as additional test)	\$ 15.00/each
Modified Proctor	\$350.00/each
Washed Gradation	\$ 90.00/each
Atterberg Limits Determinations (Inorganic)	\$100.00/each
Tube Permeameter	\$200.00/each
Organic Content by Loss on Ignition	\$ 75.00/each
Concrete Cylinders (cast or retained) Sample	\$ 20.00/each
Pick up/Delivery to Laboratory	\$ 75.00/hour
Sample Storage (Beyond 60 days)	\$ 50.00/month

On-site inspection services by staff engineer or technician will be invoiced at full day increments for services exceeding 4 hours on site or a minimum ½ day charge for less than 4 hours on-site.

CITY OF ASBURY PARK
Monmouth County, New Jersey

State of New Jersey

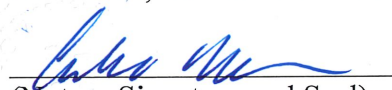
County of MONMOUTH

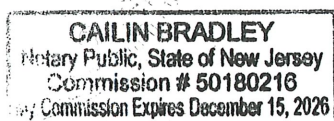
Be it remembered that on DECEMBER 13 2022, before me, the subscriber,

JOHN MCCORMACK personally appeared who, being by me duly sworn on his/her oath, deposes and make proof to my satisfaction, that he/she is the PRINCIPAL of the corporation named in the within instrument; that JOHN MCCORMACK is a Principal of said corporation; that the execution, as well as the making of this instrument, has been duly authorized by a proper resolution of the Board of Directors of the said corporations; that deponent well knows that corporate seal of said corporation; and that the seal affixed to said instrument is the proper corporate seal and was hereto affixed and said instrument signed and delivered by said JOHN MCCORMACK Principal as and for the voluntary act and deed of said corporation, in presence of deponent, who thereupon subscribed his name thereto as attesting witness.


 (Signature)

Sworn to and subscribed
 Before me, the date aforesaid.


 (Notary Signature and Seal)



CITY OF ASBURY PARK
Monmouth County, New Jersey
CERTIFICATE OF CITY ATTORNEY

I, the undersigned, the duly authorized attorney for the City of Asbury Park do hereby certify that

I have personally examined the foregoing Contract for:

Special Project Engineer Services

as described herein, and have found the same to be regular and binding on the parties concerned.

City Attorney

Date



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-49

Authorizing the Award of a Contract to the Firm of ARH, Inc. to Perform Special Project Engineering Services



RESOLUTION NO. 2023-49

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO THE FIRM OF ARH, INC. TO PERFORM SPECIAL PROJECT ENGINEERING SERVICES

WHEREAS, there is a need for the City of Asbury Park (the “City”) to appoint a licensed Professional Special Projects Engineer to perform certain professional special project engineering services (the “services”) for the City, for the time period from January 1, 2023 through December 31, 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.* (specifically at N.J.S.A. 40A:11-5(1)(a)), as the services are being provided by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, on November 6, 2021, the City of Asbury Park solicited a request for qualifications (RFQ) for a licensed Professional Special Project Engineer; and

WHEREAS, the firm of ARH, Inc. (also referenced as the “Firm”) of Hammonton, New Jersey, submitted the attached proposal to provide the necessary professional services to the City; and

WHEREAS, following review and evaluation of the proposals received, the Mayor and Council had determined to appoint the firm of ARH, Inc. to serve as the Special Project Engineer for the City for calendar year 2023; and

WHEREAS, said appointment shall be subject to and contingent upon certification of adequate funding for the services by the City’s Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. That ARH, Inc. (the “Firm”) is hereby appointed to perform professional special project engineering services for the City, for the time period from January 1, 2023 through December 31, 2023.
2. That this appointment is subject to and contingent upon certification of adequate

funding for the services by the City's Chief Financial Officer.

3. That, subject to the provisions of Paragraph 2 above, the Mayor is hereby authorized to execute, and the City Clerk to attest, the contract between the City and the Firm for the aforementioned professional services, for the year 2023, which contract shall be in a form satisfactory to the Municipal Attorney and shall not exceed \$100,000.
4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. ARH, Inc.;
 - b. Donna M. Vieiro, City Manager;
 - c. JoAnn Boos, Chief Financial Officer;
 - d. Tracy Lizardi, Director of Purchasing; and
 - e. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-49 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK

PROFESSIONAL SERVICES SPECIAL PROJECTS ENGINEERING AGREEMENT

This Agreement made as of the ____ day of _____ ("Effective Date"), by and between the City of Asbury Park, a municipal corporation of the State of New Jersey, having its principal offices located at One Municipal Plaza, Asbury Park, NJ 07712 ("CLIENT"), and **Adams, Rehmann and Heggan Associates, Inc.** ("ARH"), a corporation of the State of New Jersey, having its principal offices located at 215 Bellevue Avenue, PO Box 579, Hammonton, NJ 08037.

From time-to-time CLIENT may desire the services of ARH, and ARH desires and agrees to perform such services for CLIENT.

Now, therefore, in consideration of the mutual promises and undertakings set forth herein, the CLIENT and ARH agree as follows:

1.0 SCOPE OF SERVICES

ARH shall perform Professional Engineering Services as relates to any project assigned by the CLIENT

2.0 PAYMENT

As full consideration for the services to be performed by ARH hereunder, CLIENT shall pay ARH in accordance with the rate schedule provided in Exhibit A.

3.0 TAXES

ARH shall have sole responsibility for payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security and income tax laws and for filing all required tax forms with respect to any amounts paid by CLIENT to ARH hereunder and any amounts paid by ARH to its Personnel. ARH shall indemnify and hold CLIENT harmless against any claim or liability (including penalties) resulting from failure of ARH to pay such taxes or contributions, or failure of ARH to file any such tax forms.

4.0 CONFIDENTIALITY

4.1 Except as hereinafter specifically provided, all information disclosed by CLIENT to ARH and its personnel pursuant to this Agreement shall be in confidence. ARH and its personnel shall not use such information, except as needed to perform its obligations under this Agreement, and shall take all reasonable precautions to prevent such information from being disclosed to third parties. All materials containing such information shall be returned to CLIENT upon termination this Agreement.

4.2 The following information shall not be considered confidential:

- 1) Information which is publicly known as of the date of this Agreement.
- 2) Information which hereafter becomes publicly known, unless as a result of the fault of ARH.
- 3) Information which CLIENT agrees in writing is not confidential.

5.0 TERMINATION

5.1 This Agreement will expire on December 31, 2023. ARH will be allowed to complete any assigned but unfinished work after December 31, 2023. However, no new work will be initiated under this Agreement.

5.2 CLIENT may, upon written two (2) week notice to ARH, terminate this Agreement at any time at its convenience. ARH may also, upon written two (2) week notice to CLIENT, terminate this Agreement at any time at its convenience. If this Agreement is terminated, CLIENT's obligation pursuant to the Agreement shall be limited to payment to ARH, at the payment schedule specified in Exhibit A, for the work completed and not yet paid for by CLIENT at the time of such termination. The obligations of ARH under Sections 3.0, 4.0, 6.0, 9.0 and 10.0 shall survive any termination of this Agreement.

6.0 WARRANTY

6.1 ARH hereby warrants that ARH is not presently under, nor will ARH enter into in the future, any Agreement or other obligation which would in any way prevent, limit or otherwise impair the performance of services to CLIENT or the other obligations of ARH hereunder.

6.2 ARH warrants that its personnel are sufficiently qualified and experienced to perform the services hereunder and that such personnel shall diligently apply themselves to efficiently perform the services in a professional manner. ARH also warrants that, in the event the CLIENT finds the selected personnel not suitable for the services, the CLIENT can terminate the services of such personnel within 1 week of starting the assignment. ARH also warrants that a suitable replacement would be provided within two weeks, thereafter.

7.0 RELATIONSHIP OF PARTIES

The Parties are independent contractors and neither Party shall act as agent for or partner of the other or make any commitments for or on behalf of the other without its prior written consent.

8.0 ASSIGNMENT

All covenants, stipulations, promises and other terms in this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest, assignees and legal representatives. However, neither party shall assign this Agreement nor delegate its duties hereunder without the express written consent of the other party.

9.0 PERSONNEL ON PREMISES OF OTHER PARTY; INDEMNIFICATION

ARH, while on the premises of CLIENT, shall comply with all reasonable rules and regulations established at such premises. ARH will maintain strict security (i) with respect to any of CLIENT's facilities to which ARH is granted access by CLIENT and (ii) regarding any materials or information delivered to ARH by CLIENT or developed by ARH in the performance of Services, and ARH shall allow no person, other than its personnel and those of CLIENT, access to such materials, information or facilities.

10.0 WAIVERS

Failure of either Party hereto to enforce any of the provisions of this Agreement, or of any rights with respect thereto, or failure to exercise any election provided for herein, shall in no way be considered a waiver of such provisions, rights or elections, or in any way affect the validity of this Agreement. The failure by any Party hereto to enforce any of such provisions, rights, or elections shall not prejudice such Party from later enforcing or exercising the same or any other provisions, rights or elections which it may have under this Agreement.

11.0 INVALIDITY

If any provision of this Agreement, or any portion thereof, is subsequently held to be invalid or unenforceable under any applicable statute or rule of law, then that provision or portion notwithstanding, this Agreement shall remain in full force and effect and such provision or portion shall be deemed omitted and this Agreement shall be construed as if such invalid or unenforceable provision or portion had not been contained herein.

12.0 GOVERNING LAW

This Agreement will be governed by and construed in accordance with the substantive laws of the State of New Jersey.

13.0 PUBLICITY

Neither Party shall issue a news release, public announcement, advertisement, or other form of publicity concerning its efforts in connection with this Agreement without the prior approval of the other Party.

14.0 **INSURANCE**

ARH shall maintain at its expense such insurance as will fully protect ARH from any claims for damage for bodily injury, including death, and for property damage, which may arise from ARH's activities under this Agreement, whether such activities are performed by ARH or by any subcontractor or anyone directly or indirectly employed by either of them. ARH shall provide proof of Worker's Compensation, general liability, automotive liability, and professional liability insurance.

15.0 **COMPLETE UNDERSTANDING**

Each Party acknowledges that it has read this Agreement (including all Exhibits), and agrees that it is the complete and exclusive understanding between the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate as of the day and year above written.

City of Asbury Park

Witness: _____

By: _____

Printed:

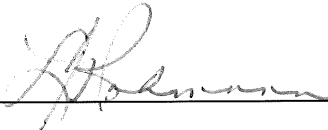
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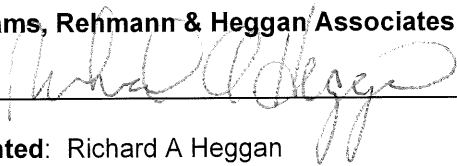
Title:

Title:

Date:

Date:

Witness:  _____

Adams, Rehmann & Heggan Associates, Inc
By:  _____

Printed: Loretta Rehmann

Printed: Richard A Heggan

Title: Secretary

Title: Vice President

Date:
11/16/2022

Date: 11/16/2022

Attachment: Adams Rehmann & Heggan (ARH) - Special Project Engineer (2023-49 : ARH Special Projects Engineer Appointment 2023)



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-50

Appointing V-Comm, LLC to Perform Telecommunications and 5G Engineering Services for the City.



RESOLUTION NO. 2023-50

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT TO V-COMM LLC TO PERFORM TELECOMMUNICATIONS AND 5G ENGINEERING SERVICES

WHEREAS, there is a need for the City of Asbury Park (the “City”) to appoint a licensed Professional Telecommunications and 5G Engineer to provide telecommunications engineering consulting services (the “services”) for the City, for the time period from January 1, 2023 through December 31, 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.* (specifically at N.J.S.A. 40A:11-5(1)(a)), as the services are being provided by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for “professional services” without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself are available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, V-Comm, LLC (also referenced as the “Firm”) of Somers Point, New Jersey, submitted a proposal to provide the necessary professional services to the City, pursuant to the terms and conditions set forth in the attached proposed form of contract; and

WHEREAS, the Firm has demonstrated that it has extensive experience in the Telecommunications Engineering field, and that its services will be of benefit to the City; and

WHEREAS, the retention of the Firm has been effectuated through a “non-fair and open” (a/k/a restricted) process pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the “Pay-to-Play Law”), and the Firm has submitted all necessary documents in compliance with the Pay-to-Play Law; and

WHEREAS, said appointment shall be subject to and contingent upon certification of adequate funding for the services by the City’s Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of

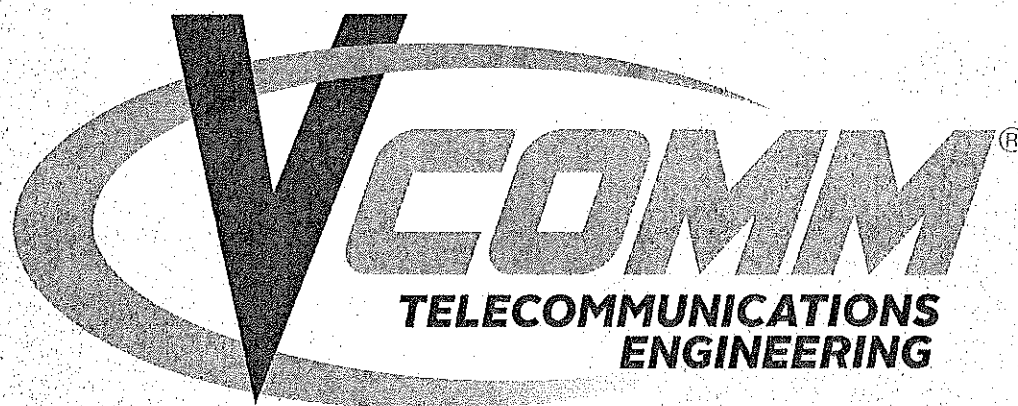
Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. That V-Comm, LLC. is hereby appointed to perform professional telecommunication and 5G engineering services for the City, for the time period from January 1, 2023 through December 31, 2023.
2. That this appointment is subject to and contingent upon certification of adequate funding for the services by the City's Chief Financial Officer.
3. That, subject to the provisions of Paragraph 2 above, the Mayor is hereby authorized to execute, and the City Clerk to attest, the attached contract between the City and the Firm for the aforementioned professional services for the year 2023, which contract shall be in a form satisfactory to the Municipal Attorney and shall not exceed \$25,000.
4. That this contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5 of the Local Public Contracts Law of New Jersey.
5. That this contract is also awarded through a "non-fair and open" (a/k/a restricted) process pursuant to and in accordance with the State's Pay-to-Play Law.
6. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Dominic Villecco, V-Comm, LLC
 - b. Donna M. Vieiro, City Manager;
 - c. JoAnn Boos, Chief Financial Officer;

