

**BOROUGH OF MOUNT EPHRAIM
REQUESTS FOR QUALIFICATIONS
PROFESSIONAL SERVICES CONTRACTS TO BE AWARDED BY
CRITERIA ESTABLISHED PURSUANT TO N.J.S.A. 19:44A11-1 ET.SEQ.**

PUBLIC NOTICE

The Borough of Mount Ephraim is soliciting statements of qualification from applicants for appointment to the following professional positions: Municipal Attorney, Land Use Board Attorney, Labor Attorney, Bond Counsel, Borough Engineer, Land Use Board Engineer, Municipal Auditor, Financial Advisor and Risk Manager/Insurance Broker. Responses should address the general criteria and mandatory minimum criteria for the position sought. All responses will be treated as confidential and reviewed only by the governing body, unless otherwise required by law. Responses must be received in the Office of the Borough Clerk of the Borough of Mount Ephraim, 121 S. Black Horse Pike, Mount Ephraim, NJ, 08059 no later than 3:00pm, Friday, December 6, 2024. Each applicant is required to submit **three bound copies and one unbound copy** of their proposal. Packages are to be submitted by regular mail, UPS or FedEx or can be hand-delivered to the Municipal Building at 121 S. Black Horse Pike, Mt. Ephraim, NJ. All responses shall be opened and announced publicly, immediately thereafter by the Borough Clerk or her representative. Responses will be reviewed by the governing body. All appointments will be announced at a public meeting. This appointment shall be for the calendar year of 2025 and shall be subject to the execution of an appropriate contract. Contracts may be extended, if necessary, upon mutual agreement by both parties in writing. To obtain the detailed criteria, visit the borough website at www.mountephrain-nj.com or you may request same via e-mail to boroclerk@mountephrain-nj.com.

REQUIREMENTS FOR PROFESSIONAL INFORMATION AND QUALIFICATIONS

1. Name of Respondent.
2. Address of principal place of business and all other offices and phone/fax numbers. Please note specifically which professional will be assigned to work with the Borough and provide their email address.
3. Description of Respondent's education, experience, qualifications, number of years with the Respondent and a description of their experience with municipalities.
4. Three (3) municipal government references.
5. Respondent's ability to provide services in a timely fashion.
6. Cost details including hourly rates of individuals who will provide services to the Borough.
7. Evidence of compliance with New Jersey affirmative action requirements (e.g. Certificate of Employee Information Report).
8. Copy of New Jersey Business Registration Certificate.
9. Copy of any required professional federal and/or state licenses to perform the required activities.
10. Copy of current certificate of insurance evidencing professional liability insurance, with limits of not less than One Million Dollars (\$1,000,000.00) each claim/\$2,000,000.00 annual aggregate.

Following pages outline the specific criteria sought for this professional appointment.

MUNICIPAL ATTORNEY

GENERAL CRITERIA: The Borough of Mt Ephraim desires to appoint a municipal attorney who will be the chief, general legal officer of the Borough. Applicants should demonstrate knowledge of general New Jersey municipal law, New Jersey redevelopment law and municipal contract law. Any experience or knowledge of matters directly affecting the Borough of Mt Ephraim should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. Must be licensed to practice law in the State of New Jersey for a period of not less than seven (7) years preceding the proposed appointment, and eligible to appear before all state and federal courts in New Jersey, as well as New Jersey administrative agencies and the Office of Administrative Law.
2. Must have a minimum of five (5) years of experience in general representation of municipal governments or municipal authorities.
3. Must list past and present municipal or government authorities represented.
4. Must maintain a bona fide principal office in the State of New Jersey.
5. Must have sufficient support staff available to provide all general legal services required by the Borough including, but not limited to, legal research, preparation of resolutions and ordinances, preparation of contracts and other legal documents.
6. Must provide hourly billing rates of employees possibly assigned to service the Borough of Mt Ephraim.
7. Compliance with N.J.S.A. 52:32-44 requiring submission of a New Jersey Business Registration Certificate; and with N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq., requiring compliance with Equal Employment Opportunity and Affirmative Action Laws and proof of compliance therewith.
8. If awarded a contract for this professional service, execution of the borough-provided contract that clearly spells out the Statement of Work and duties and responsibilities of the Municipal Attorney. Said contract is attached as Exhibit A to this Request for Qualifications.

LABOR ATTORNEY

GENERAL CRITERIA: The Borough of Mt Ephraim desires to appoint a labor attorney who will be the Chief Negotiator for the Borough with the Borough's collective bargaining units as determined by the Borough Commissioners. Applicants should demonstrate knowledge of general New Jersey municipal law and New Jersey labor law. Any experience or knowledge of matters directly affecting the Borough of Mt Ephraim should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. Must be licensed to practice law in the State of New Jersey for a period of not less than seven (7) years preceding the proposed appointment, and eligible to appear before all state and federal courts in New Jersey, as well as New Jersey administrative agencies and the Office of Administrative Law.
2. Must have a minimum of five (5) years of experience in labor law representation of municipal governments or municipal authorities.
3. Must list past and present municipal or government authorities represented.
4. Must maintain a bona fide principal office in the State of New Jersey.
5. Must have sufficient support staff available to provide all legal services required by the Borough including, but not limited to, legal research, preparation of contracts, and other legal documents.
6. Must provide hourly billing rates of employees possibly assigned to service the Borough of Mt Ephraim.
7. Compliance with N.J.S.A. 52:32-44 requiring submission of a New Jersey Business Registration Certificate; and with N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27 et seq., requiring compliance with Equal Employment Opportunity and Affirmative Action Laws and proof of compliance therewith.
8. If awarded a contract for this professional service, execution of the borough-provided contract that clearly spells out the Statement of Work and duties and responsibilities of the Labor Attorney. Said contract is attached as Exhibit B to this Request for Qualifications.

MUNICIPAL AUDITOR

GENERAL CRITERIA: The Borough of Mt Ephraim desires to appoint a firm of certified public accountants to act as municipal auditors for the Borough of Mt Ephraim. Applicant should demonstrate knowledge of municipal auditing laws and regulations and experience in providing advice to municipal entities on records compliance issues. Any experience or knowledge of matters that directly affect the Borough of Mt Ephraim should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. The firm must employ a minimum of two (2) certified public accountants who have been licensed in that capacity for a period of not less than seven (7) years each prior to the date of appointment.
2. The firm must employ a minimum of two (2) registered municipal accountants licensed and qualified in that capacity for a minimum of five (5) years each prior to the appointment
3. Must have a minimum of ten (10) years' experience in providing auditing services to municipalities within the State of New Jersey.
4. Must maintain a current principal office within the State of New Jersey.
5. Must describe any special services available to municipal clients.
6. Must list all past and present municipal clients.
7. Must provide hourly billing rates for employees possibly assigned to service the Borough of Mt Ephraim.

