

MICHAEL A. IRENE, JR.

Attorney at Law

SUITE 6

422 MORRIS AVENUE

LONG BRANCH, NEW JERSEY 07740

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February 19, 2021

Zoning Board of Adjustment
Attn: Chris Ann Degenaro, Secretary
BOROUGH OF WEST LONG BRANCH
965 Broadway
West Long Branch, NJ 07764-0639

via email

Re: PROFESSIONAL CONTRACTS AND RESOLUTIONS

Dear Board Members:

Enclosed please find the following for the Board's review and consideration:

- (a) proposed Resolution and Contract for the Board Attorney;
- (b) proposed Resolution and Contract for the Board Engineer (I understand Ms. Waterbury will provide her rate schedule);
- (c) proposed Resolution appointing the Board Recording Secretary; and
- (d) proposed Resolution appointing the Board Certified Shorthand Reporter.

If any Board Member has any questions regarding the enclosed, I will be pleased to address same at the time of the Board's next meeting.

Respectfully submitted,

MICHAEL A. IRENE, JR., ESQ.

MAI/jks

Cc: Board Members (via email; w'encl)

E.M. Waterbury, P.E. (via email; w'encl)

**RESOLUTION OF THE WEST LONG BRANCH ZONING BOARD
AUTHORIZING THE AWARD OF A CONTRACT
FOR SERVICES AS BOARD ATTORNEY**

WHEREAS, the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF WEST LONG BRANCH (hereinafter referred to as the "Board"), has the need to acquire the services of a Board Attorney, and said Board desires to award a contract for the provision of said services pursuant to the provisions of the New Jersey "Local Unit Pay-To-Play Law", N.J.S.A. 19:44A-20.4 et seq.;

WHEREAS, the anticipated term of this contract is one year;

WHEREAS, the Board has publicly advertised for proposals from parties interested in serving as Attorney for the Board, pursuant to the "fair and open process" set forth in N.J.S.A. 19:44A-20.4 et seq.;

WHEREAS, MICHAEL A. IRENE, JR., ESQ. has submitted a proposed contract indicating that MICHAEL A. IRENE, JR., ESQ. will provide services as Board Attorney in accordance with the terms thereof;

WHEREAS, based upon the qualifications and experience of MICHAEL A. IRENE, JR., ESQ., the Board is desirous of retaining MICHAEL A. IRENE, JR., ESQ. to render the services here at issue;

WHEREAS, the Chief Financial Officer of the BOROUGH OF WEST LONG BRANCH has certified, in accordance with the Certification of Funds Form attached hereto and made a part hereof, that funds for said contract are available in the 2021 Budget, and/or provision of funds derived from escrow deposits posted by applicants to the Board;

WHEREAS, this matter was considered at the Board's public meeting held on February 25, 2021, at which time the Board approved and adopted the form and content of the contract with MICHAEL A. IRENE, JR., ESQ.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board that it approves of the form and content of the contract for services as Board Attorney to be rendered by MICHAEL A. IRENE, JR., ESQ. during the calendar year of 2021.

BE IT FURTHER RESOLVED, that the Chairman or Vice-Chairman of the Board is hereby authorized to execute said contract with MICHAEL A. IRENE, JR., ESQ. on behalf of the Board, and to take any and all other actions required to give effect to the terms of the referenced contract; and

BE IT FURTHER RESOLVED, that notice of the adoption of this Resolution and award of this contract shall be published/advertised as required by law.

ROLL CALL VOTE

Those in Favor:

Those Opposed:

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Resolution adopted by the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF WEST LONG BRANCH at its meeting on _____, 2021.

DATED:

, Secretary

AGREEMENT RETAINING ZONING BOARD ATTORNEY

THIS AGREEMENT, made by and between the **ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF WEST LONG BRANCH** (hereinafter referred to as the "Zoning Board"); and **MICHAEL A. IRENE, JR., ESQ.**, an Attorney at Law of the State of New Jersey, having offices at 422 Morris Avenue, Suite 6, Long Branch, New Jersey (hereinafter referred to as "Zoning Board Attorney").