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-50 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



THE CITY OF ASBURY PARK, NEW JERSEY

TELECOMMUNICATIONS / 5G CONSULTANT
DECEMBER 2022 AND
CALENDAR YEAR 2023

DECEMBER 13, 2022

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Morristown

Livingston

CONTACT US**Dominic Villecco***President*

(609) 655-1200 ext. 322

dominic.villecco@vcomm-eng.com

Donald Coover*Vice President*

(610) 684-1000 ext. 230

donald.coover@vcomm-eng.com

David Stern*Vice President*

(609) 655-1200 ext. 323

david.stern@vcomm-eng.com

Sydney Garfinkel*Inside Sales Coordinator*

(609) 655-1200 ext. 396

(908) 427-5318

sydney.garfinkel@vcomm-eng.com

V-COMM'S OFFICE LOCATIONS**New Jersey**

2147 Route 27 South

Suite 102

Edison, NJ 08817

o. (609) 655-1200

f. (609) 409-1927

Pennsylvania

736 Springdale Drive

Suite 300

Exton, PA 19341

o. (610) 684-1000

f. (484) 879-6963

South Jersey

5 Chestnut Street

Somers Point, NJ 08244

o. (609) 655-1200

Piscataway

Edison

Franklin
TownshipNew
Brunswick

V-COMM, L



2147 ROUTE 27 | SUITE 102 | EDISON, NJ 08817
 5 CHESTNUT STREET | SOMERS POINT, NJ 08244
 736 SPRINGDALE DRIVE | SUITE 300 | EXTON, PA 19341

ph 800.930.4307

vcomm-eng.com

WHY CHOOSE US

V-COMM is interested in providing Telecommunications Engineering Consulting Services to the City of Asbury Park, New Jersey.

The City of Asbury Park is seeking a qualified firm in the State of New Jersey to provide services for RF Consulting and Engineering. V-COMM is a highly qualified full-service telecommunications engineering and consulting firm and has performed these same and related services for many governmental agencies throughout the State of New Jersey and neighboring states. Furthermore, V-COMM's executive management team has over 75 years of experience in the field of telecommunications including wireless communications, Public Safety two-way systems, broadcast, video, telephony switching and signaling, E911 Phases 0, 1, and 2, dispatch, transmission, microwave, paging, etc.

As V-COMM is a truly local firm, we are available on short notice and at the convenience of the City of Asbury Park to meet and discuss this proposal and our qualifications. Further, if V-COMM is awarded this contract, that same availability will continue throughout its duration, with the primary point of contact and overall project director being one of its principals, a commitment unlikely paralleled by any other responding firm.

WHO WE ARE

V-COMM was founded in 1995 by President Dominic Villecco and Vice President David Stern. For the past 27 years, V-COMM has consistently delivered optimal results and is recognized today as a top consultant and leading provider of integrated network and radio frequency engineering across the nation. Our offices in Edison, New Jersey and Exton, Pennsylvania employ approximately 30 employees, those who were specifically recruited for their exceptional work ethics and credentials. Our advantage over nationwide firms is our truly local focus and specific and direct experience.

We have worked with more than 75 percent of the counties in New Jersey alone on public safety systems. in addition to our many clients in Pennsylvania and New York, and others in Virginia, Maryland, New York, North Carolina, Massachusetts, New Hampshire and a few of their major cities, including Philadelphia, Boston, New York City and Newark.

V-COMM, L.L.C. has provided wireless infrastructure management services of cell towers, small cells and in-building systems, including lease negotiations, rental payment management, regulatory compliance, bid preparation and project management to many clients over the last ten years.

We have worked with all four major wireless carriers in the United States to help design and optimize some of the largest commercial communications networks in North America. Our reputation among our clients has helped us become the trusted partner of multiple transportation authorities along the east coast to design, test and measure both above and below ground signal performance and network traffic from station to station, for wireless and public safety.

We are also qualified by the FCC and US Department of Justice as telecommunications engineering experts providing testimony and technical analysis on major industry initiatives.



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WHAT WE DO

Each project we take on begins with thorough research of our client's specific needs. We carefully assess the situation at-hand, then provide a completely customized solution we manage from start to finish. With our highly skilled professional staff led by our executive management team, each with more than 35 years of experience in the wireless industry, we have fully expanded our service offerings to include a full range of turn-key network and radio frequency engineering support, including, but not limited to the following:

Wireless Capabilities:

- Cell tower management and design
- Small cell master planning and design
- RF exposure testing and certification
- Interference discovery & mitigation
- Expert witness testimony
- BDA testing
- Our technology experience includes: 5G, 4G LTE, CDMA, TDMA, FDMA, OFDM, P25 Phase 1 & 2, microwave, point-to-point, mesh solutions, TDM, IP, VoIP, circuit switched, packet switched, SONET, ATM, frame relay & fiber optics

Telecommunications Engineering Services:

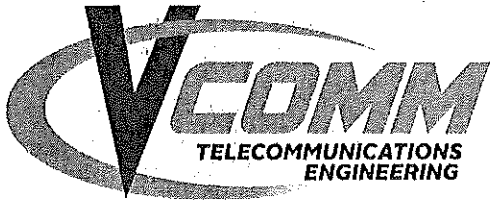
- In-building DAS design, testing and implementation of public safety and commercial wireless networks
- RF and network design, testing and optimization
- FCC and FAA licensing & regulations
- Network Project and Construction Management
- Regulatory advisory assistance
- Expert witness testimony
- Intermodulation/Interference Studies and Mitigation
- Coverage Testing, PIM Testing, and Antenna/Line Sweep Testing

Public Safety Radio Systems:

- In-building coverage testing, certification, design, installation
- P25 Phase II network designs, consulting, specifications and implementation,
- NFPA/IFC testing, measurement, design and implementation of public safety in-building radio coverage
- FCC licensing

Our staff and management teams are technology and safety certified with, but not limited to, the following:

- PCTEL Certified Public Safety Tester, Amtrak, LIRR, MTA, PANYNJ-Path, NJ Transit, NYCT, PATCO, SIR, SEPTA, WMATA, ADRF, Cel Fi, Commscope, Corning, Anritsu, iBwave Level 1, 2 and 3, JMA Wireless Teko, Keysight, CBRS CPI, GROL, OSHA and SWAC



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V-COMM'S EXPERIENCE

V-COMM has provided similar services to those that the City of Asbury Park is requesting for a number of other municipalities and counties throughout New Jersey. V-COMM is proud of its accomplishments in supporting government agencies. Detailed descriptions of this experience can be found below and demonstrate V-COMM's varied experience in the areas of governmental and telecommunications projects. These projects are only a small part of what the V-COMM team can provide for the City of Asbury Park.

PROJECT: Jersey Shore oDAS/Small Cell Design
CLIENT: Verizon Wireless
LOCATION: Multiple Towns along the Jersey Shore, New Jersey

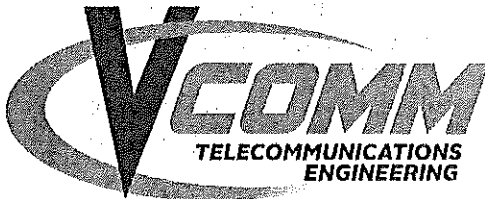
V-COMM was contracted to design an outdoor distributed antenna system for Verizon Wireless' network along the coastline in Monmouth County. The design included over 135 small cell nodes which would be equipped with 4G technologies capable of upgrade to future 5G technologies.

PROJECT: 700/800 MHz - NJICS P25 Phase 2 System, LTE Broadband Network, Comprehensive Public Safety Tower Planning
CLIENT: State of New Jersey – Office of Information Technology
LOCATION: State of New Jersey

V-COMM was engaged by the State of New Jersey Office of Information Technology (NJOIT) to provide engineering and consultative direction in the development of technical specifications to ensure compliance with State and Federal regulations regarding LTE, and 3GPP standards, prior to FirstNet. V-COMM extended telecommunications consultative support as required for the development of a comprehensive understanding and actionable plan for NJOIT regarding 3GPP/LTE standards. This project was accomplished in phases, culminating with the issuance by NJOIT of an RFP for the purpose of securing vendors for its 700MHz LTE broadband network. The project was temporarily placed on hold pending Federal action related to the development of FIRSTNET board and the national deployment specifications.

V-COMM also developed a Comprehensive Plan for Public Safety towers throughout the NJ Pinelands Conservation District on behalf of seven counties covered by Pinelands. This plan was sponsored and directed by OIT and NJ DHS and included both narrowband voice and broadband data (LTE) communications needs.

V-COMM has performed statewide 700 MHz frequency planning and coordination for the NJICS system through a sub-contract arrangement. Activities include coordination with neighboring states, interference analysis and development of the State's 700 MHz frequency plan. V-COMM also prepared county-based frequency acquisition services and coordination to expand the NJICS System. Additionally, V-COMM performed 800 MHz coordination and FCC licensing services for the NJ Highway Authority, which includes the NJ Turnpike and Garden State Parkway for the length of the state.



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PROJECT: Cell Tower Leasing, Small Cell Ordinance Assistance and Consulting,
 Public Safety Radio Upgrade
CLIENT: The Township of Cherry Hill
LOCATION: Cherry Hill, New Jersey

The Township of Cherry Hill, NJ contracted V-COMM to develop specifications and master tower lease documents to maximize rental opportunities while co-locating carriers with its public safety communications systems on a large multi carrier communications tower. V-COMM assisted with leasing issues and recommendations as well as carrier coordination. V-COMM developed interference mitigation requirements to ensure harmonious co-existence on the Township's tower. V-COMM is currently engaged with the Township to manage the installation of these wireless carriers to ensure compliance with specifications and interference free operation. V-COMM was also contracted to develop various options for migration from the CHPD EDACS system to a new P-25 Phase 2 - 700/800 MHz system. The engagement included assessment, recommendations, system design and implementation. V-COMM assisted the Township on this project which was fully operational by first quarter 2019.

V-COMM also assisted the Township in implementing and administering a Small Cell Ordinance for placement of Small Cells on poles throughout the Township. This task is currently under contact and ongoing.

PROJECT: P25 Phase 2 Design and Deployment, Cell Carrier Leasing/Coordination,
 VHF Simulcast System Design and FCC Licensing
CLIENT: Burlington County Department of Public Safety
LOCATION: Burlington County, New Jersey

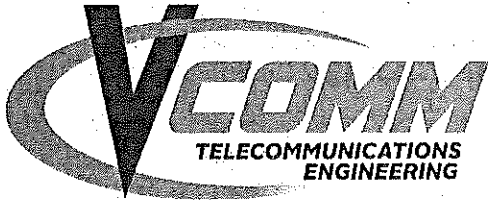
V-COMM was contracted by the County to perform an analysis and provide expansion plans and development of a long term plan for a 700 MHz trunking system. Analysis and recommendations included a system design, microwave design and budget preparation.

V-COMM also prepared the County's application to the FCC for new 700 MHz Public Safety channels to supplement their existing system. Specifically, V-COMM prepared the submission to the Region 28 Planning Committee and represented the County's interest at the Regional Planning Tech Committee meetings. The application was approved.

V-COMM's current contract includes working with the County on 700 MHz system development, site acquisition, RFP development, system procurement, implementation oversight, and integration, through the completion of system implementation. V-COMM was also tasked with paging system expansion design (simulcast) and conversion plans. V-COMM is currently engaged with Burlington County to execute these plans.

PROJECT: Cell Carrier Leasing and Coordination, Telecommunications Master Plan
CLIENT: Borough of Avalon, New Jersey
LOCATION: Avalon, New Jersey

The Borough of Avalon had released a bid for wireless carriers to attach antennas to its municipal water tank at 38th Street in 2007. This original bid was unsuccessful, and the Borough hired V-COMM to develop new specifications to re-release this bid. V-COMM developed a technical plan that maximized the availability of both ground space as well as antenna space on the water tank to attract



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wireless carriers. V-COMM worked closely with Borough officials to conduct three successful bids over a span of several years and as a result, Avalon Borough has been collecting rental income from all major wireless carriers from this location. V-COMM also assisted Avalon through the same process on its 13th Street water tank.

V-COMM was further retained in 2009 by the Borough to analyze wireless coverage throughout the Borough and develop recommendations on zoning districts as well as municipal properties that could be utilized to further increase wireless services for residents while increasing rental income for the Borough, as a Telecommunications Master Plan. This Master Plan Included Borough owned assets and future small cells. Most recently, V-COMM has been involved in the development of a small cell ordinance and negotiations with carriers and third parties and has developed bid packages for small cells on town owned property. V-COMM has been Avalon Borough's Telecommunications Consultant for the past several years and assists the Borough with site management issues associated with its contracts with wireless carriers as well as other telecommunications issues that confront the Borough.

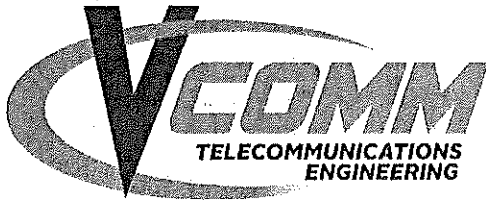
V-COMM was engaged by the Borough to design a Small Cell Deployment Plan (178+ Nodes Borough-wide) to support enhanced 4G and 5G services for the wireless carriers. This plan will allow the wireless carriers to implement small cell nodes throughout the coverage while adhering to the Borough's aesthetic requirements.