BOND COUNSEL

GENERAL CRITERIA: The Borough of Mt Ephraim desires to appoint an attorney or firm who will be the primary legal representative of the Borough in all matters relating to the issuance of public debt instruments, including bonds and bond anticipation notes of the Borough. The Applicant should have knowledge of municipal bond and finance law. Any experience or knowledge of matters directly affecting the Borough of Mt Ephraim should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. Must be licensed to practice law in the State of New Jersey for a period of not less than ten (10) years preceding the proposed appointment, and eligible to appear before all state and federal courts in New Jersey, as well as New Jersey administrative agencies and the Office of Administrative Law.
2. Must have a minimum of seven (7) years experience representing municipal entities in connection with the approval of Bond Ordinances and the issuance of municipal bonds and/or notes.
3. Must list past and present municipal or government authorities represented as Bond Counsel.
4. Must maintain a bona fide principal office in the State of New Jersey.
5. Must have sufficient support staff that is available to provide all legal services required by the Borough including, but not limited to, legal research, preparation of resolutions, preparation of ordinances, preparation of all documents necessary and incidental to the issuance of bonds and other municipal obligations.
6. Must all past and present municipal clients.
7. Must provide hourly billing rates for employees possibly assigned to service the Borough of Mt Ephraim.

LAND USE BOARD ATTORNEY

GENERAL CRITERIA: The Borough of Mount Ephraim Planning Board desires to appoint a Planning Board attorney who will be the chief, general legal officer of the Planning Board. Applications should demonstrate knowledge of general New Jersey Zoning Board Land Use Law and New Jersey redevelopment law. Any experience or knowledge of matters directly affecting the Borough of Mt. Ephraim Planning Board should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. Must be licensed to practice law in the State of New Jersey for a period of not less than ten (10) years preceding the proposed appointment, and eligible to appear before all state and federal courts in New Jersey, as well as New Jersey administrative agencies and the Office of Administrative Law.
2. Must have a minimum of seven (7) years of experience in the general representation of municipal governments, municipal authorities, or municipal agencies.
3. Must list past and present municipal or government authorities, or agencies represented.
4. Must maintain a bona fide principal office in the State of New Jersey.
5. Must have sufficient Planning Board staff available to provide all general legal services required by the Planning Board including, but not limited to, legal research, preparation of resolutions, preparation of ordinances, preparation of contracts and other legal documents.
6. Must list all past and present municipal clients.
7. Must provide hourly billing rates of employees possibly assigned to service the Borough of Mount Ephraim Planning Board.

RISK MANAGER/INSURANCE BROKER

GENERAL CRITERIA: The Borough of Mount Ephraim desires to appoint an insurance risk manager/broker of record responsible for the negotiation and placement of various insurance products required by the Borough of Mount Ephraim including, but not limited to, general liability insurance, general property insurance, errors and omissions insurance, fleet motor vehicle insurance and others. Applicant must demonstrate extensive knowledge of all insurance products required by municipal entities and available product lines. Any experience or knowledge of matters directly affecting the Borough of Mount Ephraim should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. Must be licensed as a New Jersey insurance broker for a minimum of ten (10) years.
2. Must have a minimum of ten (10) years experience representing New Jersey municipal governments as an insurance broker.
3. Must handle all insurance products required by the Borough of Mount Ephraim.
4. Must have access to various competitive insurance lines.
5. Must have available risk management consultant services as requested by the Borough.
6. Must be able to provide consulting services relative to self-insurance programs and other alternative insurance options.
7. Must list past and present municipal entities served as Insurance Broker.

FINANCIAL ADVISOR

GENERAL CRITERIA: The Borough of Mt Ephraim desires to appoint a municipal financial advisor to provide financial services as needed in conjunction with the issuance of general obligation bonds and related reporting compliance. The services shall consist of, but shall not be limited to, the following on an as-needed basis:

MANDATORY MINIMUM REQUIREMENTS:

1. Experience providing financial advisor services to municipalities relating to continuing disclosure requirements on outstanding and future bonds and other securities.
2. Experience providing services to municipalities that enables compliance with federal requirements regarding the issuance of necessary information while issuing new debt and any obligations of the borough to continue to provide information while debt remains outstanding together with any other services necessary to ensure the borough's compliance with all federal requirements.
3. Recommendation of structure for the transaction and alternatives to minimize overall debt service costs.
4. Assist in reviewing and preparing, as applicable, relevant bond documents, including, but not limited to, official statements.
5. Assisting in preparations, discussions and meetings with rating agencies.
6. Identifying financing opportunities available to the Borough.
7. Managing the marketing of the sale, as well as the sale/pricing process.
8. Providing pre and post-closing analysis of debt issuances.
9. Providing such financial advisory and continuing disclosure services as requested by the Borough.

BOROUGH ENGINEERS

GENERAL CRITERIA: The Borough of Mt Ephraim desires to appoint a firm to provide consulting engineering services to the Township. Applicants should demonstrate knowledge and experience with respect to all aspects of engineering services required by a municipal entity. Any experience or knowledge of matters that directly affect the Borough of Mt Ephraim should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. Must be certified to provide engineering services in the State of New Jersey.
2. Must have a minimum of ten (10) years experience in providing consulting services to municipalities including demonstrated experience with road programs, drainage improvement projects, combined sewer projects, utility upgrades and replacement, public building improvement programs, recreational facilities, land surveying and mapping projects.
3. Must be experienced in obtaining permits and approvals from various state, county and local regulatory agencies.
4. Must maintain a staff of New Jersey licensed or certified professionals sufficient to service the Borough of Mt Ephraim including, but not limited to: civil engineers, land surveyors, planners, environmental scientists and construction Clerks.
5. Must maintain a principal office location in close proximity to the Borough of Mt Ephraim so as to be able to respond to emergent matters promptly.
6. Must be experienced in the preparation of grant applications.
7. Must have project managers with at least ten (10) years of municipal experience.
8. Must list past and present municipalities served as Consulting Engineer.
9. Must provide hourly billing rates for employees possibly assigned to service the Borough of Mt Ephraim.

LAND USE BOARD ENGINEERS

GENERAL CRITERIA: The Borough of Mount Ephraim Planning Board desires to appoint a firm to provide consulting engineering services to the Borough of Mount Ephraim Planning Board. Applicants should demonstrate knowledge and experience with respect to all aspects of engineering services required by a municipal entity. Any experience or knowledge of matters that directly affect the Borough of Mount Ephraim Planning Board should be addressed.

