



Township of Hamilton

Professional Services Agreement

THIS AGREEMENT, made this 5th day of January 2015, by and between the **TOWNSHIP OF HAMILTON**, a New Jersey Municipal Corporation, County of Atlantic and State of New Jersey, hereinafter referred to as “Township” and **DONNA LEE VITALE**, an Attorney-At-Law of the State of New Jersey, having offices located at 311 South New York Road, Suite 22, Galloway Township, NJ 08205, hereinafter referred to as “Prosecutor”;

WITNESSETH:

WHEREAS, the Township is desirous of hiring a Prosecutor to represent the Township and the State of New Jersey in the Municipal Court and perform all other duties and functions of Prosecutor of the Township; and

WHEREAS, Prosecutor above named is an attorney duly qualified, licensed, ready and able to provide such legal representation to the Township; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq. requires the execution of written contracts for services awarded herein;

NOW, THEREFORE, in consideration of the mutual promises herein contained, and subject to the terms and conditions hereinafter stated,

IT IS HEREBY UNDERSTOOD AND AGREED between the parties that this contract is awarded to secure the rendering of professional legal services for the Township.

1. DUTIES OF PROSECUTOR.

The Prosecutor shall represent the Township and the State New Jersey, as the case may be, in the Municipal Court and in any other court, as directed by the Township Solicitor or the Municipal Judge, involving violation of the ordinances of the Township and the laws of the State of New Jersey.

2. TERM OF OFFICE.

The term of this Agreement shall be for the period of January 1, 2015 until the Reorganization Meeting of the Township Committee to be held in January 2016, at which time, unless otherwise renewed or extended, it shall expire.

3. **COMPENSATION.**

Township appoints and retains the Prosecutor to be compensated as follows:

- A. Compensation for Services: For a consideration of the flat rate fee of **Sixty Thousand Dollars (60,000.00)** for the year. The Prosecutor shall render routine legal services that will include, but not be limited to, the following:
- i. Attendance at all regularly scheduled Court sessions presently held on Tuesdays, Wednesdays and Thursdays. Said sessions shall exclude holidays and on days in which the Court is closed, but shall total at least 161 sessions for the year. Prosecutor shall attend all sessions in person, except in cases of illness or emergency.
 - ii. Handle all telephone calls from Municipal Court Judge, Municipal Court Administrator and staff as well as the Hamilton Township Police Department, New Jersey State Police, attorneys, victims and defendants in the regular course of court business.
 - iii. Special Court Session(s): If scheduled, said Prosecutor shall attend any and all specially scheduled Court sessions during the term of this contract.
 - iv. Process, review and disseminate discovery materials when requested on criminal and traffic cases involving the New Jersey State Police.
- B. The Township shall pay Prosecutor on a monthly basis in the amount of Five Thousand Dollars (\$5,000.00) recorded and itemized on a voucher submitted to the Township on a monthly basis.
- C. **BILLING PROCEDURES.** The Township's Billing Rules & Procedures (Exhibit A) is annexed hereto and is made a part hereof as if sent forth herein at length.
- D. This Contract was let and entered into pursuant to the Fair and Open Contract provisions of both the Hamilton Township Ordinance 1636-2008 (Limits on Political Contributions) and the New Jersey Pay-to-Play Act, N.J.S.A. 19:44A-1 et seq., and not as an exception to the bidding requirements under the Local Public Contracts Law, and further pursuant to a Request for Proposal/Qualifications for Municipal Professionals issued October 20, 2009 which provided for, inter alia, a multi-disciplined law firm with experience in diverse areas of the law.
- E. Prior to awarding this contract, the Township of Hamilton received from Prosecutor a sworn statement, made under penalty of perjury, that Prosecutor has not made a contribution in violation of the Township of Hamilton Ordinance 1636-2008 (Limits on Political Contributions).

F. It is understood and agreed that Township Prosecutor must obtain authorization for any work performed under this Contract from either the Township Administrator or by formal action (Motion, Resolution or Ordinance) of the Township Committee. Any work not specifically authorized may be rejected for payment in the discretion of the Township Administrator when reviewing invoices, vouchers and submissions. Any work rejected by the Township Administrator is subject to review by the Township Committee, if requested.