PROJECT: Cell Carrier Leasing and Coordination, Telecommunications Master Plan, Project Management of New Town Owned Monopole
CLIENT: Kill Devil Hills, North Carolina
LOCATION: Kill Devil Hills, North Carolina

V-COMM was contracted by the Town of Kill Devil Hills to determine the level of wireless coverage throughout the town and determine how to best provide wireless service to its residents while earning rental income from wireless carriers. V-COMM developed a full survey of the current wireless service within the town as well as a set of recommendations to Town Council on how to best expand these services to residents while earning rental income for the town. V-COMM's plan reviewed all municipally owned property and structures and included both a short term and long-term plan, as part of a Telecommunications Master Plan. The short-term plan included maximizing wireless carriers on its 2nd Street municipally owned water tank. This water tank had a planned obsolescence and therefore a longer-term plan included the erection of a town owned telecommunications tower on the same property to eventually relocate the existing wireless tenants and attract additional future tenants. V-COMM through an affiliate, also collects and manages rental income, responds to all carrier notices and inquiries and coordinates all carrier requested and town required changes between the carriers and town departments. Finally, as part of this project, V-COMM resolved an outstanding Federal Aviation Administration (FAA) issue at this site which involved town antennas for its beach patrol. This tank is in very close proximity to the Wright Brothers Memorial (and active airport) and as such, FAA, environmental and historical issues are particularly sensitive.

PROJECT: Cell Carrier Leasing and Coordination
CLIENT: City of Margate, New Jersey
LOCATION: Margate, New Jersey

V-COMM was first engaged by the City of Margate to support bid specifications to allow wireless carriers the ability lease space on its city owned water tanks. More recently, V-COMM was engaged to



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assist in small cell ordinance development as well as management of wireless leases and the expansion requests proposed to the city by the wireless carrier tenants.

PROJECT: Cell Carrier Leasing/Coordination – Borough Owned Monopole and Proposed Sewer Department Monopole Location
CLIENT: Borough of Palmyra
LOCATION: Palmyra, New Jersey

V-COMM has supported the Borough's efforts to improve wireless service throughout the Borough while also providing a revenue stream for the Borough. Projects included lease reconciliation and discussions with Borough officials and wireless companies regarding structure ownership, capabilities and availability, on the municipally owned monopole located behind Borough Hall at 20 West Broad Street. Additionally, V-COMM assisted with the analysis and recommendations of a proposed new monopole location at the Borough's sewer plant location on Firth Lane.

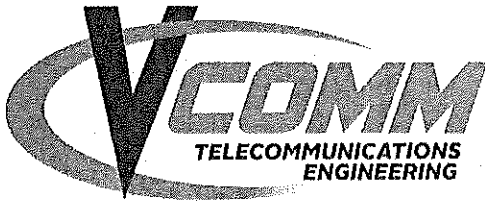
PROJECT: MPE Reports
LOCATION: PSE&G Telecom Poles

V-COMM is an approved firm to provide MPE Reports and services on PSE&G structures. V-COMM is currently providing these reports for dozens of PSE&G Telecom Pole sites for various carriers to confirm that installation meets compliance.

PROJECT: Cell Carrier Leasing and Coordination
CLIENT: Stone Harbor, New Jersey
LOCATION: Stone Harbor, New Jersey

Development of Telecommunications Master Plan Document including telecommunications overview, zoning overview, zoning telecommunications facility recommendations, RF coverage and recommendations/conclusions. V-COMM also conducted an analysis to inspect Stone Harbor's current radio system. V-COMM worked closely with Borough officials to develop technical specifications required for the attachment of commercial wireless carriers to its 95th Street water tank. Ground space was extremely limited at this location. V-COMM developed a multi-level equipment mounting arrangement within the base of the tank to maximize the number of carriers to be supported by this structure. V-COMM developed bid specifications for this structure that met both Borough and carriers needs which concluded in the successful negotiation of three carriers on this water tank. V-COMM has also looked at other properties within the Borough and developed conceptual plans for these properties for future bidding.

V-COMM was previously engaged by the Borough to implement a Small Cell Ordinance and assist with the review of applications from interested wireless carriers.



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PROJECT: 5G Study for Economic Development
CLIENT: County of Passaic, New Jersey
LOCATION: County of Passaic, New Jersey

V-COMM worked with the County of Passaic and their various partners (the City of Paterson, City of Passaic, Saint Joseph's Hospital, Montclair University, etc.) to provide a study determining the current wireless coverage capabilities for current coverage and future 5G coverage within the County. V-COMM is provided recommendations for building and deploying enhanced cellular coverage for the County for the purposes of economic growth within the county and specific cities.

PROJECT: PSAP Recommendations, 700 MHz P25 Phase 2 System Design and Implementation, VHF System Expansion and FCC Licensing
CLIENT: Cape County Emergency Management Communications
LOCATION: Cape May County, New Jersey

As a result of mandates by the State of New Jersey legislature, potential consolidation of various municipal services, including public safety dispatch operations, are being considered by many of the towns in an effort to improve services while providing potential cost reductions in ongoing operations. V-COMM was engaged by the County of Cape May to perform a Public Safety Answering and Dispatch (PSAP / PSDP) Consolidation Feasibility Study.

V-COMM's task was to evaluate the status of E911 answering and dispatch operations of the twelve municipal and single county backup PSAPs operating within the county. Information regarding facilities, power, PSAP equipment, staffing, training, scheduling and finances was obtained from each operation. Along with site visits to each of the facilities, V-COMM also met with each of the potentially impacted interested groups including the Mayors, fire, police and emergency services to gather firsthand experience, input and concerns from the end users. Additionally, V-COMM met with the State of New Jersey Office of Emergency Telecommunications Services to ensure inclusion of potential state directives and next-gen 911 (NG911) standards in any proposed solution.

V-COMM compiled the acquired data and end user feedback as part of the final report and recommendation to County. As part of this report, along with the primary recommendations, alternatives to a single PSAP consolidation were provided. The report determined the best ways to minimize impact to the current operations and included consideration to agencies. A conceptual design, associated cost, implementation strategies and estimated project schedule were included in the final report.

In August 2019, V-COMM was awarded a new project with the County of Cape May to project manage the implementation of the new Cape May County 700 MHz P25 Phase 2 system which was intergrated as part of the State of NJ PSIC system.

PROJECT: 700/800 MHz P25 Phase 2 System Design and Deployment, VHF Simulcast System Design and FCC Licensing
CLIENT: Camden County Department of Public Safety
LOCATION: Camden County, New Jersey



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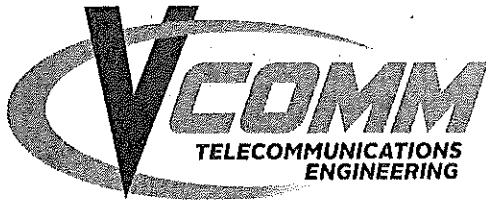
V-COMM was contracted by the County to perform an analysis, field testing, and provide expansion plans and a long term strategic plan of 500/700 MHz trunking system for complex multi-jurisdiction configuration. Primary concern was given to interoperability considerations for local municipalities, adjacent counties, State Police, Delaware River Port Authority, and City of Philadelphia. Camden County is part of the Southeast Pennsylvania Counter Terrorism Task Force Committee, Urban Area Security Initiative (UASI) which is a Committee of technical and operational representatives of the 10 counties surrounding Philadelphia (5 in New Jersey and 5 in Pennsylvania).

V-COMM's contract included working with the County on 700 MHz P25 – Phase 2 system development, site acquisition, RFP development, system procurement, implementation oversight, and integration, through the completion of system implementation. V-COMM was also tasked with VHF paging system expansion design (simulcast) and development of narrowband capable equipment inventories, database creation and maintenance, and conversion plans. This system was launched in 2012 as the first P25 Phase 2 system in NJ. System design included ISSI links/connection to the State of New Jersey Statewide P25 system. V-COMM also prepared the County's application to the FCC for new 700 MHz Public Safety channels to supplement their existing system. Specifically, V-COMM prepared the submission to the Region 28 Planning Committee and represented the County's interest at the Regional Planning Tech Committee meetings. The application was approved.

Additionally, V-COMM acquired 800 MHz channels to support forecasted system capacity requirements as per V-COMM's traffic projections. V-COMM also performed Intermodulation Studies on existing towers to ensure frequency compatibility. Further, V-COMM extended systems coverage to Delaware River Port Authority's PATCO subway DAS network in Camden, NJ. Finally, V-COMM developed repeater specifications for a new highway interchange project on Interstates 76 and 295 and State Route 42, where above ground highway tunnels are being built. V-COMM is currently working with the County to ensure coverage for Camden and adjacent Gloucester Counties as well as the NJ State Police. The first phase of this project was completed by Q4 2019.

PROJECT: Various Public Safety Projects
CLIENT: Hunterdon County Department of Public Safety
LOCATION: Hunterdon County, New Jersey

V-COMM was contracted to prepare tower specifications, bid documents and construction management of a 200 foot tower located at the County Dispatch Center. The project also included microwave frequency acquisition and licensing as well as equipment specifications for procurement under State Contract guidelines. V-COMM also provided UHF frequency acquisition and FCC licensing as part of the County's overall upgrade project. V-COMM was also engaged in the design and specifications of a backup dispatch facility in conjunction with a neighboring County. V-COMM is currently engaged with the County to develop procurement specification for an expansion tower for the County's network.



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KEY PERSONNEL

V-COMM's executives have extensive wireless and telecommunications engineering, and operations experience as outlined herein, with similar telecommunications needs. In past and current positions, V-COMM's executives have negotiated leases for and developed hundreds of towers and telecommunications sites. Further, designing both commercial and public safety systems to provide coverage in these towns and cities, differentiates V-COMM from competing firms.

V-COMM PERSONNEL TITLE DEFINITIONS

Principal

35+ years' experience of Telecommunications Engineering
 Project oversight
 Participation in Stakeholder meetings

Director

30+ years' experience of Telecommunications Engineering
 Project supervisions
 Engineering Analysis and Review

Engineer/Project Manager

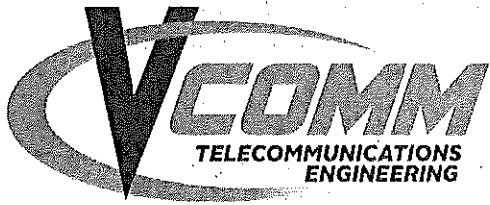
10+ years' experience of Telecommunications Engineering
 Project Management and Coordination

Senior Engineer

10+ years' experience of Telecommunications Engineering
 Engineering Analysis

Engineer

3+ years' experience of Telecommunications Engineering
 Engineering Analysis



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SCOPE OF SERVICES

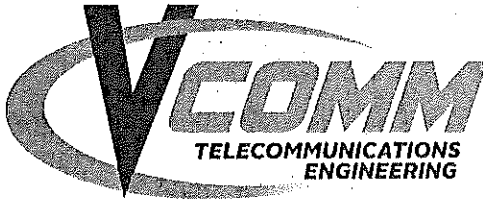
V-COMM fully understands the requirements of this project as it is currently contracted to perform similar services for other municipalities in the State of New Jersey. V-COMM personnel have the requisite experience to perform the tasks outlined below.

1. Assist the City of Asbury Park staff with small cell ordinance development and administration.
2. Review of small cell applications from interested wireless carriers and third parties to determine compliance with the implemented small cell ordinance.
3. Research, development and presentation of small cell options, smart poles, equipment configurations, etc., to assist in the development and deployment of aesthetically consistent wireless infrastructure throughout the City.
4. Assistance with site surveys and construction review of small cell installations by permitted entities to ensure compliance with submitted plans and the City of Asbury Park's Small Cell Ordinance.
5. Assistance with existing cell tower leases, expansion requests from existing wireless carrier tenants and addition of new wireless carrier tenants to City owned facilities and towers.
6. Assist with Competitive Local Exchange Carrier (CLEC) master right of way agreements.
7. Other telecommunications engineering tasks as requested by City of Asbury Park including public safety system and broadband requirements.

FEE SCHEDULE

The above services will be performed at V-COMM's standard hourly rates outlined below. Estimated 2022-2023 fees will not exceed \$25,000, without prior approval of the City of Asbury Park. "Out of pocket" expenses will be passed through at cost. **Further, estimated services for the remainder of calendar year 2022 will not exceed \$5,000 without prior permission from City administration.**

Position	Hourly Rate
Principal	\$ 275
Director	\$ 215
Senior RF Engineer	\$ 185
Project Manager	\$ 175
RF Engineer	\$ 165



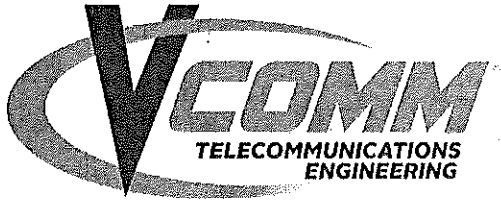
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COST ASSUMPTIONS AND EXCLUSIONS

1. V-COMM is not providing any hardware, software or installation services as part of this proposal.
2. The price reflected in this proposal does not include any building materials, construction cost, construction or electronic equipment, product, or vendor costs associated with the plans or recommendations provided by V-COMM.
3. This proposal assumes the City of Asbury Park will not unreasonably withhold approval of recommended changes, modifications, or additional vendor related infrastructure to facilitate the overall project objectives.
4. V-COMM management will perform coordination of personnel. These personnel will be located in either V-COMM's Edison, NJ or Exton, PA offices throughout the duration of the project, with travel as required for the various tasks.
5. Prices are based on work being completed during normal business hours Monday through Friday, on consecutive days, excluding holidays.
6. Should the City of Asbury Park direct a change in the work, the change shall be incorporated into the agreement by a written Change Order, approved in advance of such work in writing by the City of Asbury Park and V-COMM, stating their agreement upon the change or changes in the work, and the necessary adjustments.
7. This cost proposal is specific to the tasks outlined in the "Scope of Work" section of this proposal. Additional requirements or projects will be quoted separately. Further, changes, expansions and/or additions to the tasks outlined in the proposal as estimated herein will be quoted separately.