MANDATORY MINIMUM REQUIREMENTS:

1. Must be certified to provide engineering services in the State of New Jersey.
2. Must have a minimum of ten (10) years of experience in providing consulting services to municipalities or municipal authorities.
3. Must maintain a staff of New Jersey licensed or certified professionals sufficient to service the Borough of Mount Ephraim Planning Board including, but not limited to: civil engineers, land surveyors, planners, environmental scientists and construction Clerks.
4. Must maintain a principal office location in close proximity to the Borough of Mount Ephraim so as to be able to respond to emergent matters promptly.
5. Must have project managers with at least ten (10) years of municipal experience.
6. Must list past and present municipalities or municipal authorities served as Consulting Engineer.
7. Must provide hourly billing rates for employees possibly assigned to service the Borough of Mount Ephraim Planning Board.

EXHIBIT A
STATEMENT OF WORK/CONTRACT FOR
MUNICIPAL ATTORNEY SERVICES

THIS AGREEMENT for Professional Legal Services ("Agreement") is made and entered into on the date and for the terms set forth below, between the BOROUGH OF MOUNT EPHRAIM (hereinafter "the Borough"), and _____ ("Attorney").

WHEREAS the Borough desires to contract for professional legal services and to retain counsel to provide legal services; and

WHEREAS Attorney provides professional legal services and is particularly qualified to perform the required services due to Attorney's legal competence and expertise.

NOW, THEREFORE, in consideration of the mutual promises set out below, the Borough and Attorney agree as follows:

I. Agreement Term

- a. The period of the agreement shall be for the calendar year of 2025.
- b. The parties may mutually agree in writing to extend the Agreement term.
- c. If authorized and approved by the Borough Commissioners, the term of this Agreement may be extended for a time period to be specified by that extension. If Attorney does not agree to the extension as authorized by the Borough Commissioners, Attorney shall provide 30 days written notice before the Agreement term ends. Attorney will be deemed to have agreed to any Borough-approved extension of this Agreement if 30 days written notice is not tendered to the Borough Commissioners prior to the end of the Agreement term, and Attorney continues to provide services pursuant to the Agreement.
- d. All references to the term of this Agreement or the Agreement term shall include any extensions or automatic renewals of the term.

II. Authorized Representatives

- a. The Borough Clerk, under direction of the Borough Commissioners is the authorized representative for the Borough and will administer this Agreement for the Borough.
- b. _____ or designee meeting the minimum criteria, is the authorized representative for Attorney.

- c. Changes in designated representatives shall occur only by advance written notice to the other party.

III. **Services to be Performed**

- a. Attorney shall provide legal services to the Borough as requested by the Commissioners or Commissioners' designee(s). The scope of Attorney's duties may include, but not be limited to, the following specific services, duties and responsibilities:
 - i. Legal counsel and advice to the Borough and Administration.
 - ii. Timely advice and counsel on emergent matters. Counsel is expected to respond, at least verbally to be followed in writing, within a maximum of 24 hours when an inquiry is made.
 - iii. Written legal opinions upon request.
 - iv. Initiate and/or defend lawsuits as necessary and at the direction of the Borough.
 - v. Prepare all necessary legal documents.
 - vi. Work cooperatively with legal counsel of insurance companies, consortiums, the municipality or other collectives with whom the Borough may be affiliated.
 - vii. Represent the Borough in all judicial and/or administrative proceedings within the specific service areas in which the Borough or any of its Commissioners, administrators or agents may be a part or have an interest.
 - viii. Provide legal training, professional development, and make public presentations on legal issues at the request of the Borough/ Commissioners and make recommendations for same from time to time.
 - ix. Fulfill other legal duties as are commonly accepted and assigned.
- b. Services applicable to all service areas:

c. General Counsel Services

- i. Review and advise for legal notices, OPRA requests, resolutions, borough policies and matters of district governance.
- ii. Review and advise in matters of procurement and service contracts, bid specifications, bidding matters, contract preparation and execution, and remedies of contract disputes.
- iii. Advise and counsel on all matters related to general education students including discipline, attendance, adherence to rules and regulations, etc.
- iv. Represent the Borough in matters involving interface with the municipal governing bodies including planning and adjustment boards, financial matters, jurisdictional matters, etc., and with state agencies such as the EDA, DOE, EPA as needed.
- v. Provide assurance statements as required for financial audits, bonding matters, and grant compliance.
- vi. Attendance and representation of the Borough at Borough meetings and serve as Parliamentarian upon request.
- vii. Advise and counsel on all matters related to residency investigations, determinations, and hearings.

d. Duties and responsibilities

- i. Attorney shall provide Borough Commissioners with the necessary consultation by staff qualified to perform the legal tasks at the least costly billing category. Attorney shall assign only competent personnel to perform services under this Agreement. In the event the Borough, in its sole discretion, at any time during the term of this Agreement desires the removal of any person assigned by Attorney to perform services pursuant to this Agreement, Attorney shall remove such person immediately upon receiving written notice from the Borough of its desire for removal of such person.
- ii. Attorney's legal representation shall include, but not be limited to any and all activity reasonably necessary to represent the Borough's interest in a professionally competent manner. All activity shall be

reviewed with and authorized by the Borough Commissioners and/or designee on an ongoing basis.

- iii. Attorney shall provide verbal and/or written reports as may be reasonably requested by the Borough Commissioners and/or designee, and as necessitated by the conduct of litigation.
- iv. Attorney shall meet with the Borough Commissioners and/or designee upon request.
- v. Attorney shall consult with the Borough Commissioners prior to retaining a consultant or expert witness to assist with any individual case assigned to Attorney.
- vi. Attorney shall consult with the Borough and/or designee on strategy and decisions.
- vii. Attorney shall assist Borough Commissioners and/or designee in negotiations, and settlement valuations and shall obtain the authority of the Borough Commissioners prior to making any settlement offer or accepting any settlement offer.
- viii. Attorney shall provide Borough Commissioners and/or designee with copies of all pleadings and Court rulings filed in any action in which Attorney represents Borough.
- ix. Attorney shall devote such time to the performance of services pursuant to the Agreement as may be reasonably necessary for the satisfactory performance of Attorney's obligations under this Agreement.
- x. Attorney shall maintain books, records, files, documents and other evidence directly pertinent to all work under this Agreement in accordance with accepted professional practice and accounting procedures for a minimum of four years after termination of the agreement. Borough Commissioners, or any of the Borough's duly authorized representatives, shall have access to these books, records, files, documents and other evidence for purposes of inspection, evaluation, audit or copying.
- xi. Attorney shall keep and preserve all back-up documentation to support all entries included in billings to Borough for legal services for a period of four years after termination or completion of the matter for which Attorney has been retained.

