

**AGENDA
REGULAR MEETING
BOROUGH OF SEA BRIGHT**

OCTOBER 18, 2022

SEA BRIGHT, NEW JERSEY

TO ATTEND THIS MEETING REMOTELY PLEASE USE THE FOLLOWING:

<https://meet.goto.com/887400821>

OR DIAL: (872) 240-3412

Access Code: 887-400-821

CALL MEETING TO ORDER: 7:00pm

PLEDGE OF ALLEGIANCE

COMPLIANCE STATEMENT (N.J.S.A. 10:4-18)

Good Evening Ladies and Gentlemen. This Meeting Is Now Called To Order: In Line with The Borough of Sea Bright's Longstanding Policy of Open Government, and in Compliance with the "Open Public Meetings Act" I Wish to Advise You That Adequate Notice of This Regularly Scheduled Meeting Was Sent to the Asbury Park Press and other local newspapers on January 10, 2022. In each instance, the Date, Time, And Location of This Meeting Were Provided in The Notice. This Meeting Is Open To The Public."

ROLL CALL:

Councilmember(s) BIEBER ____ BIRDSALL ____ BOOKER ____
 CATALANO ____ KEELER ____ LAMIA ____
Mayor KELLY ____

MOMENT OF SILENCE FOR THE FOLLOWING SEA BRIGHTER WHO RECENTLY PASSED AWAY:

Gerard "Gerry" Paul Kelly, Sr.

REMARKS FROM THE AUDIENCE (limited to 3 minutes)

The Public Comment portion of this meeting allows members of the audience to bring their concerns or comments to the Mayor and Council's attention. Pursuant to Borough Ordinance 3-2011, a member of the public who wishes to speak shall give his/her name and address for the record and may have up to three minutes to state his/her comments to the Mayor and Council as a Body. If additional time or information is requested, an appointment can be made with the Administrator's office during regular business hours.

Resolution(s):

No. 162-2022 Authorizing Hiring of Full Time Patrol Officer Sea Bright Police Department

Councilmember offered a motion to adopt Resolution No. 162-2022,
seconded by Councilmember

Roll Call: Bieber ____ Birdsall ____ Booker ____ Catalano ____ Keeler ____ Lamia ____

MAYOR KELLY TO ADMINISTER THE OATH OF OFFICE TO NEWLY APPOINTED PATROL OFFICER: MADISON TAYLOR

CONSENT AGENDA

Councilmember _____ offered a motion to approve the items that are considered routine in nature under the consent agenda; seconded by Councilmember _____

Minutes

09-15-2022 Workshop Meeting
09-15-2022 Executive Session
09-20-2022 Regular Meeting

Roll Call: Bieber____ Birdsall____ Booker____ Catalano____ Keeler____ Lamia____

Resolutions:

- No. 163-2022 Authorizing Receipt of Bids Summer Businesses to Operate on the Sea Bright Municipal Beach**
- No. 164-2022 Halloween Curfew**
- No. 165-2022 Monmouth County SPCA 2023 Contract**
- No. 166-2022 Award of a Non-Fair and Open Contract Kevin C. Moriarty, Esq. Alternate Public Defender**
- No. 167-2022 Authorizing Hiring of Police Officer Designation of Special Law Enforcement Officer - Class II**
- No. 168-2022 Authorizing 2023 Beach Fee Schedule**
- No. 169-2022 Request for Proposals/Qualifications for Various 2023 Professional Services**
- No. 170-2022 A Resolution of the Borough Council of the Borough of Sea Bright Accepting Bid of Chris Wood on Behalf of Woody's Ocean Properties LLC for a Portion of Block 23, Lot 1**
- No. 171-2022 Approving a Final Payment, Change Order No. 2 and Acceptance of Maintenance Guarantee for Sanitary Sewer Lateral Improvements Located on Route 36 (By Donovan's Reef) Lima Charlie Construction, Inc.**
- No. 172-2022 Authorizing the Execution of a Developer's Agreement Between Mountain View Villas at Sea Bright, LLC and the Borough of Sea Bright Affecting all of the Real Property Identified as Block 34, Lots 3.08 and 3.07 and Block 33, Lots 20.03 and 20.04**
- No. 173-2022 Resolution of the Borough Council of the Borough of Sea Bright Authorizing the Unified Planning Board to Undertake a Preliminary Investigation to Determine Whether Certain Properties Qualify as an Area in Need of Redevelopment and Should be Included Within the Shrewsbury River Properties Redevelopment Area Previously Designated as an Area in Need of Redevelopment Pursuant to Council Resolution No. 102-2019**

Roll Call: Bieber____ Birdsall____ Booker____ Catalano____ Keeler____ Lamia____

ORDINANCE(s):

Introduction: Mayor Kelly to read the ordinance by title:

ORDINANCE NO. 09-2022

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$425,000 FOR VARIOUS ROAD IMPROVEMENTS FOR AND BY THE BOROUGH OF SEA BRIGHT IN THE COUNTY OF MONMOUTH, NEW JERSEY AND, AUTHORIZING THE ISSUANCE OF \$67,400 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.

Councilmember _____ offered a motion to introduce Ordinance No. 09-2022 for a public hearing to be held on November 14, 2022 and advertise according to law; seconded by Councilmember _____

Roll Call: Bieber____ Birdsall____ Booker____ Catalano____ Keeler____ Lamia____

Introduction: Mayor Kelly to read the ordinance by title:

ORDINANCE NO. 10-2022

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT TO ADD CHAPTER 164 "RESIDENTIAL PROPERTY, SHORT TERM RENTAL REGISTRATION," PERTAINING TO THE REGULATION OF SHORT-TERM RENTAL UNITS WITHIN THE BOROUGH

Councilmember _____ offered a motion to introduce Ordinance No. 10-2022 for a public hearing to be held on November 14, 2022 and advertise according to law; seconded by Councilmember _____

Roll Call: Bieber____ Birdsall____ Booker____ Catalano____ Keeler____ Lamia____

Introduction: Mayor Kelly to read the ordinance by title:

ORDINANCE NO. 11-2022

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT, PART II, GENERAL LEGISLATION, TO ADD THERETO A NEW CHAPTER 74, ENTITLED "BUSINESS INSURANCE REGISTRATION."