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INVOICING AND PAYMENT SCHEDULE

Engineering services will be invoiced on a monthly basis. Payments shall be due upon receipt of invoice. Any invoices which are paid after thirty (30) days of invoice date will incur a late payment charge of 1 ½ % per month.

All invoices should be mailed to the following representative named below:

City of Asbury Park
 One Municipal Plaza
 Asbury Park, NJ 07712
 ATTN: Donna Vieiro, City Manager

All payments are to be mailed to the following address below:

V-COMM L.L.C.
 5 Chestnut Street
 Somers Point, NJ 08244
 ATTN: Accounts Payable

STARTING DATE

The V-COMM team is ready to support the City of Asbury Park, New Jersey within 10 business days from the full execution of an agreement and receipt of a Purchase Order authorizing V-COMM to commence services, along with receipt of all necessary information.

Agreed to this **13th** day of **December, 2022**.

Agreed by:

City of Asbury Park, New Jersey

 Authorized Signature

 Printed Name

 Title of Signatory

Accepted by:

V-COMM, L.L.C.

Dominic Vilecco
 President



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-51

Appointing the Firm of CDM Smith, Inc. to Perform Special Project Engineering Services



RESOLUTION NO. 2023-51

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION APPOINTING THE FIRM OF CDM SMITH, INC. TO PERFORM SPECIAL PROJECT ENGINEERING SERVICES

WHEREAS, there is a need for the City of Asbury Park (the “City”) to appoint a licensed Professional Special Projects Engineer to perform certain professional special project engineering services (the “services”) for the City, for the time period from January 1, 2023 through December 31, 2023; and

WHEREAS, the services to be provided are considered to be “professional services” under the Local Public Contracts Law, N.J.S.A. 40A:11-1, *et seq.* (specifically at N.J.S.A. 40A:11-5(1)(a)), as the services are being provided by a person(s) authorized by law to practice a recognized profession; and

WHEREAS, the Local Public Contracts Law authorizes the awarding of a contract for “professional services” without public advertising for bids and bidding therefore, provided that the Resolution authorizing the contract and the contract itself are available for public inspection in the office of the Municipal Clerk and that notice of the awarding of the contract is published in a newspaper of general circulation in the municipality; and

WHEREAS, CDM Smith, Inc. (also referenced as the “Firm”) of Edison, New Jersey, submitted a proposal to provide the necessary professional services to the City, pursuant to the terms and conditions set forth in the attached proposed form of contract; and

WHEREAS, the Firm has demonstrated that it has extensive experience in the Special Projects Engineering field, and that its services will be of benefit to the City; and

WHEREAS, the retention of the Firm has been effectuated through a “non-fair and open” (a/k/a restricted) process pursuant to and in accordance with the State’s Local Unit Pay-to-Play Law, N.J.S.A. 19:44A-20.4, *et seq.* (the “Pay-to-Play Law”), and the Firm has submitted all necessary documents in compliance with the Pay-to-Play Law; and

WHEREAS, said appointment shall be subject to and contingent upon certification of adequate funding for the services by the City’s Chief Financial Officer.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of

Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. That CDM Smith, Inc. is hereby appointed to perform professional Special Projects Engineering services for the City, for the time period from January 1, 2023 through December 31, 2023.
2. That this appointment is subject to and contingent upon certification of adequate funding for the services by the City's Chief Financial Officer.
3. That, subject to the provisions of Paragraph 2 above, the Mayor is hereby authorized to execute, and the City Clerk to attest, the attached contract between the City and the Firm for the aforementioned professional services for the year 2023, which contract shall be in a form satisfactory to the Municipal Attorney and shall not exceed \$30,000.
4. That this contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5 of the Local Public Contracts Law of New Jersey.
5. That this contract is also awarded through a "non-fair and open" (a/k/a restricted) process pursuant to and in accordance with the State's Pay-to-Play Law.
6. That notice of the adoption of this Resolution shall be published in a newspaper of general circulation within the City.
7. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Christine Ballard, CDM Smith, Inc.
 - b. Donna M. Vieiro, City Manager;
 - c. JoAnn Boos, Chief Financial Officer;

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-51 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



110 Fieldcrest Avenue, #8
6th Floor
Edison, New Jersey 08837
tel: 732- 225-7000
fax: 732-225-7851

Donna M. Vieiro
City Manager
City of Asbury Park
1 Municipal Plaza
Asbury Park, NJ 07712

**RE: Special Projects Engineer
Wastewater Treatment Plant Alternatives Analysis and Various Design Improvements**

Dear Ms. Vieiro:

Thank you for the opportunity to provide engineering services to the City of Asbury Park, specifically related to developing a plan for the city's wastewater treatment plant located at 1700 Kingsley Street. Our team has enjoyed helping the city staff at this critical facility and we look forward to continuing our work into 2023.

Nearly one year ago, we began working with city staff to make process adjustments and modifications to alleviate concerns related to treatment adequacy and staff safety. While we have been able to provide meaningful assistance at the treatment plant in 2022, there is more work to be done. Our team has completed inspections of most of the major equipment including an in-depth review of electrical, HVAC, process mechanical, odor control, and some specific structural elements. These inspections have helped us to develop a plan to help the city continue to provide treatment and meet its discharge limits into the future.

Enclosed for your use is CDM Smith Inc.'s proposed rate schedule for 2023 along with our standard form of agreement and insurance. CDM Smith believes in using the right person for each assignment and for the city to obtain the true value for each person assigned. As such, we have included our hourly rate schedule which is broken down by labor category. A table of our hourly rates at the various grade levels is included in Appendix A.

CDM Smith is proposing to use the same key technical staff as this project continues, led by Ms. Christine Ballard, P.E. as Principal in Charge, and Mr. Vincent L. Apa III, P.E. as project Technical Leader. Where possible, CDM Smith will also utilize minority-owned and woman-owned business enterprises to perform sub-consultant work.

CDM Smith is prepared to provide a written scope of services together with an estimated budget and schedule for specific assignments. All work will be performed at the written direction of City staff. If there is a change in scope, CDM Smith will inform the City staff of the need for additional time or budget so that approval can be given before the additional work is performed. CDM Smith proposes to invoice assignments monthly on either a lump sum or cost reimbursable/not-to-exceed basis for any agreed upon scope of services.



**MASTER SERVICES AGREEMENT
BETWEEN
OWNER AND ENGINEER**

THIS IS AN AGREEMENT made as of _____, 20____ between City of Asbury Park ("OWNER") and CDM Smith Inc. ("ENGINEER").

ENGINEER's Services will be performed pursuant to individual Task Orders issued by OWNER and agreed to by ENGINEER. Such Task Orders will contain the specific scope of work ("Services"), the time schedule, charges and payment conditions, and additional terms and conditions that are applicable to such Task Orders. An example Task Order is attached hereto.

Execution of a Task Order by ENGINEER and OWNER constitutes OWNER's written authorization to ENGINEER to proceed on the date first above written with the Services described in the Task Order. This Agreement will become effective on the date first above written.

The terms and conditions of this Agreement shall apply to each Task Order, except to the extent expressly modified. When a Task Order is to modify a provision of this Agreement, the Article of this Agreement to be modified shall be specifically referenced in the Task Order and the modification shall be precisely described.

ARTICLE 1 – SCOPE OF SERVICES

- 1.1 ENGINEER agrees to perform, or cause to be performed, for OWNER services as described in individual Task Orders (hereinafter referred to as "Services") in accordance with the requirements outlined in this Agreement.

ARTICLE 2 – TIMES FOR RENDERING SERVICES

- 2.1 The period of service of this Agreement shall be indefinite, subject to the conditions specified in Article 5.5 of this Agreement.
- 2.2 The specific time period for the performance of ENGINEER's Services will be set forth in individual Task Orders.
- 2.3 If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.4 If Owner authorizes changes in the scope, extent, or character of the Project or Engineer's services, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, shall be adjusted equitably.
- 2.5 Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services. If ENGINEER's services under a Task Order are delayed or suspended in whole or in part by OWNER for more than three months through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of the schedule and of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, among other things, reasonable costs incurred by ENGINEER in connection with such delay or suspension and reactivation and the fact that the time for performance has been revised.

ARTICLE 3 – OWNER'S RESPONSIBILITIES

OWNER shall:

- 3.1 Pay the ENGINEER in accordance with the terms of this Agreement.
- 3.2 Designate in writing a person to act as OWNER's representative with respect to the services to be performed or furnished by ENGINEER under this Agreement. Such person will have complete authority to transmit instructions, receive information, interpret, and define OWNER's policies and decisions with respect to ENGINEER's services for the project.
- 3.3 Provide all criteria and full information as to OWNER's requirements for the project described in each Task Order, including, as applicable to the Services, design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications.
- 3.4 Furnish to ENGINEER all existing studies, reports and other available data and services of others pertinent to the Task Order, obtain or authorize ENGINEER to obtain or provide additional reports and data as required, and furnish to ENGINEER services of others required for the performance of ENGINEER's services for a Task Order, and ENGINEER shall be entitled to use and rely upon all such information and services provided by OWNER or others in performing ENGINEER's services under a Task Order subject to any express limitations or reservations applicable to the furnished items.
- 3.5 Be responsible for all requirements and instructions that it furnishes to Engineer pursuant to this Agreement, and for the accuracy and completeness of all programs, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement.
- 3.6 Provide access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under a Task Order.
- 3.7 Furnish approvals and permits from all governmental authorities having jurisdiction over the Task Order and such approvals and consents from others as may be necessary for completion of the Task Order.
- 3.8 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or time of performance or furnishing of ENGINEER's Services or any relevant, material defect or conformance in ENGINEER's Services or in the work of any Contractor employed by Owner on the Project.
- 3.9 Bear all costs incident to compliance with the requirements of this Article 3.

ARTICLE 4 – PAYMENTS TO ENGINEER FOR SERVICES

- 4.1 Methods of Payment for Services of ENGINEER.
 - 4.1.1 OWNER shall pay ENGINEER for Services performed or furnished under this Agreement or as described in each Task Order. The amount of any excise, VAT, or gross receipts tax that may be imposed shall be added to the compensation shown in each Task Order. If after the Effective Date any governmental entity takes a legislative action that imposes additional sales or use taxes on Engineer's services or compensation under this Agreement, then Engineer may invoice such additional taxes for reimbursement by Owner. Owner shall reimburse Engineer for the cost of such invoiced additional taxes in addition to the compensation to which Engineer is entitled.
 - 4.1.2 Invoices for Services will be prepared in accordance with ENGINEER's standard invoicing

practices and will be submitted to OWNER by ENGINEER at least monthly. Invoices are due and payable within 30 days of receipt.

- 4.1.3 If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's invoice therefor, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and, in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges. Payments will be credited first to interest and then to principal. In the event of a disputed or contested billing, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

OWNER agrees to pay ENGINEER all costs of collection including but not limited to reasonable attorneys' fees, collection fees and court costs incurred by ENGINEER to collect properly due payments.

ARTICLE 5 – GENERAL CONDITIONS

5.1 Standard of Care

The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar conditions at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with any services performed or furnished by Engineer.

5.2 Technical Accuracy

Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

5.3 Opinions of Probable Construction Cost

Engineer's opinions (if any) of probable Construction Cost are to be made on the basis of Engineer's experience, qualifications, and general familiarity with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, then Owner agrees to obtain an independent cost estimate.

5.4 Compliance with Laws and Regulations, and Policies and Procedures

- 5.4.1 Engineer and Owner shall comply with applicable Laws and Regulations.
- 5.4.2 This Agreement is based on Laws and Regulations procedures as of the Effective Date. Changes after the Effective Date to Laws and Regulations may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
- 5.4.3 Engineer shall not be required to sign any document, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such document.

- 5.4.4 Engineer shall not at any time supervise, direct, control, or have authority over any Constructor's work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a Constructor to comply with Laws and Regulations applicable to that Constructor's furnishing and performing of its work. Engineer shall not be responsible for the acts or omissions of any Constructor.
- 5.4.5. Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's, failure to furnish and perform the Work in accordance with the Construction Contract Documents.
- 5.4.6 Engineer shall not be responsible for any decision made regarding the Construction Contract Documents, or any application, interpretation, clarification, or modification of the Construction Contract Documents, other than those made by Engineer or its Consultants.
- 5.4.7 Engineer is not required to provide and does not have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- 5.4.8 Engineer's services do not include providing legal advice or representation.
- 5.4.9. Engineer's services do not include (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission, or (2) advising Owner, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances.
- 5.4.10 While at the Site, Engineer, its Consultants, and their employees and representatives shall comply with the applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.
- 5.5 Termination
The obligation to provide further services under this Agreement may be terminated:
- 5.5.1 For cause,
- a. by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. by Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control, or as the result of the presence at the Site of undisclosed Constituents of Concern.

3)Engineer shall have no liability to Owner on account of such termination.

- c. Notwithstanding the foregoing, this Agreement will not terminate for cause if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

5.5.2 For convenience, by Owner effective upon Engineer's receipt of notice from Owner.

5.5.3 Effective Date of Termination: The terminating party under Paragraph 5.5.1 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.5.4 Payments Upon Termination:

- a. In the event of any termination under Paragraph 5.5, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 5.6.
- b. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 5.5.4.a, to invoice Owner and receive payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs.