- xiii. Attorney understands and agrees that the services and scope of work to be performed under this Agreement can and will be performed in a timely manner, consistent with the requirements and standards established by applicable federal, state and county laws, ordinances, regulations, resolutions and decisional law, including, but not limited to, a manner in accordance with the standards of Attorney's occupation and profession.
- xiii. Attorney shall perform all services required under this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Attorney is engaged. All products delivered to Borough by Attorney under this Agreement shall be prepared in a quality, professional manner and shall conform to the standards and quality normally observed by a person practicing in Attorney's profession and area of expertise.
- xiv. Attorney represents and warrants to Borough that Attorney, and all of Attorney's employees and agents, have all licenses, permits, qualifications, and approvals of whatsoever nature which are necessary and legally required to perform the duties, responsibilities, and services contracted for in the Agreement. Attorney represents and warrants to Borough that Attorney shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits and approvals legally required for Attorney and Attorney's staff to practice the legal profession at the time the services are performed.
- xv. Attorney shall devote such time to the performance of services under this Agreement as may be reasonably necessary for the satisfactory performance of Attorney's obligations under this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause which is beyond the reasonable control of the parties.
- xvi. If litigation or administrative hearings ensue which relate to the subject matter of Attorney's services under the Agreement, upon request, Attorney agrees to testify at a reasonable and customary fee as identified in the Professional Services Agreement /Fee Proposal Exhibit A between the parties.

IV. **Consideration**

- a. Borough shall pay Attorney for Attorney's services as expressly provided in the Fee Proposal attached at **Exhibit A**. Attorney shall not be entitled to, nor receive

from Borough, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement.

- b. Attorney shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever. Extraordinary travel expenses shall be subject to the preapproval of the Borough Commissioners before such expenses will be reimbursable under this Contract.
- c. Borough will not withhold any Federal or State income taxes or Social Security tax from any payments made by Borough to Attorney under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Attorney. Borough has no responsibility or liability for payment of Contractor's taxes or assessments.
- d. Services performed by Contractor and not authorized in this Agreement shall not be paid for by Borough. Payment for additional services shall be made to Attorney by Borough, if and only if, this Agreement is amended by both parties in advance of performing additional services.
- e. Attorney shall provide Borough with invoices for payment of services under this Agreement in the form and manner directed by the Borough, and consistent with the record-keeping specificity required by Attorney's profession.

V. **Independent-Contractor Status**

- a. It is expressly understood that in the performance of the services herein, Attorney, and Attorney's agents and employees, shall act in an independent capacity as an independent contractor and not as officers, employees or agents of Borough. Attorney, and Attorney's agents and employees are and at all times during the term of this Agreement shall represent and conduct themselves as independent contractors and not as employees of Borough. This Agreement is not an agreement for employment, and shall not under any circumstances be construed or considered to create an employer-employee relationship, or joint venture. Attorney shall be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding, Social Security, and Worker's Compensation.
- b. Attorney, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of Borough or its Commissioners. Except as expressly provided in this Agreement, Attorney has no express or implied authority or responsibility to exercise any rights or power vested in the Borough, nor to bind Borough or its Commissioners to any obligation whatsoever. No Borough agent, officer, or employee is to be considered an employee of Attorney.

- c. If, in the performance of this agreement, any third persons are employed by Attorney, such persons shall be entirely and exclusively under the direction, supervision, and control of Attorney. Attorney shall determine all terms of employment including hours, wages, working conditions, discipline, hiring and discharging, or any other term of employment or requirements of law.
- d. It is understood and agreed that as an independent contractor, and not as a Borough employee, neither Attorney, nor Attorney's assigned personnel shall have any entitlement as a Borough employee, any right to act on Borough's behalf in any capacity whatsoever as an agent, or to bind Borough or its Commissioners of any obligation whatsoever.

VI. **Ownership of Information and Work Product**

- a. All professional and technical information developed under this Agreement, all reports, information, related data, work sheets, work product, findings, and conclusions furnished under this Agreement ("Work Product") become the property of Borough, shall be confidential until Borough under the direction of its Commissioners makes the Work Product available for public inspection, and shall not be made available by Attorney to any person or entity, or published by Attorney without the prior written authorization of Borough Commissioners.
- b. Attorney agrees to deliver reproducible copies of such documents to Borough on completion of Agreement services.

VII. **Assignability**

- a. The parties recognize that a substantial inducement to Borough for entering into this Agreement is the reputation and competence of Attorney, including Attorney's associates, paralegals, and legal secretaries. Neither this Agreement, nor any part, may be assigned by Attorney without Borough's written approval, and this Agreement contemplates that Attorney will be the primary provider of services called to be performed.
- b. Except as otherwise provided in this Agreement, Attorney shall not subcontract any portion of the Agreement services without Borough's written approval. Any subcontractor, independent contractor, or any type of agent or employee ("Secondary Parties") performing or hired to perform any term or condition of this Agreement on behalf of Attorney, as may be permitted by the Agreement, shall comply with each term and condition of this Agreement. Furthermore, Attorney shall be responsible for the Secondary Parties' acts and satisfactory performance of the terms and conditions of this Agreement.
- c. Any attempted or purported assignment or subcontracting by Attorney of any

right or obligation under this Agreement without written approval shall be void and of no legal effect.

VIII. **Right to Retain and Consult Additional Legal Counsel**

- a. Notwithstanding the terms of this agreement, Borough retains the right to seek and or retain additional legal advice, consultation and counsel should it be determined in the Borough's best interest to do so in the Borough's sole discretion.

IX. **Amendment, Modification and Waiver**

- a. No amendment, modification or waiver of any provision of this Agreement is effective unless made in writing, signed by all the parties, and then is effective only for the period, on the condition, and for the specific instance for which it is given.
- b. A waiver by any party of any breach of any term, covenant or condition of this Agreement, or a waiver of any right or legal or equitable remedy available shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition of the Agreement or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the waiving party.

X. **Insurance**

- a. During the term of this Agreement, Attorney shall maintain in full force and effect malpractice insurance and represents and declares that a policy of insurance has been issued with a minimum policy limit of \$1,000,000 each claim, \$2,000,000 annual aggregate. Upon request, a copy of the declarations page will be provided.

XI. **Indemnification**

- a. Each of the parties shall be solely liable for negligent or wrongful acts or omissions of its representatives, agents or employees occurring in the performance of this Agreement.
- b. If either party becomes liable for damages caused by its representatives, agents or employees, it shall pay such damages without contribution by the other party. Attorney's obligation under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Attorney to have insurance.
- c. To the extent permitted by law, Borough shall defend, indemnify, and hold harmless Attorney, and the agents, officers and employees of Attorney, from claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees arising out of, or resulting from, the gross negligence or wrongful acts of Borough, its officers, or employees.

- d. To the extent permitted by law, Attorney shall defend, indemnify, and hold harmless Borough, and its agents, officers and employees, from claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees arising out of, or resulting from, the gross negligence or wrongful acts of Attorney, its agents, officers, or employees
- e. It is understood and agreed that Attorney shall be liable for any acts or omissions which occur outside the course or scope of performance of this Agreement and shall defend, indemnify and hold harmless Borough, its agents, officers, representatives and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising from the active negligence or wrongful act of Attorney which is outside the course or scope of the performance of this Agreement.
- f. Nothing contained herein shall be deemed to increase Borough's liability beyond limitations set forth in law.

