

CONTRACT FOR PROFESSIONAL SERVICES

THIS CONTRACT FOR PROFESSIONAL SERVICES ("Contract"), made effective the 5th day of January, 2012, by and between the TOWNSHIP OF LOWER ZONING BOARD OF ADJUSTMENT, an agency of the Township of Lower, a municipal corporation of the State of New Jersey, with offices located at 2600 Bayshore Road, Villas, New Jersey 08251 (hereinafter referred to as "Zoning Board") and ANTHONY J. HARVATT, II, ESQUIRE, with offices located at 5 South Main Street, Cape May Court House, New Jersey 08210 (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Zoning Board desires to employ the Contractor as Solicitor for the Zoning Board to perform those services as set forth in this Contract and in the Lower Township Administrative Code; and

WHEREAS, the Contractor desires to be employed by the Zoning Board as Solicitor for the Zoning Board in accordance with the terms and conditions as set forth herein.

NOW, THEREFORE, BE IT RESOLVED, the Zoning Board and Contractor, in consideration of the mutual covenants contained herein, covenant and agree as follows:

1. Contractor, pursuant to duly published Notice of Award per Zoning Board Resolution #12-5-ZBA ("Resolution"), adopted January 5, 2012 and which Resolution is herein incorporated by referenced thereto, agrees to perform all work and/or services required by the Resolution and this Contract, and to otherwise comply with all requirements contained therein.

2. Contractor agrees not to assign, transfer, convey, sublet, or otherwise dispose of the Contract, or any part thereof, or any rights, title, or interest therein, without first consents to the use by the Contractor, under the direct supervision of the Contractor, of other attorneys employed by the same law firm as the Contractor, provided they are licensed to practice law and in good standing in the State of New Jersey.

3. Contractor and Zoning Board agree that time is of the essence in the faithful performance of this Contract.

4. Contractor is hereby engaged to work in the capacity of Solicitor of the Zoning Board and hereby represents that Contractor is an attorney and in good standing with the State of New Jersey, and possesses all the requisite licenses and permits to perform all work contemplated under the terms of this Contract, and will so continue to be throughout the duration of this Contract.

5. Contractor shall enter into the service and commence employment hereunder on the 5th day of January, 2012 and the employment shall continue until the first meeting of the Zoning Board in the year 2013.

6. Contractor agrees to faithfully and to the best of Contractor's ability perform duties and services of Solicitor of the Zoning Board including, but not limited to, the following:

(a) In consideration for Contractor faithfully performing Contractor's obligations under this Contract, Zoning Board agrees to pay to the Contractor a fee of FIVE THOUSAND SIX HUNDRED (\$5,600.00) DOLLARS, payable in equal installments during the term hereof. In addition to the fees set forth above, Contractor shall be compensated as follows:

(b) ONE HUNDRED (\$100.00) DOLLARS per hour for work done with respect to any appeals to the New Jersey Superior Court or any higher Court from any decision of the Zoning Board;

(c) A fixed fee of ONE HUNDRED FIFTY (\$150.00) DOLLARS for each Resolution prepared for the Zoning Board which amount shall be billed directly to the applicant. Contractor shall also be permitted to submit an invoice for services rendered in preparing a Resolution at an hourly rate of ONE HUNDRED (\$100.00) DOLLARS for complex matters, subject to the approval of the Zoning Board, which additional amounts shall also be billed directly to the applicant;

(d) ONE HUNDRED (\$100.00) DOLLARS per hour for attending special meetings with respect to any application (excluding workshop meetings unless requested by an applicant), which amount shall also be billed directly to the applicant against its escrow. Such additional fees shall be subject to the approval of the Zoning Board.

Any fees for such additional services which cannot be billed directly to the applicant shall be subject to the approval of the Zoning Board.

7. Should Contractor fail to carry out the terms of this Contract as herein prescribed, the Zoning Board may cancel or rescind this Contract in its entirety, and serve notice of said cancellation or rescission to Contractor at Contractor's last know address. Nothing contained herein, however, shall prevent the Zoning Board from pursuing whatever remedies it may have at law.

8. Contractor shall receive messages and work with the Zoning Board and Director of Planning for the Township of Lower.

9. 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, or sex. 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, or sex. Such action shall include, but not be limited to, the following: (I) employment, upgrading, demotion, or transfer; (ii) recruitment or recruitment advertising; (iii) layoff or termination; (iv) rates of pay or other forms of compensation; and (v) 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 non-discrimination 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, or sex.

(c) 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 Contractor's commitments under applicable law, 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 of the State of New Jersey ("Treasurer") pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

(e) The Contractor or subcontractor, where applicable, agrees to attempt in good faith to employ minority and female workers consistent with the applicable country 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 county 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.

(f) The Contractor or subcontractor, where applicable, 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, 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, where applicable, 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, or sex, 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.

(h) The Contractor or subcontractor, where applicable, shall furnish such reports or other documents to the Affirmative Action Office as may be requested from time to time in order to carry out the purposes of the regulations of the Treasurer promulgated under P.L. 1975, c. 127, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conduction of a compliance investigation pursuant to Subchapter 10 or N.J.A.C. 17:27.

10. During the performance of this Contract, the Contractor further agrees as follows:

(a) The Contractor and the Zoning Board do hereby agree that the provisions of Title 11 of the Americans with Disabilities Act of 1990 (the "Act") (42 U.S.C. 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 thereto, are made a part of this Contract. In providing any aid, benefit, or services on behalf of the Zoning Board 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 Zoning Board in any action or administration proceedings commenced pursuant to this Act. The Contractor shall indemnify, protect, and save harmless the Zoning Board, 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 Zoning Board's grievance procedure, the Contractor agrees to abide by any decision of the Zoning Board which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the Zoning Board or the Zoning Board incurs any expense to cure a violation of the Act which has been brought pursuant to its grievance procedure, the Contractor shall satisfy and discharge the same at its own expense.

(b) The Zoning Board 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 proceeding is brought against the Zoning Board or any of its agents, servants, and employees, the Zoning Board shall expeditiously forward or have forwarded to the Contractor every demand, complaint, notice, summons, pleading, or other process received by the Zoning Board or its representatives.

(c) It is expressly agreed and understood that any approval by the Planning Board of the services provided by the Contractor pursuant to this Contract will not be relieve the Contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the Zoning Board pursuant to this paragraph.

(d) It is further agreed and understood that the Zoning Board assumes no obligation to indemnify or save harmless the Contractor, its agents, servants, employees and subcontractor for any claim which may arise out of their performance of this Contract. 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 Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the Zoning Board from taking any other action available to it under any other provision of this Contract or otherwise at law.

11. This Contract represents the entire agreement by and between the parties and may only be amended by a written instrument signed by the parties.


12. This Contract shall be governed by and construed in accordance with the laws of the State of New Jersey.

13. Political Contribution Disclosure. This Contract has been awarded to Contractor based on his merits and abilities to provide the goods and services as described herein. This Contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:A-20.5. As such, the undersigned does hereby attest that he will not make 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 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 that municipality when the Contract is awarded, or to any candidate or candidate committee of any person serving in an elective public office of that municipality when the Contract is awarded or who will seek such office in the municipality during the term of this Contract.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals they day and year first above written, pursuant to Zoning Board Resolution #12-5-ZBA.

TOWNSHIP OF LOWER ZONING BOARD
OF ADJUSTMENT, an agency of the
Township of Lower, a municipal corporation
of the State of New Jersey

ATTEST:



BY:



James Hanson, Chairman

WITNESS:





Anthony J. Harvatt, II, Esquire