WITNESSETH :

WHEREAS, the Zoning Board is authorized to appoint an individual to serve as the Zoning Board Attorney, and to enter into an agreement establishing the rate of compensation for services rendered by the Zoning Board Attorney; and

WHEREAS, the Zoning Board has or will adopt a resolution appointing Michael A. Irene, Jr., Esq. as Zoning Board Attorney for the calendar year 2021;

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

1. **Term.** The term of this Agreement shall be for the calendar year 2021. It is hereby provided and agreed by the parties hereto that the Zoning Board Attorney (or a qualified licensed substitute in the event that the Zoning Board Attorney has a conflict of interest or is otherwise unavailable for a particular matter) shall furnish the legal services referenced herein, and that the Zoning Board shall arrange for payment for same in accordance with the terms of this Agreement. The terms of this Agreement shall be deemed to apply to all services rendered by the Zoning Board Attorney, retroactive to January 1 of the calendar year here at issue.

2. **Scope of Services.** The Zoning Board Attorney shall render the following legal services to/for the Zoning Board:

(A) Attendance at regular and special meetings of the Zoning Board (as well as at certain Board committee meetings and/or Borough Council committee meetings when legal counsel regarding zoning matters is required, as may be directed by the Zoning Board from time to time);

(B) Communications with members of the Zoning Board and its professional and administrative staff regarding legal and agenda matters involving the Zoning Board, as well as communications with and correspondence to the Borough Mayor and Council regarding zoning matters as may be requested from time to time by the Board;

(C) Research and rendering of legal opinions regarding zoning issues and matters before the Zoning Board;

(D) Review of applications, and preparation of resolutions to memorialize actions of the Zoning Board;

(E) Representation of the Zoning Board in litigation, contested matters, and before other administrative and/or governmental boards or agencies; and

(F) Such further legal services as the Zoning Board may from time to time request.

The extent and character of the legal services to be performed by the Zoning Board Attorney shall be subject to the general control and approval of the Zoning Board members. The Zoning Board Attorney shall not comply with requests and/or orders issued by other than these persons.

3. Retainer for Regularly Scheduled Board Meetings/General Communications. For attendance at regularly scheduled meetings of the Zoning Board, and general communications with members of the Zoning Board and its professional and administrative staff regarding legal and agenda matters involving the Zoning Board, as well as communications with and correspondence to the Borough Mayor and Council regarding zoning matters as may be requested from time to time by the Board, the Zoning Board Attorney shall be paid in accordance with the salary or retainer ordinance adopted by the Borough of West Long Branch for the position of Borough Zoning Board Attorney. Any services rendered by the Zoning Board Attorney which are outside the parameters of this paragraph (i.e., see paragraph 4, below) shall be billed by the Zoning Board Attorney by voucher and paid as a contract service to the attorney's firm, and no deductions (tax, social security, etc.) shall be made from such payments.

4. Other Matters/Services, etc. (A) For all other services (other than attendance at regularly scheduled Zoning Board meetings and general Board communications, as referenced in paragraph 3, above), the Zoning Board Attorney shall be compensated at the hourly rate as specified by Borough Council resolution adopted on or about January 1 for the contract year at issue for all "litigated matters" involving the Borough; (i) this rate will be charged to the Zoning Board for all litigation matters and any other services requested by the Board; and (ii) the Zoning Board Attorney shall charge against the applicants' respective escrows at the same hourly rate (i.e., the rate set by such Borough Council resolution for "litigated matters") for review of applications, preparation of resolutions, and other such services rendered with regard to an application. Notwithstanding the above, the Zoning Board Attorney shall charge the applicant's escrow the flat fee sum of \$500.00 for attendance at a special Board meeting requested by the applicant.

(B) If a particular applicant's escrow becomes deficient, the municipality may advise the Board Attorney to undertake no further work with regard to the particular application until further advised by the municipality that the applicant's escrow has been replenished, and the Board Attorney shall follow any such direction from the municipality. Notwithstanding the above, if a particular applicant's escrow is deficient, and remains so for 90 days following issuance of the Board Attorney's invoice at issue, the municipality shall pay the Board Attorney's invoice, and the municipality may undertake such efforts/actions as it may deem appropriate to collect from the applicant at issue reimbursement for any such payments made by the municipality to the Board Attorney for matters chargeable to the particular applicant's escrow account.