Councilmember _____ offered a motion to introduce Ordinance No. 11-2022 for a public hearing to be held on November 14, 2022 and advertise according to law; seconded by Councilmember _____

Roll Call: Bieber____ Birdsall____ Booker____ Catalano____ Keeler____ Lamia____

ORDINANCE NO. 12-2022

**AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, COUNTY OF MONMOUTH,
STATE OF NEW JERSEY, ESTABLISHING PROCEDURES AND STANDARDS
REGARDING DEPLOYMENT OF SMALL WIRELESS FACILITIES IN PUBLIC
RIGHTS-OF-WAY IN THE BOROUGH OF SEA BRIGHT**

Councilmember _____ offered a motion to introduce Ordinance No. 12-2022 for a public hearing to be held on November 14, 2022 and advertise according to law; seconded by Councilmember _____

Roll Call: Bieber___ Birdsall___ Booker___ Catalano___ Keeler___ Lamia___

INDIVIDUAL ACTION/New Business:

Vouchers: \$1,181,101.84

Councilmember _____ offered a motion to approve the Voucher List dated October 18, 2022 as submitted by the Finance Manager; seconded by Councilmember _____

Roll Call: Bieber___ Birdsall___ Booker___ Catalano___ Keeler___ Lamia___

DISCUSSION ITEM(s):

1. Cannabis Committee Report

MAYOR AND COUNCIL COMMENTS

EXECUTIVE SESSION

Councilmember _____ offered a motion to enter in to Closed Session; seconded by Councilmember _____

Resolution to discuss: TBD

Roll Call: Bieber___ Birdsall___ Booker___ Catalano___ Keeler___ Lamia___

ADJOURNMENT

Councilmember _____ offered a motion to adjourn the meeting; seconded by Councilmember _____

Roll Call: Bieber___ Birdsall___ Booker___ Catalano___ Keeler___ Lamia___

RESOLUTION NO. 162-2022
AUTHORIZING HIRING OF FULL TIME PATROL OFFICER
SEA BRIGHT POLICE DEPARTMENT

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

WHEREAS, there exists a need of a full-time Patrol Officer in the Police Department due to the resignation of Michael Morgan; and

WHEREAS, in January 2020, Madison Taylor was hired as a Class I Special Officer and following her training at the Monmouth County Police Academy was appointed a Class II Special Officer in January of 2021; and

WHEREAS, Chief Friedman has affirmed that Madison Taylor meets all hiring requirements and qualifications in accordance with Chapter 39-3. "Qualifications of Members" and recommends she be hired as a full-time Patrol Officer; and

CERTIFICATION OF FUNDS

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright, do hereby certify that funds are available in Police S/W:

MICHAEL J. BASCOM, CFO

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, do hereby authorize Madison Taylor to be hired as a full time Patrol Officer with the Borough of Sea Bright Police Department, as per Chapter 39 entitled "Police Department" of the General Code and Ordinance No. 04-2021 Fixing Salaries and Compensation of Officers and Employees.

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

1. Madison Taylor
2. Chief of Police
3. Finance Manager

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

Certification

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, New Jersey at a Council Meeting held on October 18, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 163-2022
AUTHORIZING RECEIPT OF BIDS
SUMMER BUSINESSES TO OPERATE
ON THE SEA BRIGHT MUNICIPAL BEACH

Councilmember _____ introduced and offered for adoption the following Resolution: seconded by Councilmember _____ :

WHEREAS, the Borough Council is desirous of receiving bids for the following businesses to operate on the Municipal Beach during the summer season:

- 1) Skim Board Camp
- 2) Rental of Umbrellas and Chairs

WHEREAS, specifications for the aforesaid will be on file and available in the Borough Clerk's Office during regular business hours and on the Borough website: www.seabrightnj.org.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey does hereby authorize the Borough Clerk to advertise for bids for the aforesaid items as per the specifications on file and will be received by the Borough Clerk, 1099 Ocean Avenue, Sea Bright, New Jersey on a date to be determined; and

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

1. Finance Manager
2. Beach Manager

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

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, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 164-2022
HALLOWEEN CURFEW
BOROUGH OF SEA BRIGHT

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

WHEREAS, a request has been received for a Halloween Curfew in the Borough of Sea Bright from the Police Department.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey that a curfew be imposed on October 30th and October 31st, between the hours of 9:00 P.M. and 6:00 A.M. for those under the age of eighteen. Minors accompanied by an adult will be exempt from this curfew.

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

Certification

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, New Jersey at a Council Meeting held on October 18, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 165 -2022
MONMOUTH COUNTY SPCA
2023 CONTRACT

(January 1, 2023 through December 31, 2023)

Councilmember _____ introduced and offered the following Resolution for its adoption: seconded by Councilmember _____ :

WHEREAS, the Borough Council of the Borough of Sea Bright is in need of animal control services within the Borough, and

WHEREAS, the Borough of Sea Bright wishes to retain the services of the Monmouth County Society for the Prevention of Cruelty to Animals (MCSPCA) for animal control for a period beginning the 1st day of January, 2023 and ending on the 31st day of December, 2023; and

WHEREAS, the Borough Council is in receipt of the 2023 Agreement (attached hereto) which outlines the scope of services to be provided, including an animal control officer, for a sum of \$3,900.00 to be prorated on a monthly basis of \$325.00; and

WHEREAS, the Borough has previously entered into a Memorandum of Understanding with the MCSPCA for the purpose of TNR (Trap, Neuter, Release Program) and wishes to continue that program at the rate of \$37.50 per cat.

CERTIFICATION OF FUNDS

Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright, has certified that funds are available in the Animal Control Trust Fund for the purposes stated herein.

MICHAEL J. BASCOM, CFO

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, hereby authorize the animal control services with the Monmouth County SPCA for the year 2023 at a rate of \$3,900.00 per the attached agreement and authorize the continuation of the Memorandum of Understanding with the Monmouth County SPCA required to participate in the Trap, Neuter and Release Program; and

BE IT FURTHER RESOLVED that this agreement is made pursuant to N.J.S.A. 40:48-5.1.

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

1. Monmouth County SPCA
2. Police Department
3. Finance Manager

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

Certification

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, New Jersey at a Council Meeting held on October 18, 2022.