XII. Non-discrimination

- a. Attorney shall not unlawfully discriminate and shall comply with all local, state, federal and decisional laws relating to discrimination.
- b. During the performance of this contract, the Attorney agrees as follows:
- c. The Attorney, 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 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, gender identity or expression, disability, nationality 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 Attorney 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.
- d. The Attorney, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Attorney, 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.

- e. The Attorney, 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.
- f. The Attorney, 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.
- g. The Attorney 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.
- h. The Attorney 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.
- i. The Attorney 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.
- j. In conforming with the applicable employment goals, the Attorney 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.
- k. The Attorney 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:

- i. Letter of Federal Affirmative Action Plan Approval
 - ii. Certificate of Employee Information Report
 - iii. Employee Information Report Form AA302
1. The Attorney shall furnish such reports or other documents to the Div. of Contract Compliance & EEO 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 Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

XIII. **Conflict of Interest**

- a. Attorney warrants and covenants that Attorney presently has no interest, nor shall any interest be hereinafter acquired in any manner, which will render the services under this Agreement a violation of any applicable federal, state or local law. Attorney further warrants that no officer, agent, employee or representative has influenced or participated in a decision to award this contract which has or may confer on Attorney a benefit in which the employee or officer may have an interest, pecuniary or otherwise. In the event that a conflict of interest should nevertheless hereafter arise, Attorney shall promptly notify Borough so Borough may determine whether to terminate the Agreement.
- b. Attorney agrees to comply with New Jersey state law regarding conflicts.
- c. Attorney agrees that if any facts come to Attorney's attention which raise any question as to the applicability of any conflict law, Attorney will immediately inform Borough and provide all information needed for resolution of the question.

XIV. **Termination**

- a. Borough shall have the right to terminate this Agreement at any time by giving notice of termination in writing to Attorney. When Borough gives notice of termination, Attorney shall immediately cease rendering service upon receipt and the following shall apply.
- b. Attorney shall deliver copies of all writings prepared by Attorney pursuant to this Agreement. The term "writings" shall include all forms of written communication or memorializations of oral communication, including but not limited to handwriting, typewriting, printing, work-processing, computer disks, photostating, photographing, facsimiles, and every other means of recording upon any tangible thing, and form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof.

- c. Borough shall have full ownership and control of all such writing or other communications delivered by Attorney pursuant to this Agreement.
- d. Borough shall pay Attorney the reasonable value of services rendered by Attorney under this Agreement to the date of termination, in addition to that amount previously billed and approved by Borough Commissioners. However this payment shall not exceed the amount documented by Attorney and approved by Borough as work accomplished to date; and shall not include lost profits which might have been made by Attorney had Attorney completed the services required by this Agreement. Attorney shall furnish Borough with any financial information necessary in Borough's judgment to determine the reasonable value of the services rendered by Attorney.
- e. Attorney may terminate Attorney's services under this Agreement upon 30 working days written notice to Borough, without liability for damages, if Attorney is not compensated according to the terms of the Agreement, or upon any other material breach of the Agreement by Borough, provided Attorney has first notified Borough in writing of any alleged breach, specifying the nature of the alleged breach and providing not less than ten working days within which Borough may cure the alleged breach.
- f. In the event of termination, Attorney will cooperate with termination transition in an orderly and professional manner best calculated to avoid disruption of legal services and to protect Borough from potential legal exposure. Attorney shall provide a termination report which includes a brief description of the case facts, a discussion of the applicable law, a complete list and description of all future scheduled deadlines, status conferences, briefing s, arbitration or mediation dates, court appearances, discovery cut-offs and any pending or outstanding discovery matters.
- g. This Agreement shall be terminable, at option of Borough, in the case of Attorney's voluntary or involuntary bankruptcy, or insolvency.
- h. Borough may terminate this Agreement in the event Attorney becomes unable to substantially perform any term or condition of this Agreement.
- i. Notwithstanding any other term or condition of this Agreement, either party may terminate this agreement upon thirty days written notice to the other party.

XV. Attorney Fees

- a. If any action at law or in equity, including a request for declaratory relief, is brought to enforce or interpret provisions of this Agreement, each party shall bear its own attorney fees and costs.

XVI. Choice of Venue and Applicable Law

- a. Unless otherwise expressly waived in writing by the parties, any action in law or equity brought to enforce any of the Agreement provisions shall be filed and remain in a Court of competent jurisdiction in the County of Camden, State of New Jersey. The validity interpretation and performance of this Agreement, and all matters relating to it, shall be controlled by and construed under New Jersey substantive and procedural law.

XVII. Severability

- a. If any term, covenant, condition or provision of this Agreement is held to be invalid, void, or unenforceable by a Court of competent jurisdiction, the remainder of the covenant, condition, provision or Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.

XVIII. Captions

- a. The captions of this agreement are for reference convenience only and are not intended to explain, modify, amplify or aid in the interpretation, construction or meaning of the Agreement provisions.

XIX. Authority to Contract

- a. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entity, person, estate, firm, or corporation, represented or purported to be represented by such entity, person, estate, firm, or corporation, and that all formal requirements necessary or required by any state or federal law in order to enter into this Agreement have been fully complied. Furthermore, by entering into this Agreement, neither party shall have breached the terms nor conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect.

XX. Notice

- a. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement, must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party to be served as follows:

b. If to Borough:

Mount Ephraim Borough Commissioners & Borough Clerk
121 S Black Horse Pike
Mount Ephraim, New Jersey 08059

c. If to Attorney:

(name and address of selected attorney/firm to be inserted)

- d. Each party shall provide the other with telephone and written notice of any change of address as soon as practicable.

XXI. **Simultaneous Counterparts**

- a. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

XXII. **Complete Agreement**

- a. Except as otherwise provided in this Agreement, this Agreement and any specific references, d attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any express or implied representations made.
- b. It is the intention of the parties that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties.
- c. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents, if any, as may be necessary and convenient to the fulfillment of these purposes.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the day and year first set forth above.