(C) Photocopying, when and as required, shall be billed at the rate of \$.25 per page; and out-of-pocket expenses, including but not limited to, filing fees, recording fees, messenger and delivery fees, etc., shall be billed by the Zoning Board Attorney for the particular amount actually expended.

5. Invoicing and Payment. The Zoning Board Attorney shall submit invoices on a monthly basis, for all hourly-basis billings, and costs, which billings shall include a detailed breakdown of all charges. Invoices shall be based upon actual hours of performance, broken down to the tenth of an hour. All such invoices shall be paid promptly by the Borough unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. The Zoning Board Attorney shall provide complete cooperation during any such review. All invoices shall be forwarded to the following address: Borough of West Long Branch, Attn: Lori Cole, Borough Clerk, 965 Broadway, West Long Branch, N.J. 07764, or as may otherwise be directed by the Borough.

6. Insurance. The Board Attorney shall provide and maintain the following minimum limits of insurance coverage during the period of performance required under this Agreement: (A) Lawyer's

professional liability insurance with a limit no less than \$1,000,000.00; and (B) Worker's Compensation (Statutory coverage for New Jersey).

7. Termination. Subject to the provisions below, this Agreement may be terminated by either party upon thirty days (30 days) advance written notice to the other party; but if any work or service hereunder is in progress, but not completed as of the date of termination, then this Agreement may be extended upon written approval of the Borough and/or the Zoning Board until such work or services are completed and accepted.

(A) Termination of Convenience. In the event that this contract is terminated or canceled upon request and for the convenience of the Borough, without the required thirty days advance written notice, then the Borough shall negotiate reasonable termination costs, if applicable.

(B) Termination for Cause. Termination by the Borough for cause, default or negligence on the part of the Zoning Board Attorney shall be excluded from the foregoing provisions; termination costs, if any, shall not apply. The thirty days advance written notice requirement is waived in the event of termination for cause.

(C) Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation of the Zoning Board Attorney in a subsequent fiscal year, the contract shall be canceled pursuant to NJSA 40A:11-15.

8. Other Provisions.

(A) The Zoning Board shall arrange for Notice of this Agreement to be published as required by law. A copy of this Agreement shall be on file and be made available for public inspection in the Office of the Borough Clerk of the Borough of West Long Branch pursuant to N.J.S.A. 40A:11-5(1), together with the authorizing Resolution.

(B) MICHAEL A. IRENE, JR., ESQUIRE certifies he has complied with the Mandatory Affirmative Action language as more specifically set forth in Exhibit "A" attached hereto and incorporated herein.

(C) In the event that any term or provision of this Agreement is deemed to be invalid or unenforceable by a Court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(D) This contract has been awarded to MICHAEL A. IRENE, JR., ESQ. based on the merits and abilities of MICHAEL A. IRENE, JR., ESQ. to provide the services as described herein. This contract was awarded through the "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq.

[SIGNATURE LINES FOLLOW]


IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed the day and year indicated.

**ZONING BOARD OF ADJUSTMENT OF THE
BOROUGH OF WEST LONG BRANCH**

Dated: _____

By: _____,
Chairman

Dated: 2/19/21



MICHAEL A. IRENE, JR., ESQ.
Zoning Board Attorney

EXHIBIT A

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

(REVISED 10/08)

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, where applicable, will send to each labor union or representative of 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 afford equal employment opportunities to minority and women workers consistent with Good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2, or Good faith efforts to meet targeted 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, 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, 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

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance 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 Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

AMERICANS WITH DISABILITIES ACT OF 1990

Equal Opportunity for Individuals with Disability

The CONTRACTOR and the OWNER do hereby agree that the provisions of Title II of the American With Disabilities Act of 1990 (the "ACT") (42 U.S.C. 512101 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 thereto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the OWNER pursuant to this contract, the CONTRACTOR agrees that the performance shall be in strict compliance with the Act. In the event that the Contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the OWNER in any action or administrative proceeding commenced pursuant to this Act. The Contractor shall indemnify, protect, and save harmless the OWNER, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the OWNER grievance procedure, the CONTRACTOR agrees to abide by any decision of the OWNER which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the OWNER or if the OWNER incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the CONTRACTOR shall satisfy and discharge the same at its own expense.