5.6 Use of Documents

- 5.6.1 All Documents are instruments of service, and ENGINEER shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.
- 5.6.2 If Engineer is required to prepare or furnish Drawings or Specifications under this Agreement, Engineer shall deliver to Owner at least one original printed record version of such Drawings and Specifications, signed and sealed according to applicable Laws and Regulations
- 5.6.3 Owner and Engineer may transmit, and shall accept, Project-related correspondence, Documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, in accordance with a mutually agreeable protocol. If this Agreement does not establish protocols for electronic or digital transmittals, then Owner and Engineer shall jointly develop such protocols. When transmitting items in electronic media or digital format, the transmitting party makes no

representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

- 5.6.4 Owner may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Upon receipt of full payment due and owing for all Services, ENGINEER grants OWNER a license to use the Documents on the Project, extensions of the Project, and related uses of OWNER, subject to the following limitations: (1) OWNER acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by ENGINEER, or for use or reuse by OWNER or others on extensions of the Project or on any other project without written verification or adaptation by ENGINEER; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants; (3) OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification without written verification, completion, or adaptation by ENGINEER; (4) such limited license to OWNER shall not create any rights in third parties.
- 5.6.5 If ENGINEER at OWNER's request verifies or adapts the Documents for extensions of the Project or for any other project, then OWNER shall compensate ENGINEER at rates or in an amount to be agreed upon by OWNER and ENGINEER.
- 5.7 Controlling Law
This Agreement is to be governed by the Laws and Regulations of the state in which the Project is located.
- 5.8 Mutual Waiver of Consequential Damages
Notwithstanding any other provision of this Agreement to the contrary, neither party including their officers, agents, servants and employees shall be liable to the other for lost profits or any special, indirect, incidental, or consequential damages in any way arising out of this Agreement however caused under a claim of any type or nature based on any theory of liability (including, but not limited to: contract, tort, or warranty) even if the possibility of such damages has been communicated.
- 5.9 Limitation of Liability
In no event shall ENGINEER's total liability to OWNER and/or any of the OWNER's officers, employees, agents, contractors or subcontractors for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to this agreement from cause or causes, including, but not limited to, ENGINEER's wrongful act, omission, negligence, errors, strict liability, breach of contract, breach of warranty, express or implied, exceed the total amount of fee paid to ENGINEER under this agreement or \$50,000, whichever is greater.
- 5.10 Successors and Assigns
- 5.10.1 OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 5.10.2 the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

5.10.2 Neither OWNER nor ENGINEER may assign, sublet or transfer any rights under or interest (including, but without limitation, moneys that may become due or moneys that are due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

5.10.3 Unless expressly provided otherwise in this Agreement:

- a. Nothing in this Agreement shall be construed to create, impose or give rise to any duty owed by ENGINEER to any Constructor, other person or entity, or to any surety for or employee of any of them, or give any rights in or benefits under this Agreement to anyone other than OWNER and ENGINEER.
- b. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

5.11 Notices

Any notice required under this Agreement will be in writing, addressed to the appropriate party at the address which appears on the signature page to this Agreement (as modified in writing from time to time by such party) and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a nationally recognized overnight courier service. All notices shall be effective upon the date of receipt.

5.12 Severability

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

5.13 Changed Conditions

If concealed or unknown conditions that affect the performance of the Services are encountered, which conditions are not ordinarily found to exist or which differ materially from those generally recognized as inherent in the Services of the character provided for under this Agreement or which could not have reasonably been anticipated, notice by the observing party shall be given promptly to the other party and, if possible, before conditions are disturbed. Upon claim by the ENGINEER, the payment and schedule shall be equitably adjusted for such concealed or unknown condition by change order or amendment to reflect additions that result from such concealed, changed, or unknown conditions.

5.14 Environmental Site Conditions

OWNER has disclosed to ENGINEER in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern, as defined in Article 6, located at or near the Site, including type, quantity, and location. OWNER represents to ENGINEER that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to ENGINEER, exist at the Site.

If ENGINEER encounters an undisclosed Constituent of Concern, then ENGINEER shall notify (1) OWNER and (2) appropriate governmental officials if ENGINEER reasonably concludes that doing so is required by applicable Laws or Regulations.

It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to Constituents of Concern. If ENGINEER or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (1) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern, and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.

If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of ENGINEER's services under this Agreement, then the ENGINEER shall have the option of (1) accepting an equitable adjustment in its compensation or in the time of completion, or both; or (2) terminating this Agreement for cause on 30 days' notice.

5.15 Insurance

ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because of injury to or destruction of property.

5.16 Discovery

ENGINEER shall be entitled to compensation on a time and materials basis when responding to all requests for discovery relating to this Project and to extent that ENGINEER is not a party to the lawsuit.

5.17 Nondiscrimination and Affirmative Action

In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

5.18 Force Majeure

Any delays in or failure of performance by ENGINEER shall not constitute a default under this Agreement if such delays or failures of performance are caused by occurrences beyond the reasonable control of ENGINEER including but not limited to: acts of God or the public enemy; expropriation or confiscation; compliance with any order of any governmental authority; changes in law; act of war, rebellion, terrorism or sabotage or damage resulting therefrom; fires, floods, explosions, accidents, riots; strikes or other concerted acts of workmen, whether direct or indirect; delays in permitting; OWNER's failure to provide data in OWNER's possession or provide necessary comments in connection with any required reports prepared by ENGINEER, or any other causes which are beyond the reasonable control of ENGINEER. ENGINEER's scheduled completion date shall be adjusted to account for any force majeure delay and ENGINEER shall be reimbursed by OWNER for all costs incurred in connection with or arising from a force majeure event, including but not limited to those costs incurred in the exercise of reasonable diligence to avoid or mitigate a force majeure event.

5.19 Waiver

Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

5.20 Headings

The headings used in this Agreement are for general reference only and do not have special significance.

5.21 Subcontractors

ENGINEER may utilize such ENGINEER's Subcontractors as ENGINEER deems necessary to assist in the performance of its Services.

5.22 Coordination with Other Documents

It is the intention of the parties that if the ENGINEER's Services include design services, then the Standard General Conditions will be used as the General Conditions for the Project and that all amendments thereof and supplements thereto will be generally consistent therewith. Except as otherwise defined herein, the terms which have an initial capital letter in this Agreement and are defined in the Standard General Conditions will be used in this Agreement as defined in the Standard General Conditions. The term "*defective*" will be used in this Agreement as defined in the Standard General Conditions.

5.23 Purchase Order

Notwithstanding anything to the contrary contained in any purchase order or in this Agreement, any purchase order issued by OWNER to ENGINEER shall be only for accounting purposes for OWNER and the pre-printed terms and conditions contained on any such purchase order are not incorporated herein, shall not apply to this Agreement, and shall be void for the purposes of the Services performed by ENGINEER under this Agreement.

5.24 Change Orders

5.24.1 Any work not contained in a Task Order shall be a change, and shall be performed by ENGINEER only pursuant to a written Change Order to this Agreement signed by OWNER and ENGINEER. Such a Change Order may increase or decrease the Work within the general scope of this Agreement. If this Change Order causes an increase in the cost of the Work, or of the time required for the performance of the Work, ENGINEER shall be paid additional compensation acceptable to both parties in accordance with Exhibit A or granted an extension of the schedule, or both.

5.24.2 In the event OWNER requests ENGINEER to develop information necessary for the consideration of a change in the project, and such a change is not adopted, OWNER shall reimburse ENGINEER for the costs which it incurs in connection with such efforts.

5.25 Construction Contractor's Means and Methods

ENGINEER shall have no authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by the construction contractor or for safety precautions and programs incident to the work of the construction contractor.

5.26 Reporting Regulated Conditions

To the extent required by law, OWNER shall promptly report regulated conditions, including, without limitation, the discovery of releases of hazardous substances at the site to the appropriate public authorities in accordance with applicable law.

5.27 Indemnification

OWNER recognizes that any Task Order executed by ENGINEER involving Constituents of Concern, as defined in Article 6, involves legal exposure and higher risk than ENGINEER's usual engineering services.

OWNER also recognizes that ENGINEER's services are to be compensated primarily on the basis of the time ENGINEER's personnel spend in rendering services and not on basis of the exposure and risk of the work.

Therefore, OWNER and ENGINEER agree as follows:

Notwithstanding any other provision in this Agreement to the contrary, for Task Orders involving or relating to Constituents of Concern, OWNER shall indemnify, defend, and hold harmless the ENGINEER and its subcontractors, consultants, agents, officers, directors, and employees from and against all claims, damages, losses and expenses, direct and indirect, or consequential damages, including but not limited to fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the performance of the work by ENGINEER, or claims against ENGINEER arising from the work of others, related to Constituents of Concern, as defined in Article 6.

The above indemnification provision extends to claims against ENGINEER and to damages which arise out of, are related to, or are based upon the dispersal, discharge, escape, release, threatened release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, asbestos, or any other material, irritant, contaminant or pollutant in or into the atmosphere, or on, onto, upon, in or into the surface or subsurface (a) soil, (b) water or watercourses, (c) objects, or (d) any tangible or intangible matter, whether sudden or not.

Nothing in this Article 5 shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own finally determined negligence or willful misconduct.

5.28 Status of ENGINEER

Nothing contained in this Agreement shall be construed or interpreted as requiring ENGINEER, its officers, agents, servants, or employees to assume the status of a generator, storer, treater, transporter or disposal facility as those terms appear within the Resource Conservation Recovery Act, 42USCA, Section 6901, et seq. (RCRA), or within any state statute of similar effect governing the treatment, storage, transportation or disposal of waste.

5.29 Dispute Resolution

In the event of any dispute between the parties arising out of or in connection with the contract or the services or work contemplated herein; the parties agree to first make a good faith effort to resolve the dispute informally. Negotiations shall take place between the designated principals of each party. If the parties are unable to resolve the dispute through negotiation within 45 days, then either party may give written notice within 10 days thereafter that it elects to proceed with non-binding mediation pursuant to the commercial mediation rules of the American Arbitration Association. In the event that mediation is not invoked by the parties or that the mediation is unsuccessful in resolving the dispute, then either party may submit the controversy to a court of competent jurisdiction. The foregoing is a condition precedent to the filing of any action other than an action for injunctive relief or if a Statute of Limitations may expire.

Each party shall be responsible for its own costs and expenses including attorneys' fees and court costs incurred in the course of any dispute, mediation, or legal proceeding. The fees of the mediator and any filing fees shall be shared equally by the parties.

ARTICLE 6 – DEFINITIONS

6.1 Whenever used in this Agreement the following terms have the meanings indicated which are applicable to both the singular and the plural.

6.1.1 Agreement

This Agreement between OWNER and ENGINEER for Professional Services including those exhibits listed in Article 6.

6.1.2 Constituent of Concern

Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to [a] the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); [b] the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; [c] the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); [d] the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; [e] the Clean Water Act, 33 U.S.C. §1251 et seq.; [f] the Clean Air Act, 42 U.S.C. §§7401 et seq.; and [g] any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

6.1.3 Construction Cost - ♦

The total cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include ENGINEER's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, or OWNER's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project or the cost of other services to be provided by others to OWNER pursuant to Article 3. Construction Cost is one of the items comprising Total Project Costs.

6.1.4 Constructor

Any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, Owner's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

6.1.5 Contractor - ♦

The person or entity with whom OWNER enters into a written agreement covering construction work to be performed or furnished with respect to the Project.

6.1.6 Documents

As applicable to the Services, the data, reports, drawings, specifications, record drawings and other deliverables, whether in printed or electronic media format, provided or furnished by ENGINEER to OWNER pursuant to the terms of this Agreement.

♦ This provision is applicable for projects where ENGINEER provides Design, Bidding, and/or Construction Phase Services.

- 6.1.7 ENGINEER's Subcontractor
A person or entity having a contract with ENGINEER to perform or furnish Services as ENGINEER's independent professional subcontractor engaged directly on the Project.
- 6.1.8 Project
The total undertaking as described in each Task Order.
- 6.1.9 Reimbursable Expenses.
The expenses incurred directly in connection with the performance or furnishing of Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit A.
- 6.1.10 Resident Project Representative - ♦
The authorized representative of ENGINEER who will be assigned to assist ENGINEER at the site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are set forth in Exhibit B, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative" ("Exhibit B").
- 6.1.11 Standard General Conditions - ♦
The Standard General Conditions of the Construction Contract (No.) of the Engineers Joint Contract Documents Committee.
- 6.1.12 Total Project Costs - ♦
The sum of the Construction Cost, allowances for contingencies, the total costs of design professional and related services provided by ENGINEER and (on the basis of information furnished by OWNER) allowances for such other items as charges of all other professionals and consultants, for the cost of land and rights-of-way, for compensation for or damages to properties, for interest and financing charges and for other services to be provided by others to OWNER under Article 3.
- 6.1.13 Work - **Error! Bookmark not defined.**
The entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

ARTICLE 7 – EXHIBITS AND SPECIAL PROVISIONS

- 7.1 This Agreement is subject to the provisions of the following Exhibits which are attached to and made a part of the Agreement:

♦ This provision is applicable for projects where ENGINEER provides Design, Bidding, and/or Construction Phase Services.

Exhibit A 2023 Schedule of Hourly Billing Rates & Expenses

This Agreement (consisting of Pages 1 to _____ inclusive), and the Exhibits identified above constitute the entire agreement between OWNER and ENGINEER and supersede all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the date first above written.

OWNER:

ENGINEER:

By:
Title:

By:
Title:

Address for giving notices:

Address for giving notices:



Appendix A

CDM Smith proposes to perform professional engineering services, as requested by the City of Asbury Park, on an hourly rate basis. All work assignments will be performed at the written direction of City staff. A table of average hourly rates for the various grade levels of our staff is presented below. Actual billed rates will be the employee's salary times 3.0 to include benefits, overhead and profit. Outside professionals would be invoiced with a mark-up of ten (10) percent.

Mileage for necessary travel will be billed at the U.S. General Services Administration mileage reimbursement rate (presently at \$0.625 per mile) or airfare, plus hotel accommodations and other associated costs. No mark-up will be invoiced for other direct costs (ODCs). CDM Smith may choose to utilize staffing from other CDM Smith affiliated companies.

CDM Smith Schedule of Average Hourly Rates (2023*)		
Labor Grade	Labor Category	Average Raw Hourly Rate
Engineers/Scientists		
Grade 10	Engineers/Scientists	\$96.00
Grade 9	Engineers/Scientists	\$88.00
Grade 8	Engineers/Scientists	\$80.00
Grade 6-7	Engineers/Scientists	\$75.00
Grade 4-5	Engineers/Scientists	\$67.00
Grade 2-3	Engineers/Scientists	\$60.00
Grade 1	Engineers/Scientists	\$47.00
Resident Engineers/Inspectors		
Grade 6-7	Resident Engineers/Inspectors	\$50.00
Grade 4-5	Resident Engineers/Inspectors	\$45.00
Grade 2-3	Resident Engineers/Inspectors	\$40.00
Administrative Assistants/Financial		
Grade 8	Administrative Assistants/Financial	\$44.00
Grade 4-5	Administrative Assistants/Financial	\$37.00
Grade 2-3	Administrative Assistants/Financial	\$33.00

*Billed rates will be actual employee salary rates time 3.0.