**BOROUGH OF
MT EPHRAIM NJ**

**ATTORNEY NAME
LAW FIRM**

By: _____
Mayor Susan M. Carney

By: _____
Attorney

EXHIBIT A

FEE SCHEDULE

Our fee schedule is at an hourly rate for all legal services to be billed in tenth (1/10) of an hour increments at the following rates:

Category of Work	Rate
All legal services to be billed at hourly rates unless otherwise specified herein. The FIRM does not bill for travel time.	Partner Rate \$ _____\hr Associate Rate: \$ _____\hr Paralegal \$ _____.00
Reimbursement for Costs and Expenses such as filing fees, investigation costs, transcript costs, expert fees, witness fees, service charges and the like, Federal Express (overnight) and messenger charges where the use of a messenger is necessary to meet a client's requirements, copying services for projects in excess of 100 pages	Reimbursement will be for all costs and expenses excluding routine copying (less than 100 pages). Discounts and rebates will be passed on to the Borough

EXHIBIT B
STATEMENT OF WORK/CONTRACT FOR
MUNICIPAL LABOR ATTORNEY SERVICES

THIS AGREEMENT for Professional Legal Services ("Agreement") is made and entered into on the date and for the terms set forth below, between the BOROUGH OF MOUNT EPHRAIM (hereinafter, "the Borough"), and _____ ("Attorney").

WHEREAS the Borough desires to contract for professional legal services and to retain counsel to provide legal services; and

WHEREAS Attorney provides professional legal services and is particularly qualified to perform the required services due to Attorney's legal competence and expertise.

NOW, THEREFORE, in consideration of the mutual promises set out below, the Borough and Attorney agree as follows:

I. Agreement Term

- a. The period of the agreement shall be for the calendar year of 2025.
- b. The parties may mutually agree in writing to extend the Agreement term.
- c. If authorized and approved by the Borough Commissioners, the term of this Agreement may be extended for a time period to be specified by that extension. If Attorney does not agree to the extension as authorized by the Borough Commissioners, Attorney shall provide 30 days written notice before the Agreement term ends. Attorney will be deemed to have agreed to any Borough-approved extension of this Agreement if 30 days written notice is not tendered to the Borough Commissioners prior to the end of the Agreement term, and Attorney continues to provide services pursuant to the Agreement.
- d. All references to the term of this Agreement or the Agreement term shall include any extensions or automatic renewals of the term.

II. Authorized Representatives

- a. The Borough Clerk, under direction of the Borough Commissioners is the authorized representative for the Borough and will administer this Agreement for the Borough.
- b. _____ or designee meeting the minimum criteria is the authorized representative for Attorney.

- c. Changes in designated representatives shall occur only by advance written notice to the other party.

III. **Services to be Performed**

- a. Attorney shall provide legal services to the Borough as requested by the Commissioners or Commissioners' designee(s). The scope of Attorney's duties may include, but not be limited to, the following specific services, duties and responsibilities:
- b. Services applicable to all service areas:
 - i. Legal counsel and advice to the Borough and Administration.
 - ii. Timely advice and counsel on emergent matters. Counsel is expected to respond, at least verbally to be followed in writing, within a maximum of 24 hours when an inquiry is made.
 - iii. Written legal opinions upon request.
 - iv. Initiate and/or defend lawsuits as necessary and at the direction of the Borough.
 - v. Prepare all necessary legal documents.
 - vi. Work cooperatively with legal counsel of insurance companies, consortiums, the municipality or other collectives with whom the Borough may be affiliated.
 - vii. Represent the Borough in all judicial and/or administrative proceedings within the specific service areas in which the Borough or any of its Commissioners, administrators or agents may be a part or have an interest.
 - viii. Provide legal training, professional development, and make public presentations on legal issues at the request of the Borough/ Commissioners and make recommendations for same from time to time.
 - ix. Fulfill other legal duties as are commonly accepted and assigned.

c. Labor Counsel Services:

- i. Serve as Chief Negotiator for the Borough with the Borough's collective bargaining units determined by the Borough Commissioners.

- 1. Advise the Borough in all legal matters pertaining to collective bargaining and labor relations, including:

- a. Advise on proposed contract language and bargaining proposals.
 - b. Advise on salary guides in accordance with Borough guidelines.
 - c. Prepare final contract documents upon settlement and ratification of tentative agreements.

d. Duties and responsibilities

- i. Attorney shall provide Borough Commissioners with the necessary consultation by staff qualified to perform the legal tasks at the least costly billing category. Attorney shall assign only competent personnel to perform services under this Agreement. In the event the Borough, in its sole discretion, at any time during the term of this Agreement desires the removal of any person assigned by Attorney to perform services pursuant to this Agreement, Attorney shall remove such person immediately upon receiving written notice from the Borough of its desire for removal of such person.
- ii. Attorney's legal representation shall include, but not be limited to any and all activity reasonably necessary to represent the Borough's interest in a professionally competent manner. All activity shall be reviewed with and authorized by the Borough Commissioners and/or designee on an ongoing basis.
- iii. Attorney shall provide verbal and/or written reports as may be reasonably requested by the Borough Commissioners and/or designee, and as necessitated by the conduct of litigation.
- iv. Attorney shall meet with the Borough Commissioners and/or designee upon request.

- v. Attorney shall consult with the Borough Commissioners prior to retaining a consultant or expert witness to assist with any individual case assigned to Attorney.
- vi. Attorney shall consult with the Borough and/or designee on strategy and decisions.
- vii. Attorney shall assist Borough Commissioners and/or designee in negotiations, and settlement valuations and shall obtain the authority of the Borough Commissioners prior to making any settlement offer or accepting any settlement offer.
- viii. Attorney shall provide Borough Commissioners and/or designee with copies of all pleadings and Court rulings filed in any action in which Attorney represents Borough.
- ix. Attorney shall devote such time to the performance of services pursuant to the Agreement as may be reasonably necessary for the satisfactory performance of Attorney's obligations under this Agreement.
- x. Attorney shall maintain books, records, files, documents and other evidence directly pertinent to all work under this Agreement in accordance with accepted professional practice and accounting procedures for a minimum of four years after termination of the agreement. Borough Commissioners, or any of the Borough's duly authorized representatives, shall have access to these books, records, files, documents and other evidence for purposes of inspection, evaluation, audit or copying.
- xi. Attorney shall keep and preserve all back-up documentation to support all entries included in billings to Borough for legal services for a period of four years after termination or completion of the matter for which Attorney has been retained.
- xii. Attorney understands and agrees that the services and scope of work to performed under this Agreement can and will be performed in a timely manner, consistent with the requirements and standards established by applicable federal, state and county laws, ordinances, regulations, resolutions and decisional law, including, but not limited to, a manner in accordance with the standards of Attorney's occupation and profession.