The OWNER shall, as soon as practicable after a claim has been made against it, give written notice thereof to the CONTRACTOR, along with full and complete particulars of the claim. If any action or administrative proceedings is brought against the OWNER or any of its agents, servants, and employees, the OWNER shall expeditiously forward or have forwarded to the CONTRACTOR every demand, complaint, notice, summons, pleading, or other process received by the OWNER or its representatives.

It is expressly agreed and understood that any approval by the OWNER of the services provided by the CONTRACTOR pursuant to this contract will not relieve the CONTRACTOR of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the OWNER pursuant to this paragraph.

It is further agreed and understood that the OWNER assumes no obligation to indemnify or save harmless the CONTRACTOR, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the CONTRACTOR expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the CONTRACTOR'S obligations assumed in this Agreement, nor shall they be construed to relieve the CONTRACTOR from any liability, nor preclude the OWNER from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

REQUIRED EVIDENCE
AFFIRMATIVE ACTION REGULATION
P.L. 1975, C. 127 (N.J.A.C. 17:27)

If awarded a contract, all procurement and service contractors will be required to comply with the requirements of P.L. 1975, c. 127, (N.J.A.C. 17:27). Within seven (7) days after receipt of the notification of intent to award the contract or receipt of the contract, whichever is sooner, the contractor should present one of the following to the Purchasing Agent:

1. A photocopy of a valid letter from the U.S. Department of Labor that the contractor has an existing federally-approved or sanctioned Affirmative Action Plan (good for one year from the date of the letter),
OR
2. A photocopy of approved Certificate of Employee Information Report from the State of New Jersey,
OR
3. An Affirmative Action Employee Information Report (Form AA302),
OR
4. All successful construction contractors must submit, within three days (3) of the signing of the contract, an Initial Project Manning Report (AA201) for any contract award that meets or exceeds the Public Agency bidding threshold (available upon request).

NO FIRM MAY BE ISSUED A CONTRACT UNLESS IT COMPLIES WITH THE AFFIRMATIVE ACTION REGULATIONS OF P.L. 1975, C. 127.

The following questions must be answered by all bidders:

1. Do you have a federally-approved or sanctioned Affirmative Action Program?

Yes No If yes, please submit copy of such approval.

2. Do you have a Certificate of Employee Information Report Approval?

Yes No If yes, please submit copy of such certificate. (See attached)

The undersigned contractor certifies that he is aware of the commitment to comply with the requirements of P.L. 1975, c. 127, and agrees to furnish the required documentation pursuant to law.

COMPANY: Michael A. Treue, Jr., Esq.

SIGNATURE: 

TITLE: sole proprietor

NOTE: A CONTRACTOR'S BID MUST BE REJECTED AS NON-RESPONSIVE IF A CONTRACTOR FAILS TO COMPLY WITH REQUIREMENTS OF P.L. 1975, C. 127, WITHIN THE REQUIRED TIME FRAME.

Certification 16612

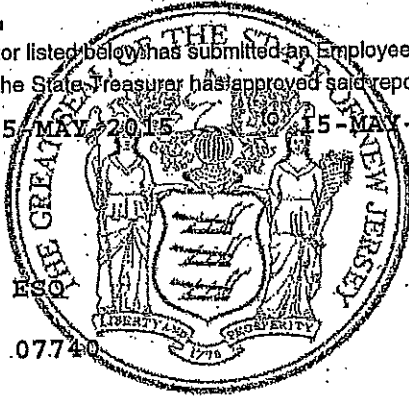
CERTIFICATE OF EMPLOYEE INFORMATION REPORT