4. **PROSECUTOR AS AN INDEPENDENT CONTRACTOR.**

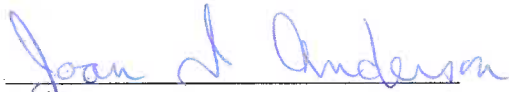
It is understood and agreed between the parties hereto that the Prosecutor shall continue to maintain her office for the private practice of law in Galloway Township, New Jersey from where she shall conduct her duties as Prosecutor and represent such other private clients as may employ her. The Township shall be under no obligation to provide rent, equipment, utilities, telephone, stationery, supplies, clerical staff, or other items generally assumed to be included in the overhead costs of a law office.

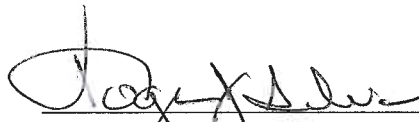
This Agreement constitutes the entire Agreement by and between the parties hereto, subject to any written or duly executed supplements attached hereto and made a part hereof.

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

ATTEST:

TOWNSHIP OF HAMILTON


TOWNSHIP CLERK


ROGER J. SILVA, MAYOR

WITNESS:

LAW OFFICES OF DONNA LEE VITALE


DONNA LEE VITALE, ESQ.

EXHIBIT A

Township of Hamilton
6101 Thirteenth Street
Mays Landing, New Jersey 08330



BILLING RULES & PROCEDURES FOR ALL PROFESSIONALS FOR THE TOWNSHIP OF HAMILTON

INTRODUCTION:

The Billing Rules & Procedures, as set forth herein, shall be applicable to all professionals who are retained by the Township of Hamilton or any of the various boards or authorities of the Township of Hamilton, including the Zoning Board of Adjustment, Planning Board, Historical Commission, Environmental Commission and the Industrial Commission (hereinafter collectively referred to as "the Township"). The purpose of these requirements and procedures is to establish uniformity among all professional billings and to set forth criteria which shall make it easier for Township employees and/or agents to interpret the bills so as to provide the most complete description of the work to account for the use of public funds.

I. BILLING RATES

- A. All billing rates for each professional and other individuals employed on behalf of those professionals must be pre-approved in writing. Unilateral establishment of billing rates will not be honored.

II. NON-COMPENSABLE TASKS

- A. Regardless of the fee arrangement, the Township will not pay fees charged for:
1. Preparing or processing invoices, billing statements and vouchers
 2. Secretarial or other clerical tasks
 3. Duplicative tasks (by way of example – the same or similar tasks performed by more than one person in the firm)
 4. Conflict checks

III. COMPENSABLE ACTIVITIES

- A. The Township will pay for the actual and reasonable productive time required to perform professional services necessary to represent the interests of the Township. The Township shall pay for any and all services which they direct their professionals to perform and for any and all services which are reasonably necessary to accomplish the work product and/or goal within the respective professional's field of expertise.

IV. EXPENSES

- A. The Township will pay the actual cost of all of the professional's expenses without premiums or mark-ups. Copies of actual invoices for individual expenses must be maintained by the

professional for a reasonable period of time (not less than one (1) year) in the event the Township requests a review of these vouchers and/or invoices.

- B. Each billing statement which seeks compensation or reimbursement for expenses shall itemize with particularity:
 - 1. The date of the expense,
 - 2. The amount of the expense
 - 3. To whom the money was paid with respect to the expense
- C. When called upon to do so, the professional and/or its office shall provide all such back-up invoices and other vouchers to establish that the expense was:
 - 1. Incurred in the ordinary course of the professional's work with respect to the Township
 - 2. Was reasonable and necessary
- D. Non-Allowable Expenses.
 - 1. The following expenses shall be considered not necessary and therefore not reimbursable:
 - a. Gasoline for automobile or transportation costs to and from the Township
 - b. Any and all local telephone call charges
 - c. Meals or lodging unless previously approved
- E. Examples of Allowable Costs:
 - 1. Allowable costs shall include by way of example the following:
 - a. Actual costs incurred by photocopying or telefaxing
 - b. Long distance telephone charges
 - c. Overnight or Express Mail, or courier services (if deemed necessary)
 - d. Tolls, deposition transcripts, filing costs and any and all other actual monies expended as out-of-pocket expenses which are reasonable and necessary.
- F. Method of Billing Expenses:
 - 1. All out-of-pocket expenses shall be separately and independently billed on all billing vouchers submitted to the Township. Each shall be separately itemized with a specific amount set forth as to each entry.