CDM Smith Global Services India LLP will be billed at the hourly rates presented in the table below.

Career Level	Cost
Designer/Drafter – DNDF 1 to 4 GIS Specialist – GS 1 to 4 Finance Accountant or Admin – FN/AS 1 to 4	\$53
Engineer/Architect/Planner – EN/AR/PL 1 to 3 Designer/Drafter – DNDF 5,6 GIS Specialist – GS 5,6 Project Controls Specialist – PMPC 5,6 Finance Accountant or Admin – FN/AS 5,6	\$63
Engineer/Architect/Planner – EN/AR/PL 4,5 Designer/Drafter – DNDF 7 and above GIS Specialist – GS 7 and above Project Controls Specialist – PMPC 7 Finance Accountant or Admin – FN/AS 7 and above	\$77
Engineer/Architect/Planner – EN/AR/PL 6 and above Project Controls Specialist – PMPC 8 and above	\$110



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-52

Appointing Members to the Business Advisory Committee



RESOLUTION NO. 2023-52

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE BUSINESS ADVISORY COMMITTEE

WHEREAS, the Mayor and City Council of the City of Asbury Park (the “City”) believe that it is in the best interests of the residents of the City to formally create a “Business Committee,” (also referenced herein as the “Committee”) for the purpose(s) set forth below; and

WHEREAS, the purpose(s) of the Committee shall be to provide consultative and advisory assistance to the Mayor and Council, regarding business issues for the City, as well as all residents of the community; and

WHEREAS, it is intended that the Committee shall be advisory in nature, and that the Committee shall report its findings and recommendations to the Mayor and Council for further action, as the Governing Body deems appropriate; and

WHEREAS, the Committee shall keep the Mayor and Council informed of its work and shall report to the City Council at the Council’s request; and

WHEREAS, the Committee shall be composed of members who shall be appointed by the Mayor and Council and who shall serve, without compensation, at the pleasure of the Mayor and Council; and

WHEREAS, the terms of the Committee members shall be from January 1, 2023 through December 31, 2023; and

WHEREAS, the Committee shall appoint a Chair, and shall meet in accordance with a schedule as the Committee deems appropriate; and

WHEREAS, the Committee members will be indemnified for actions that are performed in the good faith performance of their duties in accordance with the provisions contained in Section 2-64 of the City Code, as well as applicable law; and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. A “Business Committee” (the “Committee”) is hereby established in and for the City, in accordance with the terms and conditions referenced above.
2. The following individuals are hereby appointed to serve on the Committee:

<u>Appointee</u>	<u>Term to Expire</u>
Deputy Mayor Amy Quinn	12/31/2023
City Manager Donna Vieiro	12/31/2023
Jenn Hampton	12/31/2023
Bianca Freda	12/31/2023
Kathy Kelly	12/31/2023
Russell Lewis	12/31/2023
Reggie Flimlin	12/31/2023
Sylvia Sylvia Cioffi	12/31/2023
Austin Leopold	12/31/2023
Robin Elliot-Preston	12/31/2023
Chris Zatorski	12/31/2023
David Lewis	12/31/2023
Danny Croak	12/31/2023
Amy Floss	12/31/2023
Gene Mignola	12/31/2023

3. A certified copy of this Resolution shall be provided to all appointed members and Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-52 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-53

Authorizing Appointments to Community Development Block Committee 2023

**RESOLUTION NO. 2023-53**

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION AUTHORIZING APPOINTMENTS TO COMMUNITY
DEVELOPMENT BLOCK COMMITTEE**

WHEREAS, the Mayor and City Council of the City of Asbury Park (the “City”) believe that it is in the best interests of the residents of the City to formally create a “Community Development Block Grant Committee,” (also referenced herein as the “Committee”) for the purpose(s) set forth below; and

WHEREAS, the purpose(s) of the Committee shall be review Community Development Block Grant applications and to provide consultative and advisory assistance to Mayor and Council concerning such issues; and

WHEREAS, it is intended that the Committee shall be advisory in nature, and that the Committee shall report its findings and recommendations to the Mayor and Council for further action, as the Governing Body deems appropriate; and

WHEREAS, the Committee shall keep the Mayor and Council informed of its work and shall report to the City Council at the Council’s request; and

WHEREAS, the Committee shall be composed of members who shall be appointed by the Mayor and Council and who shall serve, without compensation, at the pleasure of the Mayor and Council; and

WHEREAS, the terms of the Committee members shall begin January 1, 2023 and shall expire December 31, 2023; and

WHEREAS, the Committee shall appoint a Chair, and shall meet in accordance with a schedule as the Committee deems appropriate; and

WHEREAS, the Committee members will be indemnified for actions that are performed in the good faith performance of their duties in accordance with the provisions contained in Section 2-64 of the City Code, as well as applicable law; and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. A “Community Development Block Grant Committee” (the “Committee”) is hereby established in and for the City, in accordance with the terms and conditions referenced above.
2. The following individuals are hereby appointed to serve on the Committee:

<u>Appointee</u>	<u>Term to Expire</u>
Mayor John Moor	12/31/2023
Deputy Mayor Amy Quinn	12/31/2023
Cassandra Dickerson	12/31/2023
Leesha Floyd	12/31/2023

3. A certified copy of this Resolution shall be provided to each appointed member and Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-53 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-54

Appointments to Code Enforcement/Quality of Life Committee 2023



RESOLUTION NO. 2023-54

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO CODE ENFORCEMENT/QUALITY OF LIFE COMMITTEE

WHEREAS, the Mayor and City Council of the City of Asbury Park (the “City”) believe that it is in the best interests of the residents of the City to formally create a “Code Enforcement/Quality of Life Committee,” (also referenced herein as the “Committee”) for the purpose(s) set forth below; and

WHEREAS, the purpose(s) of the Committee shall be to study existing code enforcement and quality of life issues within the City and to provide consultative and advisory assistance to Mayor and Council concerning such issues; and

WHEREAS, the Committee shall provide advice to the Mayor and Council as to short-term and long-term recommendations; and

WHEREAS, it is intended that the Committee shall be advisory in nature, and that the Committee shall report its findings and recommendations to the Mayor and Council for further action, as the Governing Body deems appropriate; and

WHEREAS, the Committee shall keep the Mayor and Council informed of its work and shall report to the City Council at the Council’s request; and

WHEREAS, the Committee shall be composed of members who shall be appointed by the Mayor and Council and who shall serve, without compensation, at the pleasure of the Mayor and Council; and

WHEREAS, the terms of the Committee members shall begin January 1, 2023 and shall expire December 31, 2023; and

WHEREAS, the Committee shall appoint a Chair, and shall meet in accordance with a schedule as the Committee deems appropriate; and

WHEREAS, the Committee members will be indemnified for actions that are performed in the good faith performance of their duties in accordance with the provisions contained in Section 2-64 of the City Code, as well as applicable law; and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. A “Code Enforcement/Quality of Life Committee” (the “Committee”) is hereby established in and for the City, in accordance with the terms and conditions referenced above.
2. The following individuals are hereby appointed to serve on the Committee:

<u>Appointee</u>	<u>Term to Expire</u>
Council Member Yvonne Clayton	12/31/2023
Council Member Eileen Chapman	12/31/2023
Patricia Zanellato	12/31/2023
Diane Shelton	12/31/2023
Pamela Major	12/31/2023
John Scully	12/31/2023
Lisa Bovino	12/31/2023
Mareline Lizaire-Boston	12/31/2023

3. A certified copy of this Resolution shall be provided to each member appointed and Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-54 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-55

Appointments to the Deal lake Commission 2023



RESOLUTION NO. 2023-55

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE DEAL LAKE COMMISSION

WHEREAS, pursuant to Section 2-46 of the “Revised General Ordinances of the City of Asbury Park, New Jersey,” a Deal Lake Commission (the “Commission”) has been duly created in and for the City of Asbury Park (the “City”); and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee, in accordance with the provisions set forth in the Section referenced above.

NOW, THEREFORE, BE IT RESOLVED, that the following individuals are hereby appointed to serve on the Deal Lake Commission for a one-year term:

1. The following individuals are hereby appointed to serve on the Commission:

Jeannie Toher
Edward A. Winder

Term Expires: 12/31/2023
Term Expires: 12/31/2023

2. A certified copy of this Resolution shall be provided to each of the following:

- a. Donna Vieiro, City Manager
- b. Deal Lake Commission

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-55 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-56

Appointments to the Environmental Shade Tree Commission 2023



RESOLUTION NO. 2023-56

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE ENVIRONMENTAL SHADE TREE COMMISSION

WHEREAS, pursuant to Section 2-41 of the “Revised General Ordinances of the City of Asbury Park, New Jersey,” an Environmental/Shade Tree Commission (the “Commission”) has been duly created in and for the City of Asbury Park (the “City”); and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee, in accordance with the provisions set forth in the Section referenced above.

NOW, THEREFORE, BE IT RESOLVED, that the following individuals are hereby appointed to serve on the Environmental/Shade Tree Commission for the term referenced:

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the following individuals are hereby appointed to serve on the Commission:

<u>Appointee</u>	<u>Term to Expire</u>
Garrett L. Giberson	December 31, 2027
Jim Henry	December 31, 2027
Tom Kulesa	December 31, 2027
Gerald List	December 31, 2027

2. That a certified copy of this Resolution shall be provided to each appointed member and Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-56 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-57

Appointments to the Green Team 2023



RESOLUTION NO. 2023-57

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE GREEN TEAM

WHEREAS, the Mayor and Council wish to appoint certain individuals to serve on the Municipal Green Team, in accordance with the requirements of Sustainable New Jersey Certification; and

WHEREAS, the Green Team will meet on a as needed basis; and

WHEREAS, the City Manager or his/her designee shall serve as chairperson; and

NOW, THEREFORE, BE IT RESOLVED, that the following individuals are hereby appointed to serve on the Asbury Park Green Team for a period as needed.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the following individuals are hereby appointed to serve on the Green Team:

City Manager Donna Vieiro or designee, Chairperson	12/31/2023
Chairperson of the Environmental Shade Tree Commission or designee	12/31/2023
Chairperson of the Asbury Park Business Committee or designee	12/31/2023
Council member Eileen Chapman	12/31/2023
Yvonne Adams	12/31/2023
Derek Minno Bloom	12/31/2023
Kathleen Mumma	12/31/2023
Diana Pittet	12/31/2023
Giuseppe Grillo	12/31/2023
Barbara Krzak	12/31/2023
Jen Kosakowski	12/31/2023
Joy Morgan	12/31/2023
Janna Manning	12/31/2023

2. That a certified copy of this Resolution shall be provided to Donna Vieiro, City

Manager, and Michele Alonso, Director of Planning and Redevelopment.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-57 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-58

Appointments to the Parking Committee



RESOLUTION NO. 2023-58

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE PARKING COMMITTEE

WHEREAS, the Mayor and City Council of the City of Asbury Park (the “City”) believe that it is in the best interests of the residents of the City to formally create a “Parking Advisory Committee” (also referenced herein as the “Committee”) for the purpose(s) set forth below; and

WHEREAS, the purpose(s) of the Committee shall be to study the existing parking conditions within the City and to provide consultative and advisory assistance to the Mayor and Council concerning parking issues within the City; and

WHEREAS, the Committee shall provide advice to the Mayor and Council as to short-term and long-term recommendations; and

WHEREAS, it is intended that the Committee shall be advisory in nature, and that the Committee shall report its findings and recommendations to the Mayor and Council for further action, as the Governing Body deems appropriate; and

WHEREAS, the Committee shall keep the Mayor and Council informed of its work and shall report to the City Council at the Council’s request; and

WHEREAS, the Committee shall be composed of members who shall be appointed by the Mayor and Council and who shall serve, without compensation, at the pleasure of the Mayor and Council; and

WHEREAS, the terms of the Committee members shall be for January 1, 2023 and expire December 31, 2023; and

WHEREAS, the Committee shall appoint a Chair, and shall meet in accordance with a schedule as the Committee deems appropriate; and

WHEREAS, the Committee members will be indemnified for actions that are performed in the good faith performance of their duties in accordance with the provisions contained in Section 2-64 of the City Code, as well as applicable law.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and

Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. A "Parking Advisory Committee" is hereby established in and for the City, in accordance with the terms and conditions referenced above.
2. The following individuals are hereby appointed to serve on the Committee:

<u>Appointee</u>	<u>Term to Expire</u>
Mayor John Moor	12/31/2023
Gene Dello	12/31/2023
James Bonanno	12/31/2023
Barbara Krzak	12/31/2023
William West	12/31/2023
Jordan Modell	12/31/2023
Jill Potter	12/31/2023

3. A certified copy of this Resolution shall be provided to each appointed member and Donna M. Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-58 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-59

Appointments to the Participatory Budget Committee

**RESOLUTION NO. 2023-59**

**City of Asbury Park
County of Monmouth
State of New Jersey**

**RESOLUTION AUTHORIZING APPOINTMENTS TO THE PARTICIPATORY
BUDGET COMMITTEE**

WHEREAS, Participatory Budgeting is a democratic and transparent process which involves community members in deciding how a designated portion of a public budget is spent;

WHEREAS, the goals of the Participatory Budgeting initiative are Equity, Empowerment and Community Building/Civic Engagement.

WHEREAS, Equity can be achieved through this process by the distribution of funds throughout the City and through direct resident representation and input from every member of the community.

WHEREAS, Empowerment can be achieved through this process by engaging residents who normally do not participate in traditional elections and voting. By encouraging the submission of projects that residents have suggested and are advocates of, the engagement efforts will focus on the participation of all residents from project submission through voting.