Christine Pfeiffer, Borough Clerk

MONMOUTH COUNTY MCSPCA

**SOCIETY FOR PREVENTION OF CRUELTY TO ANIMALS
LAW ENFORCEMENT DIVISION
260 WALL STREET, SEA BRIGHT, NEW JERSEY 07724
732-542-0040
FAX: 732-542-4552**

THIS AGREEMENT, made this _____ day of _____ by and between the **MONMOUTH COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS**, a non-profit 501(c) 3, government entity created under New Jersey State law, having principal offices at 260 Wall Street, Eatontown, New Jersey, hereinafter referred to as the "MCSPCA " and the Borough of Sea Bright, a municipal corporation of the State of New Jersey, having principal offices at 1099 Ocean Avenue, Sea Bright, New Jersey 07760, hereinafter, referred to as the "Municipality".

WHEREAS, the Municipality wishes to retain the services of the MCSPCA for animal control for a period beginning the 1st day of January, 2023 and ending on the 31st day of December, 2023

NOW THEREFORE, in consideration of the mutual agreements set forth below, it is agreed that:

1. The MCSPCA shall make their services as independent contractor, as an animal service provider, as hereinafter described, available to the Municipality on a daily basis, during standard business hours, as needed, five (5) days a week. Weekends, Holidays and Night emergency services (after standard day time business hours), will also be provided when necessary on the terms stated. Services are defined as the rescue, custody and care of

Injured animals, trapped animals, sick animals, animals whose lives are endangered or animals present a danger to humans, including those who have bitten a person.

For the purpose of this Agreement, marine mammals, feral cats and dead deer are specifically excluded, neither shall the MCSPCA trap, rescue, or relocate or care for geese unless same is in need of veterinary care.

Upon the Municipality's request, or in the case for the need of animal humane and/or Services as defines herein, feral cat colonies will remain the responsibility of the person "caretaker" caring for the cats. If there is a sick, rabid, or injured cat, the MCSPCA will provide services and assistance, and shall be entitled to be reimbursed for all the costs and expenses to said feral cat colony. If the colony is abandoned by the caretaker and the MCSPCA is called to remove any and/or care for the colony, the costs and expenses incurred by the MCSPCA will be in addition to the cost for Services and will be the responsibility of the Municipality. If the Municipality enters into a Memorandum of Understanding (MOU) with the MCSPCA for the purpose of TNR, then all terms of the MOU shall be set forth as agreed upon by the MCSPCA and the Municipality and shall supersede certain terms in the contract.

2. The Municipality will pay the MCSPCA the sum of \$3,900.00 said sum to be prorated on a monthly basis of \$325.00. Payment for all services, including additional costs and expenses as stated herein, and unless express terms to the contrary are agreed, are due thirty (30) days after presentment of invoice and/or Municipality voucher executed by appropriate party, time is of the essence.
3. It is expressly understood, except as otherwise stated, the services include all the costs and expenses incurred by the MCSPCA or its animal control officer in the maintenance of custodial facilities and vehicle to be used by the animal control officer.

4. Upon a request from the Municipality, the MCSPCA shall respond to an emergency as defined herein. Emergency veterinary treatment will be provided to an ill or injured animal as required by the State Law regulation. The MCSPCA reserves the right in its sole discretion to determine that if the animal requires transportation to an emergency clinic on nights, weekends, or holidays, when our own veterinarians are not available.

If there is no known owner, the cost of in house services shall be covered by the MCSPCA any expense incurred by the MCSPCA for outside veterinary services will be the responsibility of the Municipality. If the owner is known, the cost and expenses will be bore by the owner.

5. The MCSPCA shall, at the request of an owner of an unwanted animal, render assistance in delivery of said animal to an appropriate humane shelter, including a shelter maintained by the SPCA. The MCSPCA will be paid for the cost and expenses of such assistance, which shall be the responsibility of the owner.

6. The MCSPCA shall use reasonable efforts to impound any stray, abandoned or unlicensed dog or cat, running at large on public property within the municipality. When such impoundment occurs, the dog or cat shall be put up for adoption or humanly disposed of, at the sole and exclusive discretion of the SPCA, after seven (7) day statutory hold period. It is expressly understood, once the MCSPCA accepts any animal and takes it into custody; it shall become the property of the MCSPCA for the disposition a stated above. The MCSPCA Animal Control Officer (ACO) or MCSPCA Humane Law Enforcement Officer shall issue summons for Municipal Ordinances and NJ Title 4 pertaining to all animal laws that apply under the scope of the ACO's employment. (ie: Dog/Cat licensing, animals running at large, dangerous dog)

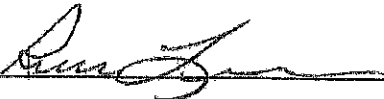
7. Upon proof of ownership, any person may redeem his/her animal from the MCSPCA upon payment to the MCSPCA and shall be responsible to pay for any vaccinations and/or necessary medical treatment that the medical team deemed necessary. Once the ownership is established, and the animal is no longer a stray, regular boarding rates at \$20.00 per day shall be paid to the MCSPCA by the owner prior to the release of the animal. No release or redemption shall be honored unless the owner provides proof of ownership and produces a current municipal dog/cat license if applicable. If an animal is unclaimed after seven (7) days, the MCSPCA shall by law take ownership of the animal and offer the animal for adoption, humanly disposed or any other disposition that the MCSPCA deems humanely appropriate.
8. Any stray dog, cat or any other animal taken into the custody of the MCSPCA and charged with biting a human being, shall be quarantined for the required period of ten (10) days. The cost and expenses incurred during this period shall be the responsibility of the owner. If no known owner, the costs shall be absorbed by the SPCA.
9. Transportation of the head of the animal suspected of rabies to the State department shall be provided by the MCSPCA under the condition that the said animal expired on the premises before the ten (10) day quarantine period referred to above. The fee for removal of the head and deliver for rabies examination will be paid by the owner of the animal or absorbed by the MCSPCA if the owner is unknown.
10. The animal control officer shall be an employee of the SPCA. The MCSPCA shall indemnify and hold the Municipality harmless from and against any damage caused by the animal control officer, expressly excluded damage caused by the animal.