- xiii. Attorney shall perform all services required under this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Attorney is engaged. All products delivered to Borough by Attorney under this Agreement shall be prepared in a quality, professional manner and shall conform to the standards and quality normally observed by a person practicing in Attorney's profession and area of expertise.
- xiv. Attorney represents and warrants to Borough that Attorney, and all of Attorney's employees and agents, have all licenses, permits, qualifications, and approvals of whatsoever nature which are necessary and legally required to perform the duties, responsibilities, and services contracted for in the Agreement. Attorney represents and warrants to Borough that Attorney shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits and approvals legally required for Attorney and Attorney's staff to practice the legal profession at the time the services are performed.
- xv. Attorney shall devote such time to the performance of services under this Agreement as may be reasonably necessary for the satisfactory performance of Attorney's obligations under this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause which is beyond the reasonable control of the parties.
- xvi. If litigation or administrative hearings ensue which relate to the subject matter of Attorney's services under the Agreement, upon request, Attorney agrees to testify at a reasonable and customary fee as identified in the Professional Services Agreement /Fee Proposal Exhibit A between the parties.

IV. **Consideration**

- a. Borough shall pay Attorney for Attorney's services as expressly provided in the Fee Proposal attached at **Exhibit A**. Attorney shall not be entitled to, nor receive from Borough, any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement.
- b. Attorney shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leaves of absence of any type or kind whatsoever. Extraordinary travel expenses shall be subject to the preapproval of the Borough Commissioners before such expenses will be reimbursable under this Contract.

- c. Borough will not withhold any Federal or State income taxes or Social Security tax from any payments made by Borough to Attorney under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Attorney. Borough has no responsibility or liability for payment of Contractor's taxes or assessments.
- d. Services performed by Contractor and not authorized in this Agreement shall not be paid for by Borough. Payment for additional services shall be made to Attorney by Borough, if and only if, this Agreement is amended by both parties in advance of performing additional services.
- e. Attorney shall provide Borough with invoices for payment of services under this Agreement in the form and manner directed by the Borough, and consistent with the record-keeping specificity required by Attorney's profession.

V. **Independent-Contractor Status**

- a. It is expressly understood that in the performance of the services herein, Attorney, and Attorney's agents and employees, shall act in an independent capacity as an independent contractor and not as officers, employees or agents of Borough. Attorney, and Attorney's agents and employees are and at all times during the term of this Agreement shall represent and conduct themselves as independent contractors and not as employees of Borough. This Agreement is not an agreement for employment, and shall not under any circumstances be construed or considered to create an employer-employee relationship, or joint venture. Attorney shall be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding, Social Security, and Worker's Compensation.
- b. Attorney, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of Borough or its Commissioners. Except as expressly provided in this Agreement, Attorney has no express or implied authority or responsibility to exercise any rights or power vested in the Borough, nor to bind Borough or its Commissioners to any obligation whatsoever. No Borough agent, officer, or employee is to be considered an employee of Attorney.
- c. If, in the performance of this agreement, any third persons are employed by Attorney, such persons shall be entirely and exclusively under the direction, supervision, and control of Attorney. Attorney shall determine all terms of employment including hours, wages, working conditions, discipline, hiring and discharging, or any other term of employment or requirements of law.
- d. It is understood and agreed that as an independent contractor, and not as a

Borough employee, neither Attorney, nor Attorney's assigned personnel shall have any entitlement as a Borough employee, any right to act on Borough's behalf in any capacity whatsoever as an agent, or to bind Borough or its Commissioners of any obligation whatsoever.

VI. Ownership of Information and Work Product

- a. All professional and technical information developed under this Agreement, all reports, information, related data, work sheets, work product, findings, and conclusions furnished under this Agreement ("Work Product") become the property of Borough, shall be confidential until Borough under the direction of its Commissioners makes the Work Product available for public inspection, and shall not be made available by Attorney to any person or entity, or published by Attorney without the prior written authorization of Borough Commissioners.
- b. Attorney agrees to deliver reproducible copies of such documents to Borough on completion of Agreement services.

VII. Assignability

- a. The parties recognize that a substantial inducement to Borough for entering into this Agreement is the reputation and competence of Attorney, including Attorney's associates, paralegals, and legal secretaries. Neither this Agreement, nor any part, may be assigned by Attorney without Borough's written approval, and this Agreement contemplates that Attorney will be the primary provider of services called to be performed.
- b. Except as otherwise provided in this Agreement, Attorney shall not subcontract any portion of the Agreement services without Borough's written approval. Any subcontractor, independent contractor, or any type of agent or employee ("Secondary Parties") performing or hired to perform any term or condition of this Agreement on behalf of Attorney, as may be permitted by the Agreement, shall comply with each term and condition of this Agreement. Furthermore, Attorney shall be responsible for the Secondary Parties' acts and satisfactory performance of the terms and conditions of this Agreement.
- c. Any attempted or purported assignment or subcontracting by Attorney of any right or obligation under this Agreement without written approval shall be void and of no legal effect.

VIII. Right to Retain and Consult Additional Legal Counsel

- a. Notwithstanding the terms of this agreement, Borough retains the right to seek and or retain additional legal advice, consultation and counsel should it be determined in the Borough's best interest to do so in the Borough's sole discretion.

IX. Amendment, Modification and Waiver

- a. No amendment, modification or waiver of any provision of this Agreement is effective unless made in writing, signed by all the parties, and then is effective only for the period, on the condition, and for the specific instance for which it is given.
- b. A waiver by any party of any breach of any term, covenant or condition of this Agreement, or a waiver of any right or legal or equitable remedy available shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition of the Agreement or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the waiving party.

X. Insurance

- a. During the term of this Agreement, Attorney shall maintain in full force and effect malpractice insurance and represents and declares that a policy of insurance has been issued with a minimum policy limit of \$1,000,000 each claim, \$2,000,000 annual aggregate. Upon request, a copy of the declarations page will be provided.

XI. Indemnification

- a. Each of the parties shall be solely liable for negligent or wrongful acts or omissions of its representatives, agents or employees occurring in the performance of this Agreement.
- b. If either party becomes liable for damages caused by its representatives, agents or employees, it shall pay such damages without contribution by the other party. Attorney's obligation under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for Attorney to have insurance.
- c. To the extent permitted by law, Borough shall defend, indemnify, and hold harmless Attorney, and the agents, officers and employees of Attorney, from claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees arising out of, or resulting from, the gross negligence or wrongful acts of Borough, its officers, or employees.
- d. To the extent permitted by law, Attorney shall defend, indemnify, and hold harmless Borough, and its agents, officers and employees, from claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees arising out of, or resulting from, the gross negligence or wrongful acts of Attorney, its agents, officers, or employees
- e. It is understood and agreed that Attorney shall be liable for any acts or omissions which occur outside the course or scope of performance of this Agreement and shall defend, indemnify and hold harmless Borough, its agents,

officers, representatives and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising from the active negligence or wrongful act of Attorney which is outside the course or scope of the performance of this Agreement.

- f. Nothing contained herein shall be deemed to increase Borough's liability beyond limitations set forth in law.