WHEREAS, Community Building can be achieved through the promotion of civic engagement and the “hands-on” experience of the Participatory Budget process. Those Community members that have not had an interest in “traditional” City government actions, have the opportunity to become involved in and learn about public budgeting. Additionally, our youth, who are excluded from traditional elections, will also have the ability to have their ideas not only heard, but also be able to vote and have an impact on the outcome.

WHEREAS, the Participatory Budgeting process will be as follows:

- 1) Residents submit ideas for public projects they would like to have in their community;
- 2) The Participatory Budget Committee will work with the individuals who have submitted projects along with City staff to determine feasibility and establish a budget and outline a proposal for the project
- 3) Residents are invited to a public meeting where projects will be presented.
- 4) Residents will then vote on the projects presented.

WHEREAS, the Participatory Budgeting Committee will be comprised of 9 residents of the City of Asbury Park who are 14 years of age or older. There will also be a City Council liaison as well as City Staff support.

NOW, THEREFORE, BE AND ITS HEREBY RESOLVED, by the Mayor and Council of the County of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. A “Participatory Budget Committee” is hereby established in and for the City, in accordance with the terms and conditions referenced above

2. The following individuals are hereby appointed to serve on the Committee:

<u>Appointee</u>	<u>Term</u>
1. Council member Eileen Chapman	12/31/2023
2. Joe Lucarelli	12/31/2023
3. Chris Mansicalo	12/31/2023
4. Jacalyn Sharpe	12/31/2023
5. Paul Weinstein	12/31/2023

3. A certified copy of this Resolution shall be provided to all appointed members and Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-59 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-60

Appointments to the Planning Board



RESOLUTION NO. 2023-60

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE PLANNING BOARD

WHEREAS, pursuant to N.J.S.A. 40:55D-23, et seq., and Section 30-21, *et seq.*, of the Asbury Park City Code, a Planning Board has been established within the City consisting of seven (9) regular members that are segregated into four (4) separate Classes, and two (2) alternate members; and

WHEREAS, the Mayor and Council must appoint one (1) Class III member of the Planning Board, constituting a member of the Governing Body to be appointed by it; and

WHEREAS, the Mayor and Council must also appoint certain Class IV citizen members to the Planning Board, along with certain alternate members (who shall also meet the qualifications of Class IV members); and

WHEREAS, with the above in mind, the Mayor and Council wish to make the following appointments to the Planning Board, effective as of January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. That, effective as of January 1, 2023, **Council Member Yvonne Clayton** is hereby appointed to serve as the **Class III** member of the Planning Board, for a term of one (1) year, or until the completion of her term of office, whichever occurs first.
2. That, effective as of January 1, 2023, the following citizen(s) of the City of Asbury Park is/are hereby appointed as **Class IV** member(s) of the Planning Board, for a term of four (4) years:

Jennifer Souder - Term to expire on **December 31, 2026**

Daniel Sciannameo - Term to expire on **December 31, 2024**

3. That, effective as of January 1, 2023, the following citizen(s) of the city of Asbury Park is/are hereby appointed as Alternate member(s) of the Planning Board, for a term of two (2) years:

Michael Goonan - Alternate#1-Term to expire on **December 31, 2024**

A certified copy of this Resolution shall be provided to each of the following:

- a. Each Appointee referenced above.
- b. Planning Board Secretary
- c. Donna Vieiro, City Manager

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-60 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-61

Appointments to the Public Arts Commission 2023



RESOLUTION NO. 2023-61

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE PUBLIC ARTS COMMISSION

WHEREAS, pursuant to Section 2-43 of the “Revised General Ordinances of the City of Asbury Park, New Jersey,” a Public Art Commission (the “Commission”) has been duly created in and for the City of Asbury Park (the “City”); and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee, in accordance with the provisions set forth in the Section referenced above.

NOW, THEREFORE, BE IT RESOLVED, that the following individuals are hereby appointed to serve on the Public Art Commission for the term referenced:

<u>Appointee</u>	<u>Term to Expire</u>
Malcolm Navias	12/31/2025
Shana Labranche	12/31/2025

BE IT FURTHER RESOLVED, that the Committee shall operate in accordance with the provisions set forth in Section 2-43 of the “Revised General Ordinances of the City of Asbury Park, New Jersey.”

BE IT FURTHER RESOLVED, that a copy of this resolution shall be provided to each appointed member and Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-61 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-62

Appointments to the Recreation Committee 2023



RESOLUTION NO. 2023-62

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE RECREATION COMMITTEE

WHEREAS, the Mayor and City Council of the City of Asbury Park (the “City”) believe that it is in the best interests of the residents of the City to formally create a “Recreation Advisory Committee,” (also referenced herein as the “Committee”) for the purpose(s) set forth below; and

WHEREAS, the purpose(s) of the Committee shall be to provide consultative and advisory assistance to the Mayor and Council, regarding recreation issues for the youth of the City, as well as all residents of the community; and

WHEREAS, it is intended that the Committee shall be advisory in nature, and that the Committee shall report its findings and recommendations to the Mayor and Council for further action, as the Governing Body deems appropriate; and

WHEREAS, the Committee shall keep the Mayor and Council informed of its work and shall report to the City Council at the Council’s request; and

WHEREAS, the Committee shall be composed of members who shall be appointed by the Mayor and Council and who shall serve, without compensation, at the pleasure of the Mayor and Council; and

WHEREAS, the terms of the Committee members shall be from January 1, 2023 through December 31, 2023; and

WHEREAS, the Committee shall appoint a Chair, and shall meet in accordance with a schedule as the Committee deems appropriate; and

WHEREAS, the Committee members will be indemnified for actions that are performed in the good faith performance of their duties in accordance with the provisions contained in Section 2-64 of the City Code, as well as applicable law; and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. A "Recreation Advisory Committee" (the "Committee") is hereby established in and for the City, in accordance with the terms and conditions referenced above.
2. The following individuals are hereby appointed to serve on the Committee:

<u>Appointee</u>	<u>Term to Expire</u>
Council Member Eileen Chapman	12/31/2023
Council Member Angela Ahbez-Anderson	12/31/2023
Jesse Kendle	12/31/2023
Jessie Ricks	12/31/2023
Angeline Brown	12/31/2023
Douglas Eagles	12/31/2023
Shawana A. Gartrell	12/31/2023
Toran Jordan	12/31/2023
Tyron McAllister	12/31/2023
Esther Piekarski	12/31/2023
Vishal Sood	12/31/2023
Sylvia Sylvia Cioffi	12/31/2023

3. A certified copy of this Resolution shall be provided to Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-62 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-63

Appointments to the Rent Leveling Board 2023



RESOLUTION NO. 2023-63

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE RENT LEVELING BOARD

WHEREAS, Ordinance No. 2021-40, adopted on December 22, 2021, established regulations governing the appointment and the term scheme associated with the regular and alternate members of the Rent Leveling Board; and

WHEREAS, in accordance with Ordinance No. 2021-40, the Mayor and Council wish to appoint the following seven (7) regular and two (2) alternate members to the Rent Leveling Board for the terms indicated below.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the following regular members of the Rent Leveling Board are hereby appointed for the following terms:

(a) Tenant Members:

- **Maryann Antenucci** shall serve for a one-year term expiring on 12/31/2023; and

(b) Landlord Members:

- **Peter Siegel** shall serve for a one-year term expiring on 12/31/2023; and

(c) Other residents/property owners:

- **Derek M. Bloom** shall serve for a one-year term expiring on 12/31/2023.

3. That should the status of any of the above appointees change such that they are no longer a tenant, landlord or resident/property owner of the City of Asbury Park, as applicable, then the appointee(s) must notify the City Clerk immediately. In such

cases their appointment(s) to serve on the Board shall cease and a replacement member shall be appointed by the Mayor and Council to fill the vacancy.

4. That a certified copy of this Resolution shall be provided to each of the following:
 - a. Each Appointee referenced above;
 - b. Donna M. Vieiro, City Manager;
 - c. Frederick C. Raffetto, Esq., Municipal Attorney.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-63 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-64

Appointments to the Sunset Lake Commission 2023



RESOLUTION NO. 2023-64

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE SUNSET LAKE COMMISSION

WHEREAS, pursuant to Section 2-47 of the “Revised General Ordinances of the City of Asbury Park, New Jersey,” a Sunset Lake Commission (the “Commission”) has been duly created in and for the City of Asbury Park (the “City”); and

WHEREAS, the Mayor and Council now wish to appoint certain individuals to serve on the Committee, in accordance with the provisions set forth in the Section referenced above.

NOW, THEREFORE, BE IT RESOLVED, that the following individuals are hereby appointed to serve on the Sunset Lake Commission:

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. That the following individual(s) are hereby appointed to serve on the Commission:

Appointee

Council member Eileen Chapman

Term Expire:

12/31/2024

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-64 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-65

Appointments to the Mayor's Wellness Committee 2023



RESOLUTION NO. 2023-65

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE MAYOR'S WELLNESS COMMITTEE

WHEREAS, the Mayor and City Council of the City of Asbury Park (the “City”) believe that it is in the best interests of the residents of the City to formally create a “Mayor’s Wellness Committee” (also referenced herein as the “Committee”) for the purpose(s) set forth below; and

WHEREAS, the purpose(s) of the Committee shall be to provide a community initiative to champion healthy and active living within the City of Asbury Park and improve overall health within the community; and

WHEREAS, it is intended that the Committee shall be advisory in nature, and that the Committee shall report its findings and recommendations to the Mayor and Council for further action, as the Governing Body deems appropriate; and

WHEREAS, the Committee shall keep the Mayor and Council informed of its work and shall report to the City Council at the Council’s request; and

WHEREAS, the Committee shall be composed of members who shall be appointed by the Mayor and Council and who shall serve, without compensation, at the pleasure of the Mayor and Council; and

WHEREAS, the terms of the Committee members shall be for January 1, 2023 and expire December 31, 2023; and

WHEREAS, the Committee shall appoint a Chair, and shall meet in accordance with a schedule as the Committee deems appropriate; and

WHEREAS, the Committee members will be indemnified for actions that are performed in the good faith performance of their duties in accordance with the provisions contained in Section 2-64 of the City Code, as well as applicable law.

NOW, THEREFORE, BE AND IT IS HEREBY RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth and State of New Jersey, as follows:

1. A “Mayor’s Wellness Committee” is hereby established in and for the City, in accordance with the terms and conditions referenced above.

2. The following individuals are hereby appointed to serve on the Committee:

<u>Appointee</u>	<u>Term to Expire</u>
Mayor John Moor	12/31/2023
Lisa Lee	12/31/2023
Wendi Glassman	12/31/2023
Allison Cerco	12/31/2023
Vishal Sood	12/31/2023
Nina Summerlin	12/31/2023
Pamela Major	12/31/2023
Debra Esola	12/31/2023
Kathleen Melgar	12/31/2023
Karyn Moskowitz	12/31/2023
James Raffone	12/31/2023
Lilibeth Corrales	12/31/2023
Destiny Smith	12/31/2023

3. A certified copy of this Resolution shall be provided to all appointed members and Donna Vieiro, City Manager.

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-65 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Individual Resolutions
Meeting of the Municipal Council
Sunday, January 1, 2023
RESOLUTION SUMMARY

2023-66

Appointments to the Zoning Board of Adjustment 2023



RESOLUTION NO. 2023-66

**City of Asbury Park
County of Monmouth
State of New Jersey**

RESOLUTION AUTHORIZING APPOINTMENTS TO THE ZONING BOARD OF ADJUSTMENT

WHEREAS, pursuant to N.J.S.A. 40:55D-69, et seq., and Section 30-22, *et seq.*, of the Asbury Park City Code, a Zoning Board of Adjustment has been established within the City consisting of seven (7) regular members and two (2) alternate members; and

WHEREAS, per Section 30-22.1 of the City Code, all regular and alternate members of the Zoning Board of Adjustment are to be appointed by the Mayor and Council; and

WHEREAS, pursuant to N.J.S.A. 40:55D-69, the terms of all members first appointed to the Zoning Board of Adjustment shall be so determined that, to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their appointment; and

WHEREAS, thereafter, the term of each regular member shall be for four (4) years, and the term of each alternate member shall be for two (2) years; and

WHEREAS, with the above in mind, the Mayor and Council wish to make the following appointments to the Zoning Board of Adjustment, effective as of January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Asbury Park, in the County of Monmouth, State of New Jersey, as follows:

1. Effective as of January 1, 2023, the following resident(s) of the City of Asbury Park is/are hereby appointed as **regular member(s)** of the Zoning Board of Adjustment, for a term of four (4) years:

- John Scully - Term to expire on **December 31, 2026**

2. A certified copy of this Resolution shall be provided to each of the following:

- a. Each Appointee referenced above.

- b. Zoning Board of Adjustment Secretary
- c. Donna Vieiro, City Manager

I, LISA ESPOSITO, City Clerk of the City of Asbury Park, Monmouth County, New Jersey, DO HEREBY CERTIFY the foregoing to be a true and exact copy of RESOLUTION NO. 2023-66 which was finally adopted by the City Council at a meeting held on the 1st day of January, 2023

CERTIFIED BY ME THIS 2nd DAY OF January, 2023.

LISA ESPOSITO
CITY CLERK



Minutes
Meeting of the Municipal Council
Sunday, January 1, 2023
ORGANIZATIONAL MEETING

Call to Order

Call to Order/Roll Call

Attendee Name	Title	Status	Arrived
Angela Ahbez-Anderson	Councilmember	Present	
Eileen Chapman	Councilmember	Present	
Yvonne Clayton	Councilmember	Present	
Amy Quinn	Deputy Mayor	Present	
John Moor	Mayor	Present	
Donna Vieiro	City Manager	Present	
Frederick Raffetto	City Attorney	Present	
Lisa Esposito	City Clerk	Present	
Anthony Cucci	Deputy City Clerk	Absent	

City Clerk Lisa Esposito called the meeting to order at 12:00 PM.

Invocation by Reverend Marcia Grayson

Salute the Flag

Announcement by City Clerk

As to comply with the Open Public Meetings Act, Chapter 231, P.L. 1975, adequate Notice of this meeting has been provided in the following manner: The Reorganization Meeting Notice was forwarded to the Asbury Park Press and The Coaster on December 9, 2022, and posted on the bulletin board the same date. All notices are on file with the City Clerk.