11. Removal of an animal, including wildlife, inside a home, apartment building, garage, roof, etc., "residence", is not covered under this agreement. The MCSPCA reserves the right to answer/respond to those calls; however, the owner of the premises will be charged \$90.00 per hour during standard business hours and \$118.00 after standard hours. If the nature of the call is deemed by a police officer to pose a public safety risk, the MCSPCA shall respond and handle the call at no cost to the homeowner.
12. The MCSPCA shall not be responsible for handling deer or any wildlife carcasses; however the MCSPCA shall retrieve infirmed/ injured deer or wildlife at the SPCA's discretion.
13. The Municipality will be charged at an additional charge, a boarding fee of \$20.00 per day, payable monthly, for any animal which, upon request of the Municipality as part of a court process or upon order from a court shall impound an animal. The Municipality agrees to expressly seek reimbursement from the costs uncured by the MCSPCA as any judgement from the owner, in the absence as such; the costs shall be the responsibility of the Municipality.
14. The signatory of this document represents that it/he/she possess the requisite authority to bind the public entity further represents the execution of the Agreement is authorized by Municipality.
15. Except for non-payment, this Agreement contract may be determined during the Term by either party upon sixty (60) days written notice by Certified Mail, Return Receipt Requested, to the other party, in its sole discretion the terminating party may provide an opportunity to cure.
16. It is expressly agreed that the MCSPCA is not obligated to incur any cost, expense or legal fees as a consequence of the failure of the Municipality to timely and fully remit all payment due hereunder; such costs, expenses, legal fees shall be the sole responsibility of the Municipality.

17. The Parties hereto shall indemnify and hold the other harmless from and against any claim, award, cost, expense by any third party, not affiliated in any way employed by either party for any damage or injury caused by the act or omission of the indemnifying party or its agents.

THIS AGREEMENT is a sole expression of the understanding between the parties and may only be modified by a written amendment signed by both parties.

MONMOUTH COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

BY:  _____

**Ross Licitra
Executive Director**

***MUNICIPALITY*Borough of Sea Bright**

BY: _____

ATTEST

RESOLUTION NO. 166-2022
AWARD OF A NON-FAIR AND OPEN CONTRACT
KEVIN C. MORIARTY, ESQ.
ALTERNATE PUBLIC DEFENDER

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

WHEREAS, on January 8, 2022 the Borough Council adopted Resolution No. 12-2022 awarding a fair and open contract to Robert J. Holden for the position of Public Defender; and

WHEREAS, on September 28, 2022 Robert J. Holden provided a letter of resignation and will no longer be providing services for the remainder of his contract; and

WHEREAS, the Borough is in need of an individual to act as Alternate Public Defender; and

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-5 does not require competitive bidding for this position; and

WHEREAS, a letter was received on September 28, 2022 from Kevin C. Moriarty, Esq. from the Moriarty Law Firm for consideration to fill the position of Alternate Public Defender for the term commencing October 18, 2022 through December 31, 2022 at the rate of \$300.00 per assignment; and

CERTIFICATION OF FUNDS

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright, do hereby certify that funds are available in Court #2-01-43-495-111 for the purposes stated herein.

MICHAEL J. BASCOM, CFO

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, does hereby award a professional service contract to **Kevin C. Moriarty, Esq.** to serve as the Alternate Public Defender for the remainder of 2022; and

BE IT FURTHER RESOLVED that the Mayor and Borough Clerk are hereby authorized and directed to execute an agreement for the provision of such professional services, a copy of which shall be maintained by the Borough Clerk; and

BE IT FURTHER RESOLVED, that the Borough Clerk is hereby authorized to advertise this award of contract according to law in the local newspaper and is further authorized to forward a certified copy of this resolution to the following:

1. Kevin C. Moriarty, Esq.
2. Finance Manager
3. Certified Court Administrator

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, 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, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 167-2022
AUTHORIZING HIRING OF POLICE OFFICER
DESIGNATION OF SPECIAL LAW ENFORCEMENT OFFICER - CLASS II

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

WHEREAS, there exists a need for a Class II Special Officer in the Police Department in the Borough of Sea Bright; and

WHEREAS, Chief Brett Friedman requested that the following be appointed as Class II Special Police Officer after fulfilling the required training at the Monmouth County Police Academy.

CLASS II SPECIAL POLICE OFFICER:

Nicholas Turi

CERTIFICATION OF FUNDS

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright, do hereby certify that funds are available in Police S/W for the purpose stated herein:

MICHAEL J. BASCOM, CFO

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, does hereby approve the appointment of Class II Special Officer, Nicholas Turi, at an hourly rate of pay as specified in Ordinance No. 04-2021; and

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

1. Khristi Jacobs, Finance Manager
2. Brett Friedman, Police Chief
3. Nicholas Turi

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

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, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 168-2023
AUTHORIZING 2023 BEACH FEE SCHEDULE

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

WHEREAS, the Borough Council of the Borough of Sea Bright established by Ordinance of the Borough Code, Section 66-17. Fees. The fees and charges of the Municipal Beach Authority shall be established annually by resolution of the Governing Body, and

WHEREAS, the following beach fees have been proposed for the 2023 summer season:

2023 BEACH FEES (per person)		AMOUNT
SEASON BEACH BADGE (December 1-31, 2022)		\$ 50.00
SEASON BEACH BADGE (beginning January 1, 2023)		\$ 100.00
SEASON SENIOR 65+ BADGE		\$ 35.00
SEASON DISABLED BADGE		\$ 35.00
DAILY BEACH BADGE (May 27, 2023 - September 4, 2023)		\$ 8.00
CHILDREN UNDER THE AGE OF 12		FREE
ACTIVE MILITARY & FAMILY MEMBERS/PERSONNEL		FREE
BEACH LOCKERS:	LARGE LOCKER	\$ 450.00
	SMALL LOCKER	\$ 400.00

- **NO REPLACEMENT OR REFUND OF BEACH BADGES**
- **NO REFUND ON BEACH LOCKERS**

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that the 2023 Beach Fee Schedule is hereby authorized as indicated above.