V. STAFFING

- A. Only one professional and/or principal of the professional's office shall be in charge of, and therefore responsible for, all Township business endeavors and work related thereto. That person shall be designated as the person in charge for purposes of the Township's business.
- B. In the event that other individuals within the firm work on the Township file or matter, that shall be indicated on all billing statements; the hourly rate for that individual shall be indicated on all billing statements; and it must be pre-approved by the Township.
- C. Critical staff replacements must be approved by the Township. Each staff member assigned to do Township business must have the necessary experience and skill for the matter assigned.
- D. The provisions of this paragraph shall be set forth in all professional contracts. All professional contracts must be submitted to the Township Solicitor and approved as to form.

- E. Secretarial time is not and shall not be billable time. Secretarial time in typing and performing secretarial duties is considered overhead and/or administration and shall not, therefore, be billed to the Township.

VI. AUDITS.

- A. The Township and/or its authorized agents reserve the right to audit all of the professional's files and records for compliance with these requirements. Audit findings will be discussed with the individual in charge of the account as set forth in Section V. A. above. All professional firms shall cooperate with the audit by providing access to files, records, and bills; documents in an electronic format; handwritten time sheets; or other performance documents or entries, including daily billing reports and summaries.

VII. EXPERTS AND THIRD-PARTY CONSULTANTS.

- A. In the event it becomes necessary for any professional engaged by the Township to select or retain experts, other third-party consultants and/or investigators, the Township must pre-approve the selection of those consultants, investigators or experts.
- B. Fees and expenses for experts, consultants or investigators will not be paid nor reimbursed until the billing rate of that expert, third-party consultant or investigator has been approved by the Township.
- C. The Township retains the sole right to determine if said experts, third-party consultants and/or investigators directly invoice the Township or shall be invoiced through the professional.
- D. All services by said experts, third-party consultants or investigators shall be in compliance with these Rules & Regulations.

VIII. BILLING PROCEDURES.

- A. Bills shall be submitted on a monthly basis. Bills for the preceding month shall be submitted no later than the 25th day of the succeeding month.
- B. Bills shall be submitted for only a single thirty- (30) day period. Bills for multi-month periods or periods greater than a thirty- (30) day billing period shall not be submitted, accepted, nor paid.
- C. In the case of the Township of Hamilton, bills shall be submitted to the Chief Financial Officer at the Township of Hamilton Municipal Building, 6101 Thirteenth Street, Mays Landing NJ 08330.
- D. In the case of the Township of Hamilton Planning or Zoning Boards, they shall be submitted to the Planning Administrator at the Township of Hamilton Planning Department, 6101 Thirteenth Street, Mays Landing NJ 08330.
- E. All bills shall be in the format set forth below and shall have a voucher affixed to the bill. Said voucher shall be executed by a principal of the firm, certifying the accuracy and content of the bill.

IX. BILLING FORMAT.

- A. Bills must be submitted in the correct format with sufficient detail and shall have, upon request, the necessary supporting documentation. Non-compliance will result in the bill being returned and/or disallowance of particular items.
- B. Each bill shall contain the following information:

1. If appropriate, the Township case number, project number or other identifying number or feature with the appropriate caption and/or claim number.
2. The billing period for which this billing voucher is submitted shall be indicated on the first page of the bill, together with the firm's name; and it shall not be for a billing period of greater than thirty (30) days.
 3. Billing shall be in one-tenths of one hour increments and shall specifically identify the individual performing said tasks.
 4. Single task time entries shall be supplied with the date. Each particular task shall provide a complete description of the task being performed, the identity of the person performing the task within the firm and the time entry associated with each particular task.
 - a. By way of example:
Attendance at Workshop Meeting – JFP (initials of person attending)
Note: If two individuals of the professional firm are performing similar tasks, a separate entry must be placed for each individual and a statement as to why the task required more than one person.
 - b. By way of example:
Site Inspection – meeting with contractor (JFP and BFS).
One individual conducted the inspection, the other met with contractor to discuss close-out issues.
 5. Task descriptions will provide enough specificity for the billing reviewer to understand the nature of the task.
 - a. By way of example of required specificity:
 - 1) For telephone calls, correspondence and meetings – the identity of the other participant and the exact subject matter.
 - 2) For purposes of hearings, conferences and the like – the bill shall provide the identity of the applicant or person, the specific issue discussed and/or the specific application, motion or pleading should be referenced as well as the nature of the task performed.
 - 3) By way of research and writing, the identity of the individual conducting said research and writing, the exact amount of time and the specific nature of the subject matter and the identity of the memo or written document generated as a result of this research.
 - b. Generic descriptions are not acceptable, such as: "Attention to matter", "Meeting", "Discovery", "Analysis", "Work on project or case", and "General Research." These generic descriptions as stand-alone entries are unacceptable.
 6. Separate billing Statements by Categories:
 - a. Separate billing statements by categories shall be submitted by the categories as established by the Chief Financial Officer and/or the Chair of the appropriate board or commission. Where funds are being paid to the professional from an established escrow account, as in the case of developer accounts before the Township of Hamilton Planning and Zoning Boards, the bill and/or invoice shall be broken down on a project-by-project basis. Stated differently, each

professional when billing an escrow account or other specific billing category as established by the CFO or Chair must submit separate bills for each such established account.

1) By way of example:

In the event a development is before the Planning and/or Zoning Board, that development shall be a separate bill and shall be submitted to the appropriate individual on a monthly basis. That bill shall set forth on the cover page of the bill the following:

a) Define the project in general terms and by project number or project identification feature. In the event of malls or other large developments for all inspection services, each particular store or establishment which is being billed shall have a separate bill in accordance with this provision.

b) The face of the bill shall indicate the total year-to-date billing or total amounts billed to the professional for this project on an ongoing total basis. Stated differently, in the event that Project X has been billed the sum of \$8,000.00 over a two-year period, the face of the bill shall indicate that amount which has been invoiced over the two-year period. The face page of the bill shall be situated in such a way as it shall be easy to discern by the Township and/or the developer upon request how much has been billed with respect to that professional's work on that particular project from its inception up to the date of the bill.

X. OTHER TERMS AND CONDITIONS REGARDING ESCROW BILLING.

A. In addition to those terms and conditions set forth in Section IX (f) above, all of the terms and conditions of these Rules and Procedures shall apply with respect to the professional's billing against escrow accounts. In addition, the following general rules shall apply to billing procedures of all professionals when billing against escrow accounts and/or accounts established by developers or other entities seeking approval before any board or commission of the Township.

1. An itemized bill shall be submitted to the developer simultaneously with submission to the Township.
2. The provisions, as set forth above, in these Rules and Procedures shall be equally applicable with respect to the definitions of the task performed and the individual performing said task. General definitions of site inspection without a full description of the person performing the inspection and a description of the inspection shall be deemed in appropriate and not acceptable.
3. Portal-to-portal billing shall not be paid. The fact that the professional's offices may require travel to and from the Township does not provide a basis for compensable services. Travel to and from meetings before the Planning, Zoning or other Boards, and workshop meetings are not compensable time. However, in those circumstances where a professional attends a deposition or must travel to various parts of the State independently of site inspection work, that may be compensable depending upon the circumstances. The Township shall only pay for travel time if and when that travel time is not associated with traveling to and from the Township for attendance at meetings or site inspection or work.

4. Attendance at meetings and workshops. It shall be at the discretion of the Chair of a particular board, and/or the secretary of the particular board, or the Governing Body, by and through its Administrator or Clerk, that a professional's attendance at a particular meeting is required. Prior approval to attend the meeting and/or workshop is required as a condition of payment for attendance.

XI. GENERAL MATTERS.

- A. The Township reserves the right to require additional information with our invoices and/or to require that your firm provide all back-up or other information requested. Under some circumstances, the Township may require a professional to provide a good-faith estimate or budget.