Swearing in of Newly Elected Officials by Municipal Court Judge Ronald J. Troppoli

SWEARING IN OF COUNCIL MEMBER ANGELA AHBEZ-ANDERSON

SWEARING IN OF MAYOR JOHN MOOR

Nomination of Deputy Mayor

A nomination was made by Mayor Moor and seconded by Council member Clayton. All in favor for the nomination of Amy Quinn for Deputy Mayor.

SWEARING IN OF DEPUTY MAYOR BY MUNICIPAL COURT JUDGE RONALD J. TROPOLI

Resolutions

CONSENT AGENDA

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

- 2023-1 Resolution Establishing Council Meeting Dates for 2023
- 2023-2 Resolution Designating the Official Newspapers for the City of Asbury Park for the Year 2023
- 2023-3 Resolution Establishing 2023 Schedule of Holidays
- 2023-4 Resolution Authorizing the City Clerk to Execute all Bingo and Raffle Games of Chance Applications that Meet all Provisions Pursuant to Statute for the 2023 Calendar Year
- 2023-5 Resolution Establishing Rules of Order for Public Comments
- 2023-6 Resolution Authorizing the City Clerk to Execute all of the City of Asbury Park Fire Department Member's Enrollment into NJ State Firemen's Association for the 2023 Calendar Year
- 2023-7 Resolution Appointing a Fund Commissioner and Alternate to the New Jersey Intergovernmental Insurance Fund
- 2023-8 Resolution Appointing an ADA Compliance Officer and Coordinator
- 2023-9 Resolution Designating a Public Agency Compliance Officer
- 2023-10 Resolution Authorizing City Manager to sign NJDEP Treatment Works Applications
- 2023-11 Resolution Authorizing the Tax Assessor to Act as Agent for the City of Asbury Park for the Purpose of Filing and Settling Tax Appeals on Behalf of the Taxing District for the Tax Year 2023

- 2023-12 Resolution Adopting a Debt Management and Capital Policy
- 2023-13 Resolution of the Mayor and Council of the City of Asbury Park Designating the Depositories wherein all Public Monies and Other Funds of the Municipality Shall Be Kept
- 2023-14 Resolution Adopting a Cash Management Plan for the City of Asbury Park
- 2023-15 Resolution Authorizing Change in Custodian of Petty Cash Fund
- 2023-16 Resolution Appointing a Recycling Coordinator for the Year 2023
- 2023-17 Resolution To Credit Sewer Account For Deduct Meter
- 2023-18 Resolution Of The Mayor And Council Of The City Of Asbury Park Fixing The Rate Of Interest To Be Charged On Delinquent Taxes, Assessments And Sewer Accounts For 2023
- 2023-19 Resolution Setting Fees for Tax Collection Department for 2023
- 2023-20 Resolution Approving and Adopting A Form Required to Be Utilized for The Filing of Tort Claims Against the City Of Asbury Park in Accordance with The Provisions of The New Jersey Tort Claims Act

INDIVIDUAL RESOLUTIONS

- 2023-21 Resolution Appointing A Deputy Mayor

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

- 2023-22 Resolution Providing for 2023 Temporary Budget Appropriations

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	John Moor, Mayor
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

- 2023-67 Resolution Appointing Municipal Court Judge

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-23 Resolution Appointing Frederick C. Raffetto, Esq., to Serve as Municipal Attorney for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-24 Resolution Appointing PFK O'Connor Davies to Serve as Auditor for the City and Authorizing the Execution of an Agreement for Professional Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-25 Resolution Appointing T & M Associates to Serve as Municipal Engineer for the City, and Authorizing the Execution of an Agreement for Professional Engineering Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-26 Resolution Pursuant to N.J.S.A. 40:48-1 Authorizing the City Engineer to Perform Services as Designee to The City Manager for Review of Development Permits in Any Area of Special Flood Hazard

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-27 Resolution Appointing Archer & Greiner, P.C. to Serve as Redevelopment Counsel and Authorizing the Execution of an Agreement for Professional Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-28 Resolution Appointing Archer & Greiner, P.C. to Serve as Bond Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-29 Resolution Appointing Maraziti and Falcon to Serve as Redevelopment Counsel and Authorizing the Execution of an Agreement for Professional Services Associated Therewith

RESULT:	ADOPTED [3 TO 1]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Angela Ahbez-Anderson, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, John Moor
NAYS:	Amy Quinn
ABSTAIN:	Angela Ahbez-Anderson

2023-30 Resolution of the Mayor and City Council of The City of Asbury Park to enter into a Professional Services Agreement with Public Resources Advisory Group for the Provision of PILOT/RAB Administration

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-31 Resolution Awarding a Contract for U.S. Environmental Protection Agency Brownfields Community-Wide Hazardous Substances Assessment Grant and Petroleum Community-Wide Assessment Grant Service To Brownfield Redevelopment Solutions, Incorporated (BRS)

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-32 Resolution Appointing Acacia Financial Group, Inc. To Serve as Financial Advisors for the City, and Authorizing the Execution of an Agreement for Professional Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-33 Resolution Authorizing the Execution of an Agreement for Professional Appraisal Services to BRB Valuations Pamela J. Brodowski, MAI, ASA, CTA

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-34 Resolution Appointing GJEM Insurance Agency, to Serve as an Insurance Brokerage/Consultant/Risk Manager, and Authorizing the Execution of an Agreement for Professional Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-35 Resolution Appointing Law Offices of Parker McCay, P.A. to Serve as OPRA Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-36 Resolution Authorizing the Award of a Contract to the Firm of Kyle + McManus Associates, LLC to Perform Professional Affordable Housing Planning and/or Consulting Services

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-37 Resolution Appointing Law Offices of Genova Burns, LLC to Serve as Labor Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-38 Resolution Appointing Community, Grants, Planning & Housing LLC To Serve as Affordable Housing Administrative Agent For the City of Asbury Park

RESULT:	ADOPTED [3 TO 1]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn
NAYS:	John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-39 Resolution Appointing the Firm of Surenian, Edwards & Nolan, LLC To Serve as Special Affordable Housing Counsel For the City of Asbury Park

RESULT:	ADOPTED [3 TO 1]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn
NAYS:	John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-40 Resolution Appointing City Prosecutor

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	John Moor, Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-41 Resolution Appointing Alternate City Prosecutor

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	John Moor, Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-42 Resolution Appointing City Public Defender

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-43 Resolution Appointing Alternate Public Defender

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	John Moor, Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-44 Resolution Appointing Gregory B. Pasquale, Esquire, to Serve as Special Tax Counsel for the City, and Authorizing the Execution of an Agreement for Professional Legal Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-45 Resolution Appointing the firm of Gene J Anthony, Esquire to Serve as Rent Leveling Board Attorney for the City, and Authorizing the Execution of an Agreement for Professional Services Associated Therewith.

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-46 Resolution Appointing Various Firms to Provide Architectural Services for the City, and Authorizing the Execution of an Agreement for Professional Architectural Services Associated Therewith

RESULT:	ADOPTED [4 TO 0]
MOVER:	John Moor, Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-47 Resolution Authorizing the Award of a Contract to The Firm of ENGenuity Infrastructure to Perform Special Project Engineering Services

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-48 Resolution Authorizing the Award of a Contract to The Firm of Dynamic Traffic, LLC to Perform Special Project Engineering Services

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-49 Resolution Authorizing the Award of a Contract to the Firm of ARH, Inc. to Perform Special Project Engineering Services

RESULT:	ADOPTED [4 TO 0]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Eileen Chapman, Councilmember
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-50 Resolution Authorizing the Award of a Contract to V-Comm LLC To Perform Telecommunications and 5G Engineering Services

RESULT:	ADOPTED [4 TO 0]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	John Moor, Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-51 Resolution Appointing the Firm of CDM Smith, Inc. to Perform Special Project Engineering Services

RESULT:	ADOPTED [4 TO 0]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Eileen Chapman, Yvonne Clayton, Amy Quinn, John Moor
ABSTAIN:	Angela Ahbez-Anderson

2023-52 Resolution Authorizing Appointments to the Business Advisory Committee

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-53 Resolution Authorizing Appointments to Community Development Block Committee

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-54 Resolution Authorizing Appointments to Code Enforcement/Quality of Life Committee

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	John Moor, Mayor
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-55 Resolution Authorizing Appointments to the Deal Lake Commission

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-56 Resolution Authorizing Appointments to the Environmental Shade Tree Commission

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-57 Resolution Authorizing Appointments to the Green Team

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-58 Resolution Authorizing Appointments to the Parking Committee

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-59 Resolution Authorizing Appointments to the Participatory Budget Committee

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-60 Resolution Authorizing Appointments to the Planning Board

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-61 Resolution Authorizing Appointments to the Public Arts Commission

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-62 Resolution Authorizing Appointments to the Recreation Committee

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Moor, Mayor
SECONDER:	Yvonne Clayton, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-63 Resolution Authorizing Appointments to the Rent Leveling Board

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Amy Quinn, Deputy Mayor
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-64 Resolution Authorizing Appointments to the Sunset Lake Commission

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John Moor, Mayor
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-65 Resolution Authorizing Appointments to the Mayor's Wellness Committee

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Eileen Chapman, Councilmember
SECONDER:	Amy Quinn, Deputy Mayor
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

2023-66 Resolution Authorizing Appointments to the Zoning Board of Adjustment

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvonne Clayton, Councilmember
SECONDER:	Eileen Chapman, Councilmember
AYES:	Ahbez-Anderson, Chapman, Clayton, Quinn, Moor

Announcement by Mayor Moor of Mayor's Appointment to the Library Board Committee

Mayor Moor announced the following name as his appointment to the Library Board: Jacalyn Sharpe with a term that will expire 12/31/2027.

Announcement by Mayor Moor of Mayor's Appointment to the Position of Office of Emergency Management ("OEM") Director

Mayor Moor announced his appointment to the Office of Emergency Management is : Garrett M. Giberson.

Announcement of Mayor of Mayor's Appointment to the Planning Board

1. Class I Member (Mayor or Mayor's Designee - 1 Year Term)
Class I Member (Mayor or Mayor's Designee -1 Year Term) Mayor John Moor is the Class 1 Member.

2. Class II Member (Non-Government Body Municipal Official - 1 Year Term)
Class II Member (Non-Government Body Municipal Official -1 Year Term) James Bonanno is the Class II Member.

Comments from Council Members

Council member Ahbez-Anderson, stated first of all Happy New Year. I am excited to be here and to be working with Mayor an council, our city manager, and our city attorney. But I wanted to thank all of you, I wouldn't be here if it hadn't been for you. laot of people knew my nickname was princess running water because I cry all the time especially when I'm happy. I'm trying to hold back tears, but I just wanted to thank all of you for coming out today and supporting me. My husband, my daughter, my son, I am just so appreciative of all of you. I promise to do my very best as a council to work with our city manager, our mayor, and our council members to do what is in the best interest of you, the residents. Thank you for coming out.

Council member Chapman, stated just to follow up on Angela's comments I want to wish you all a happy and healthy new year. Again, thank you all for coming out and supporting all of us as a council and a city. We always appreciate your feedback and your support, the fact that you are

all out on a New Years Day morning is pretty impressive. Thank you and keep engaged, please keep coming to these meetings.

Council member Clayton, stated I want to welcome Angela Ahbez-Anderson to our council. We look forward to working with her and thinking the future is going to be very bright for the city. I wish each and everyone of you a very happy, healthy, and prosperous new year, the best is yet to come.

Deputy Mayor Quinn, stated everybody has already said what I said. I want to thank my wife and son for continuing to be my biggest cheerleaders and everybody in the audience; Patricia, Jesse, and everybody for coming out. I want to thank all the residents. I want to welcome Angela, we are so happy to have you. I can't think of another council in Monmouth County that has four women running the show. For a person that has "feminist" tattooed on their arm, that makes me really proud, sorry John. Thank you all, thank you for coming out.

Comments from Mayor

Mayor Moor, stated before you said that I was going to ask if this was the first council in Monmouth County that has something like this. It probably is, it's historic. Angela welcome aboard, I'm sure you'll do fantastic. If I knew you could bring this type of weather I would have put you on 8 years ago. Again, best of luck, any questions feel free to call. Feel free to reach out to the council people. Again, Happy New Year, best of luck, best of health to everyone in 2023. Let's hope 2023 is better than 2022 as far as COVID, viruses, anything else hope we don't go through that again. Let's hope we get back to something fairly close to 2019. Again we have some hurdles in front of us, but we'll take one step at a time. Like Angela and everybody else said, we will try to do the best for all the citizens in Asbury Park.

Public Participation

A motion was made by Council member Chapman and seconded by Council member Ahbez-Anderson to open the meeting to the public. All were in favor. The following members of the public spoke: Kerry Butch made a comment about boards and committees, and asburyparkreporter.com; Rita Marano made a comment about council members, payment of bills resolutions, special projects engineers and Rent Leveling Board attorney; Kevin Strickland made a comment about the Mayor and Council.

A motion to close the meeting to the public was made by Mayor Moor and seconded by Council member Chapman. All were in favor.

City Manager, Donna Vieiro stated, two things: first of all Congratulations to council woman Ahbez-Anderson, congratulations to Mayor Moor and looking forward to all the council members and Fred again, and staff this year. I think now that we're out of COVID we can get back to business as normal. We have a lot of exciting things we're looking to do. Also, as a public safety announcement, parking is free outside until 1:30PM for the meeting today. Should any of you get a ticket by accident, please contact James Bonanno or myself and we'll take care of it. So parking is free until 1:30PM in the municipal lot. Happy New Year!

City Attorney, Frederick Raffetto stated happy New year to all! Thank you council for reappointing me. It continues to be an honor and a privilege for me to serve you and the residents

of the City of Asbury Park as your City Attorney. I would like especially welcome council woman Angela Ahbez-Anderson, and I look forward to working with you in the year ahead.

Adjournment

A motion to close the meeting was made by Mayor Moor and seconded Council member Chapman. Meeting adjourned at 12:49 PM.

Respectfully submitted by:

Lisa Esposito, City Clerk