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

1. Finance Manager
2. Beach Manager

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, 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, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 169-2022
REQUEST FOR PROPOSALS/QUALIFICATIONS
FOR VARIOUS 2023 PROFESSIONAL SERVICES

Councilmember _____ introduced and offered for adoption the following Resolution, seconded by Councilmember _____ :

WHEREAS, the Borough Council is desirous of receiving bids for the following:

Various Professional Services for the year 2023

WHEREAS, specifications for the aforesaid services will be on file and available in the Borough Clerk's Office during regular business hours and on the Borough website: www.seabrightnj.org.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey does hereby authorize the Borough Clerk to advertise for proposals/qualifications for various professional services for the year 2023, as per the specifications on file, to be received by the Borough Clerk, 1099 Ocean Avenue, Sea Bright, NJ 07760, no later than 12:00 noon on December 9, 2022 for Council consideration; and

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

1. Finance Manager
2. CFO

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, 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, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 170-2022
A RESOLUTION OF THE BOROUGH COUNCIL
OF THE BOROUGH OF SEA BRIGHT ACCEPTING BID OF
CHRIS WOOD ON BEHALF OF WOODY'S OCEAN PROPERTIES LLC
FOR A PORTION OF BLOCK 23, LOT 1

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

WHEREAS, on September 6, 2022, the Borough Council (the "Council") of the Borough of Sea Bright (the "Borough") adopted Ordinance Number 08-2022 (the "Ordinance"), which authorized the private sale of non-conforming real property known as a portion of Block 23, Lot 1 (the "Property") to contiguous property owners pursuant to NJSA 40A:12-13(B)(5); and

WHEREAS, the Ordinance provided that it should be posted and advertised in accordance with law, and, that any contiguous property owner desiring to make an offer for the purchase of the Property should within 20 days thereof make an offer in writing addressed to the Borough Council at no less than the minimum price of \$25,000.00 stated in the Ordinance no later than September 29, 2022; and

WHEREAS, the sole bidder was Chris Wood, on behalf of Woody's Ocean Properties LLC in the amount of \$25,000.00, and meeting the other conditions of the Ordinance with said bid being submitted on September 12, 2022; and

WHEREAS, the Council desires to accept the bid and proceed toward sale of the Property subject to and contingent on all the conditions specified in the Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

1. The Borough accepts the Bid of Chris Wood, on behalf of Woody's Ocean Properties LLC in the amount of \$25,000.00 for the Property as described above.
2. The Sale of the Property is contingent, however, upon meeting all the conditions stated in the Ordinance, including, but not limited to the Purchaser obtaining subdivision, and site plan approval if required, to consolidate the Property for use with the contiguous property.

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

Certification

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, New Jersey at a Council Meeting held on October 18, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 171-2022
APPROVING A FINAL PAYMENT, CHANGE ORDER NO. 2
AND ACCEPTANCE OF MAINTENANCE GUARANTEE FOR
SANITARY SEWER LATERAL IMPROVEMENTS LOCATED ON ROUTE 36
(by Donovan's Reef) LIMA CHARLIE CONSTRUCTION, INC.

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

WHEREAS, on September 21, 2021, the Borough Council of the Borough of Sea Bright awarded a contract to Lima Charlie Construction of Freehold, New Jersey for the Sanitary Sewer Lateral Improvements located on Route 36 by Donovan's Reef for a contract amount of \$201,050.00; and

WHEREAS, by way of Resolution No. 67-2021, Council authorized Change Order No. 1 for a reduction in the amount of \$38,488.17, resulting in a revised contract amount of \$162,561.83; and

WHEREAS, Borough Consulting Engineer, James M. Oris, Remington & Vernick Engineers submitted a letter to the Borough Clerk dated September 22, 2022, advising of Change Order No. 2, representing final as-built quantity adjustments for a net decrease of \$4,975.00, resulting in a revised contract amount of \$157,586.83; and

WHEREAS, the Borough Engineer further advised that all work for said project has been completed, inspected and found to be in compliance with the approved plans and specifications and recommends retainage release and final payment for the project in the amount of \$13,392.74; and

WHEREAS, as required, Lima Charlie Construction, Inc. as Contractor, and Great Midwest Insurance Company of Texas, as Surety, have provided a two-year Maintenance Bond (No. GM214275M) effective as of the date of substantial completion of the project (June 28, 2022) in the amount of \$157,586.83.

CERTIFICATION OF FUNDS

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright, do hereby certify that funds in the amount of \$13,392.74 are available for the purpose stated herein in the following account: B/O No. 15-2017.

Michael J. Bascom

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey does hereby approve Change Order No. 2 and the release of the final payment of \$13,392.74 to Lima Charlie Construction, Inc. for the Sanitary Sewer Lateral Improvements located on Route 36 by Donovan's Reef for a total contract amount of \$157,586.83; and

BE IT FURTHER RESOLVED that the two-year maintenance bond submitted by Lima Charlie Construction, Inc. is hereby accepted and the Performance Bond is hereby released; and

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

1. Remington & Vernick Engineers
2. Lima Charlie Construction, Inc.
3. Finance Manager

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk 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, 2022.

Christine Pfeiffer, Borough Clerk

RESOLUTION NO. 172-2022
**AUTHORIZING THE EXECUTION OF A DEVELOPER'S AGREEMENT BETWEEN
MOUNTAIN VIEW VILLAS AT SEA BRIGHT, LLC AND THE BOROUGH OF SEA BRIGHT
AFFECTING ALL OF THE REAL PROPERTY IDENTIFIED AS BLOCK 34,
LOTS 3.08 and 3.07 and BLOCK 33, LOTS 20.03 and 20.04**

Councilmember _____ offered the following Resolution and moved its adoption;
seconded by Councilmember _____ :

WHEREAS, Mountain View Villas at Sea Bright, LLC (hereinafter referred to as "Developer") with a location at 754 Hyslip Avenue, Westfield, NJ 07090, received final major site plan and subdivision approval by the Sea Bright Unified Planning and Zoning Board to develop certain real properties designated as Block 34, Lots 3.08 and 3.07 and Block 33, Lots 20.03 and 20.04 on the official tax map of the Borough of Sea Bright; and

WHEREAS, the nature and the extent of the improvements/development aforesaid are set forth in the Resolution adopted by the Sea Bright Unified Planning and Zoning Board dated January 12, 2021, a copy of which is on file in the Office of the Borough Clerk; and

WHEREAS, the Planning Board resolution requires the Developer to enter into a Developer's Agreement with the Borough of Sea Bright setting forth the rights, duties and obligations of the parties in connection with the subdivision and improvements; and

WHEREAS, there has been prepared a Developer's Agreement which has been reviewed and approved by the Developer and the Borough Attorney dated June 7, 2021; and

WHEREAS, the Borough wishes to authorize the execution of the Developer's Agreement, a copy of which is attached hereto.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey does hereby authorize the Mayor and Borough Clerk to execute a Developer's Agreement between the Borough of Sea Bright and Mountain View Villas at Sea Bright, LLC for improvements on property known as Block 34, Lots 3.08 and 3.07 and Block 33, Lots 20.03 and 20.04 as shown on the official tax map of the Borough of Sea Bright; and

BE IT FURTHER RESOLVED, the Borough Clerk is hereby authorized to send a certified copy of the fully executed Developers Agreement to the Borough Attorney for recording with the Clerk of the County of Monmouth; and

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

1. Planning Board Secretary & Engineer
2. Borough Attorney
3. Developer

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

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, 2022.