RENEWAL

This is to certify that the contractor listed below has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et. seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of

15-MAY-2015 TO 15-MAY-2022

MICHAEL A. IRENE JR., ESQ.
422 MORRIS AVENUE
LONG BRANCH NJ 07740




Andrew P. Sidamon-Eristoff
State Treasurer

**RESOLUTION OF THE ZONING BOARD OF
ADJUSTMENT OF THE BOROUGH OF WEST LONG BRANCH
AUTHORIZING THE AWARD OF A CONTRACT
FOR SERVICES AS BOARD ENGINEER**

WHEREAS, the ZONING BOARD OF ADJUSTMENT of the BOROUGH OF WEST LONG BRANCH (hereinafter referred to as the “Board”), has a need to acquire professional engineering services from a person and/or firm to serve as Board Engineer, and said Board desires to award a contract for the provision of said services pursuant to the provisions of the New Jersey “Local Unit Pay-To-Play Law”, N.J.S.A. 19:44A-20.4 et seq.; and,

WHEREAS, the anticipated term of this contract is one year; and

WHEREAS, E.M. WATERBURY & ASSOCIATES, P.A. has submitted a proposed contract indicating that said firm will provide professional engineering services to and serve as Board Engineer for the Board in accordance with the terms thereof;

WHEREAS, the Board has publicly advertised for proposals from parties interested in serving as Board Engineer, pursuant to the “fair and open process” set forth in N.J.S.A. 19:44A-20.4 et seq.;

WHEREAS, based upon the qualifications and experience of E.M. WATERBURY & ASSOCIATES, P.A., the Board is desirous of retaining E.M. WATERBURY & ASSOCIATES, P.A. (with Elizabeth Waterbury, P.E., as primary representative of the firm) to render the services here at issue,

WHEREAS, the Chief Financial Officer of the BOROUGH OF WEST LONG BRANCH has certified, in accordance with the Certification of Funds form attached hereto and made a part hereof, that funds for said contract are available in the 2021 Budget, and/or provision of funds will be derived from escrow deposits posted by applicants to the Board;

WHEREAS, this matter was considered at the Board's public meeting held on February 25, 2021, at which time the Board approved and adopted the form and content of the proposed contract with E.M. WATERBURY & ASSOCIATES, P.A.;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board that it approves of the form and content of the contract for services as Board Engineer to be rendered by E.M. WATERBURY & ASSOCIATES, P.A. (with Elizabeth Waterbury, P.E., as primary representative of the firm) during the calendar year of 2021.

BE IT FURTHER RESOLVED, that the Chairman or Vice-Chairman of the Board is hereby authorized to execute said contract with E.M. WATERBURY & ASSOCIATES, P.A. on behalf of the Board, and to take any and all other actions required to give effect to the terms of the referenced contract; and

BE IT FURTHER RESOLVED, that notice of the adoption of this Resolution and award of this contract shall be published/advertised as required by law.

ROLL CALL VOTE

Those in Favor:

Those Opposed:

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Resolution adopted by the ZONING BOARD of the BOROUGH OF WEST LONG BRANCH at its meeting on _____, 2021.

DATED:

_____, Secretary

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

THIS AGREEMENT is made

BETWEEN The Zoning Board of Adjustment of the Borough of West Long Branch, in the County of Monmouth and the State of New Jersey, hereinafter referred to as "Zoning Board";

AND E. M. Waterbury & Associates, P.A., hereinafter referred to as "Board Engineer".

WHEREAS, the Zoning Board desires to engage the Board Engineer to render certain technical and/or professional services hereinafter described as Zoning Board Engineering Services.

WHEREAS, by entering into this Agreement, the Zoning Board signifies that the services to be performed by the Board Engineer shall be considered those of a "Professional Service" in accordance with N.J.S.A. 40A:11-1 et seq.

NOW, THEREFORE, the Zoning Board and Board Engineer, in consideration of the mutual covenants hereinafter set forth, agree as follows:

I. EMPLOYMENT OF BOARD ENGINEER

The Zoning Board hereby agrees to engage the Board Engineer, and the Board Engineer hereby agrees to perform the services hereinafter set forth, in accordance with the terms and provisions hereof.