XII. Non-discrimination

- a. Attorney shall not unlawfully discriminate and shall comply with all local, state, federal and decisional laws relating to discrimination.
- b. During the performance of this contract, the Attorney agrees as follows:
- c. The Attorney, 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 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, gender identity or expression, disability, nationality 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 Attorney 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.
- d. The Attorney, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Attorney, 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.
- e. The Attorney, 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.

- f. The Attorney, 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.
- g. The Attorney 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.
- h. The Attorney 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.
- i. The Attorney 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.
- j. In conforming with the applicable employment goals, the Attorney 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.
- k. The Attorney 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:
 - i. Letter of Federal Affirmative Action Plan Approval
 - ii. Certificate of Employee Information Report
 - iii. Employee Information Report Form AA302
- l. The Attorney shall furnish such reports or other documents to the Div. of Contract Compliance & EEO 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 Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

XIII. **Conflict of Interest**

- a. Attorney warrants and covenants that Attorney presently has no interest, nor shall any interest be hereinafter acquired in any manner, which will render the services under this Agreement a violation of any applicable federal, state or local law. Attorney further warrants that no officer, agent, employee or representative has influenced or participated in a decision to award this contract which has or may confer on Attorney a benefit in which the employee or officer may have an interest, pecuniary or otherwise. In the event that a conflict of interest should nevertheless hereafter arise, Attorney shall promptly notify Borough so Borough may determine whether to terminate the Agreement.
- b. Attorney agrees to comply with New Jersey state law regarding conflicts.
- c. Attorney agrees that if any facts come to Attorney's attention which raise any question as to the applicability of any conflict law, Attorney will immediately inform Borough and provide all information needed for resolution of the question.

XIV. **Termination**

- a. Borough shall have the right to terminate this Agreement at any time by giving notice of termination in writing to Attorney. When Borough gives notice of termination, Attorney shall immediately cease rendering service upon receipt and the following shall apply.
- b. Attorney shall deliver copies of all writings prepared by Attorney pursuant to this Agreement. The term "writings" shall include all forms of written communication or memorializations of oral communication, including but not limited to handwriting, typewriting, printing, work-processing, computer disks, photostating, photographing, facsimiles, and every other means of recording upon any tangible thing, and form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof.
- c. Borough shall have full ownership and control of all such writing or other communications delivered by Attorney pursuant to this Agreement.
- d. Borough shall pay Attorney the reasonable value of services rendered by Attorney under this Agreement to the date of termination, in addition to that amount previously billed and approved by Borough Commissioners. However this payment shall not exceed the amount documented by Attorney and approved by Borough as work accomplished to date; and shall not include lost profits which

might have been made by Attorney had Attorney completed the services required by this Agreement. Attorney shall furnish Borough with any financial information necessary in Borough's judgment to determine the reasonable value of the services rendered by Attorney.

- e. Attorney may terminate Attorney's services under this Agreement upon 30 working days written notice to Borough, without liability for damages, if Attorney is not compensated according to the terms of the Agreement, or upon any other material breach of the Agreement by Borough, provided Attorney has first notified Borough in writing of any alleged breach, specifying the nature of the alleged breach and providing not less than ten working days within which Borough may cure the alleged breach.
- f. In the event of termination, Attorney will cooperate with termination transition in an orderly and professional manner best calculated to avoid disruption of legal services and to protect Borough from potential legal exposure. Attorney shall provide a termination report which includes a brief description of the case facts, a discussion of the applicable law, a complete list and description of all future scheduled deadlines, status conferences, briefing s, arbitration or mediation dates, court appearances, discovery cut-offs and any pending or outstanding discovery matters.
- g. This Agreement shall be terminable, at option of Borough, in the case of Attorney's voluntary or involuntary bankruptcy, or insolvency.
- h. Borough may terminate this Agreement in the event Attorney becomes unable to substantially perform any term or condition of this Agreement.
- i. Notwithstanding any other term or condition of this Agreement, either party may terminate this agreement upon thirty days written notice to the other party.

XV. Attorney Fees

- a. If any action at law or in equity, including a request for declaratory relief, is brought to enforce or interpret provisions of this Agreement, each party shall bear its own attorney fees and costs.

XVI. Choice of Venue and Applicable Law

- a. Unless otherwise expressly waived in writing by the parties, any action in law or equity brought to enforce any of the Agreement provisions shall be filed and remain in a Court of competent jurisdiction in the County of Camden, State of New Jersey. The validity interpretation and performance of this Agreement, and all matters relating to it, shall be controlled by and construed under New Jersey substantive and procedural law.

XVII. **Severability**

- a. If any term, covenant, condition or provision of this Agreement is held to be invalid, void, or unenforceable by a Court of competent jurisdiction, the remainder of the covenant, condition, provision or Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.

XVIII. **Captions**

- a. The captions of this agreement are for reference convenience only and are not intended to explain, modify, amplify or aid in the interpretation, construction or meaning of the Agreement provisions.

XIX. **Authority to Contract**

- a. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entity, person, estate, firm, or corporation, represented or purported to be represented by such entity, person, estate, firm, or corporation, and that all formal requirements necessary or required by any state or federal law in order to enter into this Agreement have been fully complied. Furthermore, by entering into this Agreement, neither party shall have breached the terms nor conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect.

XX. **Notice**

- a. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party to be served as follows:

- b. If to Borough:

Mount Ephraim Borough Commissioners & Borough Clerk
121 S Black Horse Pike
Mount Ephraim, New Jersey 08059

- c. If to Attorney:

Attorney
Law Firm

Phone: _____

Fax: _____
Email: _____

- d. Each party shall provide the other with telephone and written notice of any change of address as soon as practicable.

XXI. **Simultaneous Counterparts**

- a. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

XXII. **Complete Agreement**

- a. Except as otherwise provided in this Agreement, this Agreement and any specific references, d attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any express or implied representations made.
- b. It is the intention of the parties that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties.
- c. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents, if any, as may be necessary and convenient to the fulfillment of these purposes.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the day and year first set forth above.

**BOROUGH OF
MT EPHRAIM NJ**

**ATTORNEY
LAW FIRM**

By: _____
Mayor Susan M. Carney

By: _____

EXHIBIT A

FEE SCHEDULE

Our fee schedule is at an hourly rate for all legal services to be billed in tenth (1/10) of an hour increments at the following rates:

Category of Work	Rate
All legal services to be billed at hourly rates unless otherwise specified herein The FIRM does not bill for travel time.	Partner Rate \$ _____ \hr Associate Rate: \$ _____ \hr Paralegal \$ _____ /hr
Reimbursement for Costs and Expenses such as filing fees, investigation costs, transcript costs, expert fees, witness fees, service charges and the like, Federal Express (overnight) and messenger charges where the use of a messenger is necessary to meet a client's requirements, copying services for projects in excess of 100 pages	Reimbursement will be for all costs and expenses excluding routine copying (less than 100 pages). Discounts and rebates will be passed on to the Borough