Christine Pfeiffer, Borough Clerk

DEVELOPER'S AGREEMENT

THIS AGREEMENT, entered this _____ day October, 2022

BETWEEN:

BOROUGH OF SEA BRIGHT, a municipal corporation of the State of New Jersey,
located in the County of Monmouth,

Hereinafter referred to as "Borough"

AND:

MOUNTAIN VIEW VILLAS AT SEA BRIGHT, LLC, a New Jersey limited
liability company, having a mailing address of c/o Jeffrey Muhlgeier, 754 Hyslip
Avenue, Westfield, NJ 07090,

Hereinafter referred to as "Developer;"

affects all of the real property located along Mountain View Way previously known as

Block 34, Lots 3.03, 3.04; now being identified as Block 34, Lots 3.08 and 3.07,
respectively; and

Block 33, Lot 20.02; now being identified as Block 33, Lots 20.03 and 20.04

on the official tax maps of the Borough of Sea Bright, Monmouth County, New
Jersey and herein referred to as the "Subject Property" which has been approved
for four (4) single family homes being marketed as part of "Mountain View Villas,"
(the "Project").

WHEREAS, the Developer applied to the Sea Bright Land Use Board for the Preliminary
and Final Major Site Plan & Subdivision Approval for five (5) lots on June 12, 2020 (Application
Z 2020-10);

WHEREAS, the Sea Bright Land Use Board (the "Board") granted approval for the
creation of four (4) residential lots, which approval was memorialized by final Resolution adopted
by the Board on January 12, 2021, (the "Resolution");

NOW, THEREFORE, the parties to this Agreement, for and in consideration of the mutual promises and covenants to each other made and for other good and valuable consideration, hereby agree as follows:

1. This Developer's Agreement shall apply only to this project by the Developer.
2. The Terms and conditions of this Agreement shall be applicable to the following described property consisting of the following four (4) lots: Lots 3.08 and 3.07 in Block 34 and Lots 20.03 and 20.04 in Block 33, as are included on the Preliminary & Final Major Site Plan & Subdivision Plans for: Mountain View Villas at Sea Bright, LLC, dated June 12, 2020, as subsequently revised through August 2, 2022, as prepared by Engenuity Infrastructure, LLC, Jaclyn J. Flor, P.E., P.P., CME, Red Bank, N.J. (the "Development Plans") which shall be filed in the Monmouth County Clerk's Office.
3. The Developer agrees to be bound by the testimony, representations, commitments, approved map and requirements of the Board, matters of fact and law which constitute the file and record of the Board in this matter and included but not limited to all conditions set forth in the resolution of the Board and the Plan submitted to the Board and that it will faithfully discharge all of the obligations and commitments thereof, including, but not limited to site work improvements, streets, curbs, parking, fencing, signs, streetlights, sanitary sewers, water mains, fire hydrants and property monuments to the extent applicable, and in accordance with the specifications and ordinances of the Borough of Sea Bright, as amended to date or as further clarified and set forth subsequently in this Agreement.
4. Developer will construct the improvements as set forth in the Development Plans in accordance with specifications of the Land Use Ordinance of the Borough as amended to date,

in a manner satisfactory to the Borough Engineer, and in accordance with the Development Plans and in compliance with the Resolution (the "Improvements").

5. Developer will post with the Borough performance guarantees as follows

10% Cash	\$ 20,873.40
90% Bond	\$187,860.60
Safety and Security Guarantee	\$ 9,980.88

total aggregate amount of \$218,714.88.

6. Developer shall post an engineering inspection fee of \$14,961.75 in cash with respect to the Improvements which are to be constructed.

7. The Improvements contemplated in this Agreement and in the application shall be performed with a period two (2) years from the date hereof, or such additional periods of time as may be granted by the Borough in accordance with N.J.S.A. 40:55D-52. In the event of an extension, the Borough may annually review the amount of performance guarantees with regards to its sufficiency to insure faithful completion of remaining required improvements, and if found insufficient, required the Developer to increase the amount of the performance guarantees. The issuance of Certificates of Occupancy by the Borough within the two (2) year period shall not be deemed a waiver for defects ascertained during said period or subsequent thereto. If the Project, or any part of the same, is sold, or otherwise conveyed by the Developer to another Developer prior to the installation of all of the Improvements, new security (bond and Developer's Agreement) shall be required from the any such successive Developer. The Developer agrees to obtain same for and on behalf of the Borough.

8. The Borough Engineer, or its designated representative consultant engineer, shall maintain appropriate records of inspections and related reviews and upon the Developer's written

request, said records shall be made available for inspection by the Developer or its representative during regular business hours of the Borough Engineer.

9. Any payments, posting of bonds or other financial obligation required to be performed by the Developer in this Agreement, unless specifically set forth otherwise, shall be done and/or performed and tendered to the Borough Clerk prior to the release of the Final Subdivision Plat for Mountain View Villas at Sea Bright, LLC and prior to the signing of any such Plat for filing in the office of the Monmouth County Clerk.

10. During the course of construction of the Improvements as shown on the Development Plans, Developer shall maintain, or shall be responsible for maintaining the subject premises in a manner which shall be safe, and shall have caused no damage to adjacent publicly owned or privately owned properties, or to members of the public. The date of final acceptance for the purposes of this Agreement is deemed to be the date upon which Developer is released from its performance bond, posted a maintenance bond, if same is required, and a resolution of acceptance pertaining to the required improvements is adopted by the governing body of the Borough.

11. With regard to Block 23, Lot 130, it will construct a public stairway access to the beach and convey the lot to the Borough.

12. Applicant will construct the improvements to the public park area providing river access and will enter into a Developer's Agreement with the municipality.

13. Applicant will grant an easement for the north side sidewalk.

14. If requested by Land's End within six months of the Board's approval, the landscaping on lot 20.02 will be extended along the Land's End border.

15. Developer shall perform all work in full compliance and observance of all ordinances of the Borough, as amended by the governing body or modified by the development approvals, and all proper recommendations of the Borough Engineer.