II. SCOPE OF SERVICES

The Board Engineer (in particular, Elizabeth M. Waterbury, P.E., P.P., or other qualified engineer of the firm) shall perform and carry out in a satisfactory and professional manner the following services:

- A. Advise the Zoning Board on all engineering matters under the Board's jurisdiction. The Board Engineer shall be available for consultation by telephone at all reasonable times.
- B. Represent the Zoning Board as its Engineer pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.), and other applicable laws and ordinances.
- C. Attend meetings of the Zoning Board, as requested.
- D. Review site and subdivision plans, as requested.
- E. Prepare special reports, plans, studies, applications, and similar work, as requested.
- F. Testify on behalf of the Zoning Board before Commissions, Agencies, or Courts of the State of New Jersey, as requested.

- G. Perform any other related engineering work for the Zoning Board, as requested.

III. COMPENSATION

The Zoning Board agrees to compensate the Board Engineer on a time and material basis for all work enumerated under Section II (Scope of Services) above in accordance with the attached "Schedule of Hourly Rates", from the appropriate Municipal Account or developer escrow account, as the case may be, and in accordance with applicable law.

This contract is issued as an open-ended contract and during the contract year certification of funds will be provided by issuance of a Purchase Order at the time of need for the services here at issue for each matter, based upon availability of Borough funds, and if applicable, posting of adequate Developer Escrow Trust Funds by developers of specific projects before the Board.

IV. BILLINGS

The Board Engineer shall bill for all services rendered hereunder on a monthly basis, with such billings to be in the form prescribed by the municipality and/or the Zoning Board, and as required by applicable law.

V. CONFIDENTIALITY

Any reports, information, data, etc., given to or prepared or assembled by the Board Engineer under this Agreement, shall not be made available to any individual or organization by the Board Engineer without the prior approval of the Zoning Board. All plans, specifications, reports and other documents ordered by the Board and/or submitted to the Board shall remain the property of the Board for use of the Board in current or future programs.

VI. OTHER PROVISIONS

A. The parties hereto expressly provide and agree that the Board Engineer is and shall at all times remain an independent contractor (and not an employee) of the Board.

B. The Board Engineer and his/her firm shall secure and maintain Workmen's Compensation Insurance as required by Law and Liability Insurance as required to protect the municipality, the Board, the Board Engineer and his associated firm and their employees and agents from claims for bodily injury, death, or property damage which may arise from the performance of the Board Engineer's services pursuant to this Agreement. The limits of said Liability Insurance shall not be less than \$1,000,000.00 with a \$2,000,000.00 aggregate liability coverage. Automotive liability coverage shall not be less than \$500,000.00 per individual or aggregate with \$100,000.00 property damage and \$2,000,000.00 excess liability coverage. The Board Engineer shall provide Certificates of Insurance to the Board. Such certificates shall provide that the Board shall receive ten (10) days written notice prior to any cancellation of the policy or alteration of the policy limits.

C. The Board Engineer and his/her firm shall provide and maintain Professional Liability (Errors and Omissions) Insurance to protect the Board Engineer and his/her associated firm for claims which arise from the performance by the Board Engineer of services called for hereunder. Unless higher limits are requested by the Board, the limits of said insurance shall be at least \$1,000,000.00 aggregate.

D. The Board Engineer certifies that he/she has complied with the mandatory Affirmative Action requirements set forth in Exhibit A attached hereto and incorporated herein.

E. This contract has been awarded to E.M. WATERBURY & ASSOCIATES, P.A. based on the merits and abilities of E.M. WATERBURY & ASSOCIATES, P.A. to provide the services as described herein. This contract was awarded through the "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq.

