

**RESOLUTION NO. 167-2016**  
**ADOPTING AXA EQUITABLE'S SPECIMEN DEFERRED  
COMPENSATION PLAN AND SERVICE AGREEMENT**

Councilmember Leckstein introduced and offered the following Resolution for adoption; seconded by Councilmember Kelly:

**WHEREAS**, in order to attract and retain qualified employees there exists a need to adopt and implement a Deferred Compensation Plan for employees of the Borough of Sea Bright (hereinafter referred to as "Employer") which will provide employees the opportunity to enhance their financial security at retirement through savings of compensation on a tax-deferred basis as provided by Section 457 of the Internal Revenue Code of 1986, as amended ("Code"); and

**WHEREAS**, there is no direct financial cost to the Employer to adopt and implement both a Deferred Compensation Plan and Service Agreement; and

**WHEREAS**, the Employer made requests for proposals from two or more approved contractors, including AXA Equitable Life Insurance Company (hereinafter referred to as "AXA Equitable") for the administration of the investments of funds under a Deferred Compensation Plan including providing Prototypical Plans and Service Agreements that meet the requirements of the Municipal, County and Authority Deferred Compensation Programs Rule N.J.A.C. 5:37; and

**WHEREAS**, the Borough Administrator reviewed the proposals of the responding contractors of deferred compensation services; and

**WHEREAS**, it was determined that AXA Equitable has the ability to: (1) maintain complete records of accounts; (2) manage accounts with absolute fidelity; (3) provide advice concerning various categories of investments; and (4) provide continuing consultation to participants; and

**NOW THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Sea Bright in the County of Monmouth, State of New Jersey, that:

- (a) effective as of the date of this resolution the Deferred Compensation Plan provided by AXA Equitable and assigned the plan identifier: 66-PD-Equitable-053107 by the New Jersey Division of Local Government Services, is hereby adopted and signed by the Employer.

It is hereby acknowledged that the said Deferred Compensation Plan is substantially similar to one on which a favorable Private Letter Ruling has been previously obtained from the federal Internal Revenue Service except for provisions added by reason of The Small Business Job Protection Act of 1996 (United States Public Law No. 104-188), the Tax Payer Relief Act of 2001 (United States Public Law No. 105-34), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (United States Public Law No. 107-16), and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Code Section 457 including pertinent applicable Treasury Regulations. The use of the Ruling is for guidance only and acknowledges that for

Internal Revenue Service purposes, the Ruling of another employer is not considered precedent.

- (b) the Mayor and Borough Administrator are authorized to execute the Service Agreement (bearing the identifier: 66-SA-Equitable-053107 assigned by the New administrative and investment services. There has been no collusion, or evidence or appearance of collusion, between any local official and a representative of AXA Equitable in the selection of AXA Equitable as contractor for the administration of the Service Agreement pursuant to N.J.A.C. Section 5:37-5.7.
- (c) the Borough Administrator is hereby designated as Local Plan Administrator for the administration of the Deferred Compensation Plan.

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution and all necessary required documents shall be submitted the Director of the Division of Local Government Services within the State Department of Community Affairs for approval; and

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution be forwarded to the following:

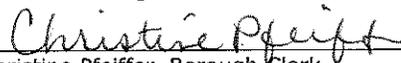
- 1. Borough Administrator
- 2. Payroll Manager
- 3. Director, DLGS

Roll Call: Bills, Keeler, Kelly, Lamia, Leckstein, Rooney  
Yes Yes Yes Yes Yes Yes

October 18, 2016

**CERTIFICATION**

I, Christine Pfeiffer, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council meeting held on October 18, 2016.

  
Christine Pfeiffer, Borough Clerk