16. Developer shall deliver to Borough, a Certificate of Insurance for general liability coverage in the amounts of not less than \$1,000,000.00/\$2,000,000.00 naming the Borough as an additional insured and in a form acceptable to the Borough Attorney. This insurance shall be in effect until the date of final acceptance as previously defined in this Agreement.

17. Developer grants permission for this Agreement to be recorded in the Monmouth County Clerk's Office at its expense, and remain on record until it has complied with the obligations herein, at which time the governing body shall adopt a Resolution authorizing the execution of a Release and Satisfaction of Developer's Agreement in recordable form.

18. In the event the Borough is required to resort to litigation, or other similar action to enforce the terms of this Agreement, it will be entitled to recover costs, including reasonable attorneys' fees and expert witness fees from Developer.

19. The Borough, its consultants, employees, and agents, shall be given free access to observe construction details as set forth on the approved Development Plans. The purpose of such observation shall be limited to providing the Borough with a greater degree of confidence that such improvements will be constructed in accordance with the Developer's approved submittals. The Borough, or its representatives, consultants, employees, or agents, shall not supervise, direct, or have control over the Developer's work during such observations, nor shall they have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by the Developer, or safety precautions and programs incident to the work of the Developer, or for any failure of the Developer to comply with the applicable laws, rules,

regulations, ordinances, codes or orders. The Developer hereby expressly agrees to indemnify and hold the Borough, its representatives, consultants, employees, and agents harmless from and against all claims, costs and liability of every kind and nature, for injury, damage, or loss received or sustained by any person or entity in connection with, or on account of, the performance of work at the development Site and elsewhere pursuant to this Agreement, provided said injury, damage, or loss is not the result of the negligence of the Borough, its representatives, consultants, employees, and agents. The Developer further agrees to aid and defend the Borough, its representatives, consultants, employees, and agents in the event that the Borough, its representatives, consultants, employees, and agents, is named as a defendant in an action concerning the performance of work pursuant to this Agreement. The Developer is not an agent or employee of the Borough.

20. If any terms, provisions, or conditions of this Agreement are determined invalid by a court of competent jurisdiction, the remainder shall remain in full force and effect.

21. The Developer has attached hereto a list setting forth the names and addresses of the individuals and/or entities each having an interest of ten percent (10%) or more in this development and hereby certifies the correctness of that list. The Developer further agrees that it will provide the Borough with any changes in this list, in writing or within 30 days of the date of this occurrence.

22. All notices required or permitted under this Agreement shall be in writing by Certified Mail, return receipt requested, to the address set forth herein or as otherwise designated by the parties in writing.

23. This Developer's Agreement shall be binding upon parties who sign it and upon their successors and interests and assigns. If the Developer conveys title to be affected by the

Developer's Agreement to a third-party purchaser or should other third party succeed to the interest of the Developer by way of purchase, deed in lieu of foreclosure, Sheriff's or foreclosure sale and deeds and/or other methods of succession of title, the third party shall be bound by the terms of this Agreement and complete the project in accordance with the terms of the Agreement unless otherwise modified by the Borough.

24. The Developer shall submit evidence to the Board of approval of outside agencies, as required by the Resolution of approval, including but not limited to Freehold Soil Conservation District, Monmouth County Planning Board, Coastal Area Facilities Review Act, Sea Bright Fire Department, Flood Plain Official, and local and/or Regional Sewerage Authority, and all applicable Federal, State, County, and/or Municipal Agencies having regulatory jurisdiction over this development prior to proceeding with the Project.

25. For purpose of construction of this Agreement, the following terms, except as the context may otherwise require, mean:

A. "Shall" is mandatory and "may" is permissive.

B. "Neuter" gender includes the masculine and the feminine.

The Developer or its successors or assigns is required to comply with the Development Fee Ordinance of the Borough of Sea Bright pursuant to the Land Development Ordinance of the Borough of Sea Bright to the extent applicable. The Developer shall make any Affordable Housing Contribution Section 130-118 et seq. as amended and by paying a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development. This fee shall be payable by Applicant, its successors or assigns. Collection of the fee shall be as set forth in Section 130-123.

26. As part of the overall site improvements which are to be made by the Developer of this approved subdivision, the Developer shall construct the improvements which are to create a

public park area, to be located within the westerly end of the public right of way known as Mountain View Way, as indicated on the Development Plans, so as to provide enhanced public access to the Shrewsbury River.

27. With regard to Block 23, Lot 130, Developer will construct a public stairway access to the beach prior to conveying the lot to the Borough.

28. The Developer will install a sidewalk on the north side of the street along lots 3.05, 3.06, 3.07, and 3.08 and will grant an easement to the Borough with respect to same.

29. The Developer will pay \$1,375.00 per sewer connection to “The Borough of Sea Bright.”

[Signatures on next page]

IN WITNESS WHEREOF, the Developer has hereunto caused these presents to be duly executed. The Borough has caused this instrument to be signed by its Mayor and attested by its Clerk, and its proper corporate seal to be affixed as of the date and year first above written.

BOROUGH OF SEA BRIGHT

(SEAL)

By: _____
BRIAN P. KELLY, Mayor

ATTEST:

CHRISTINE PFEIFFER, RMC
Municipal Clerk

**MOUNTAIN VIEW VILLAS AT SEA
BRIGHT, LLC,
Developer**

By: _____
Name:
Title:

By: _____
Jeffrey Muhlgeier
Member

INDIVIDUAL INTERESTS

<u>Name</u>	<u>Address</u>	<u>Percentage</u>
Jeffrey Muhlgeier	c/o Robert J. McGowan, Esq., 24 Merchants Way, Suite 210 Colts Neck, NJ 07722	100%

STATE OF NEW JERSEY :
 SS :
COUNTY OF MONMOUTH :

I CERTIFY that on _____, 2022, CHRISTINE PFEIFFER, RMC personally came before me, and this person acknowledged under oath, to my satisfaction that:

- (a) this person is the MUNICIPAL CLERK of the BOROUGH OF SEA BRIGHT, the municipal corporation named in this document;
- (b) this person is the attesting witness to the signing of this document by the proper corporate officer, who is Mayor of the municipal corporation;
- (c) this document was signed and delivered by the municipal corporation as its voluntary act duly authorized by a proper resolution of the Borough Committee;
- (d) this person knows the proper seal of the municipal corporation which was affixed to this document; and
- (e) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me
on this ____ day of _____, 2022

STATE OF NEW JERSEY :
SS :
COUNTY OF MONMOUTH :

I CERTIFY that on _____, 2022, JEFFREY MUHLGEIER personally came before me, and this person acknowledged under oath, to my satisfaction that:

- (a) this person is named in and personally signed the attached document;
- (b) this person acknowledges he is a Member of Mountain View Villas at Sea Bright, LLC;
- (c) this person signed, sealed, and delivered this document as his or her act and deed duly authorized by a proper resolution of Developer; and
- (d) this person knows the proper seal of the Developer, which was affixed to this Document.