F. ELEC Annual Disclosure Statement. The contractor/professional rendering the services herein is advised of the responsibility to file an annual disclosure statement regarding political contributions with the New Jersey Election Law Enforcement Commission (ELEC) pursuant to NJSA 19:44A-20.13 (P.L. 2011, c. 271, s.3), as may be amended/supplemented, if the contractor/professional here at issue receives contracts in excess of \$50,000.00 from public entities in a calendar year. It is the contractor's/professional's responsibility to determine if such filing is necessary, and to comply with all applicable requirements. Additional information on this requirement is available from ELEC at 888-313-3532 or www.elec.state.nj.us.

VII. TERM

This Agreement shall commence upon the execution hereof, and shall continue in force until December 31, 2021. This Agreement is retroactive to January 1, 2021.

IN WITNESS WHEREOF, the parties hereto have hereunto caused these presents to be signed by their respective officials.

ZONING BOARD OF ADJUSTMENT OF
THE BOROUGH OF WEST LONG BRANCH

Dated: _____

By: _____,
Chairperson

E. M. WATERBURY & ASSOCIATES, P.A.

Dated: _____

By: _____
Elizabeth M. Waterbury, P.E., P.P.

SCHEDULE OF HOURLY RATES

**RESOLUTION AUTHORIZING THE
APPOINTMENT OF A CERTIFIED SHORTHAND REPORTER
FOR THE ZONING BOARD OF ADJUSTMENT
OF THE BOROUGH OF WEST LONG BRANCH**

WHEREAS, the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF WEST LONG BRANCH (hereinafter referred to as the "Board"), has the need to acquire the services of a Certified Shorthand Reporter, and said Board desires to appoint an individual for the provision of such services;

WHEREAS, the anticipated term of this appointment is one year; and

WHEREAS, based upon the qualifications and experience of LISA NORMAN, the Board is desirous of appointing LISA NORMAN to render the services here at issue,

WHEREAS, this matter was considered at the Board's public meeting held on February 25, 2021, at which time the Board approved the appointment of LISA NORMAN as the Board's Certified Shorthand Reporter for the calendar year here at issue.

NOW THEREFORE, BE IT RESOLVED by the ZONING BOARD OF ADJUSTMENT of the Borough of West Long Branch, that LISA NORMAN be and is hereby appointed as the Board's Certified Shorthand Reporter for the calendar year 2021, and her compensation shall be as established by the Borough of West Long Branch for such position.

ROLL CALL VOTE

Those in Favor:

Those Opposed:

CERTIFICATION

I hereby certify that the foregoing is a true copy of the Resolution adopted by ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF WEST LONG BRANCH at its meeting on _____, 2021.

DATED:

, Secretary

**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT
OF THE BOROUGH OF WEST LONG BRANCH
APPOINTING RECORDING SECRETARY**

WHEREAS, the ZONING BOARD OF ADJUSTMENT of the BOROUGH OF WEST LONG BRANCH (hereinafter referred to as the "BOARD"), is a public body corporate and politic of the State of New Jersey with offices at 965 Broadway, West Long Branch, New Jersey;

WHEREAS, the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) empowers the BOARD to designate and arrange for such staff as it shall deem necessary and appropriate;

WHEREAS, the BOARD requires an individual to serve as Recording Secretary for the BOARD, and to perform the functions of such position;

WHEREAS, CHRIS ANN DEGENARO is capable of performing the services of Recording Secretary for the Board and she is desirous of obtaining this position and the BOARD is desirous of appointing CHRIS ANN DEGENARO to such position;

NOW THEREFORE, BE IT RESOLVED by the ZONING BOARD OF ADJUSTMENT of the Borough of West Long Branch, that CHRIS ANN DEGENARO be and is hereby appointed as Recording Secretary to the BOARD for the calendar year 2021, and her compensation shall be as established by the Borough of West Long Branch for such position.

WITNESSED my hand and the seal of the Board of Adjustment this _____ day of _____, 2021.

ROLL CALL VOTE

Those in Favor:

Those Opposed:

CERTIFICATION

I, _____, do hereby certify that the foregoing is a true copy of a resolution duly adopted by the ZONING BOARD OF ADJUSTMENT OF THE BOROUGH OF WEST LONG BRANCH at its public meeting held on _____, 2021.

Dated: _____