Signed and sworn to before me
on this ____ day of _____, 2022

DEED OF DEDICATION

Prepared By: _____
Joseph C. Falk, Esq.

This Deed of Dedication is made on _____ of _____, 2022, **BETWEEN** Mountain View Villas at Sea Bright, LLC, a New Jersey limited liability company, whose mailing address is 754 Hyslip Avenue, Westfield, New Jersey 07090, referred to as the **“GRANTOR”**

AND

BOROUGH OF SEA BRIGHT, a MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY, whose address is **Borough Hall, 1099 Ocean Avenue, Sea Bright, New Jersey 07760**, referred to as the **“GRANTEE.”**

The words **“GRANTOR”** and **“GRANTEE”** shall mean all Grantors and all Grantees listed above.

Transfer of Ownership. The **“GRANTOR”** grants and conveys (transfers ownership of) the property described below to the **“GRANTEE.”** This transfer is made for the sum of **ONE (\$1.00) DOLLAR.** The **“GRANTOR”** acknowledges receipt of this money.

Tax Map Reference: N.J.S.A. 46:15-2.1) Municipality of the **Borough of Sea Bright;**
Block 23, Lot 130

No Property Tax Identification Number is available on the date of this deed.

Property: The Property consists of the land and all building and structures on the land in the Municipality of the **Borough of Sea Bright**, the County of Monmouth and the State of New Jersey. The legal description is attached as Schedule A.

The foregoing premises being dedicated to the Borough of Sea Bright for any and all lawful public purpose including but not limited to a public stairway access to the beach and maintenance of improvements. This Deed of Dedication will also serve to implement the Public Trust Doctrine and ensure permanent public access, use and enjoyment of the beach and ocean,

AND; the "GRANTOR" covenants that it has not done or executed, or there has not been done or executed, any act, deed or thing whatsoever whereby or by means whereof the premises conveyed herein, or any part thereof, now are or at any time thereafter, will or may be charged or encumbered in any matter or way whatsoever, including, without limitation, any mortgage, judgment lien or tax lien of any kind whatsoever. This covenant shall be binding on the "GRANTOR", its heirs/or successors or assigns.

Signatures. The "GRANTOR" signs this Deed of Dedication as of the date at the top of the first page.

WITNESSED or ATTESTED

GRANTOR

By: _____

By: _____

(Type Name & Title)

Jeffrey Muhlgeier, Managing Member

**(Signature(s) must be witnessed or attested to;
If applicable, corporate seal must be affixed)**

The address of the person to whom the document will be returned after filing must be indicated on the back of the document.

STATE OF NEW JERSEY

:SS

COUNTY OF MONMOUTH

I CERTIFY that on _____ of _____, 2022, personally came before me and acknowledged under oath, to my satisfaction, that this person

- (a) is named in and personally signed this Deed;
- (b) signed, sealed and delivered this deed as his or her act and Deed; and
- (c) made this Deed for \$1.00 as the full and actual consideration paid or to be paid for the transfer of title. (such consideration is defined in N.J.S.A. 46:15-5)

(Signature)

(Print name of Attesting Witness and Title
If, Notary Public affix seal)



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION

GIT/REP-3
(9-2015)

(Please Print or Type)

SELLER'S INFORMATION

Name(s)

Mountain View Villas at Sea Bright

Current Street Address

754 Hyslop Avenue

City, Town, Post Office Box

Westfield

State

NJ

Zip Code

07090

PROPERTY INFORMATION

Block(s)

23

Lot(s)

130

Qualifier

Street Address

East Ocean Avenue

City, Town, Post Office Box

Sea Bright

State

NJ

Zip Code

07760

Seller's Percentage of Ownership

100%

Total Consideration

\$1.00

Owner's Share of Consideration

Closing Date

SELLER'S ASSURANCES (Check the Appropriate Box) (Boxes 2 through 14 apply to Residents and Nonresidents)

1. Seller is a resident taxpayer (individual, estate, or trust) of the State of New Jersey pursuant to the New Jersey Gross Income Tax Act, will file a resident gross income tax return, and will pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property sold or transferred is used exclusively as a principal residence as defined in 26 U.S. Code section 121.
3. Seller is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor, or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not an individual, estate, or trust and is not required to make an estimated gross income tax payment.
6. The total consideration for the property is \$1,000 or less so the seller is not required to make an estimated income tax payment.
7. The gain from the sale is not recognized for federal income tax purposes under 26 U.S. Code section 721, 1031, or 1033 (CIRCLE THE APPLICABLE SECTION). If the indicated section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale and report the recognized gain.
 Seller did not receive non-like kind property.
8. The real property is being transferred by an executor or administrator of a decedent to a devisee or heir to effect distribution of the decedent's estate in accordance with the provisions of the decedent's will or the intestate laws of this State.
9. The real property being sold is subject to a short sale instituted by the mortgagee, whereby the seller agreed not to receive any proceeds from the sale and the mortgagee will receive all proceeds paying off an agreed amount of the mortgage.
10. The deed is dated prior to August 1, 2004, and was not previously recorded.
11. The real property is being transferred under a relocation company transaction where a trustee of the relocation company buys the property from the seller and then sells the house to a third party buyer for the same price.
12. The real property is being transferred between spouses or incident to a divorce decree or property settlement agreement under 26 U.S. Code section 1041.
13. The property transferred is a cemetery plot.
14. The seller is not receiving net proceeds from the sale. Net proceeds from the sale means the net amount due to the seller on the settlement sheet.

SELLER'S DECLARATION

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein may be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete. By checking this box I certify that a Power of Attorney to represent the seller(s) has been previously recorded or is being recorded simultaneously with the deed to which this form is attached.

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney In Fact

Date

Signature

(Seller) Please indicate if Power of Attorney or Attorney In Fact

SCHEDULE A



DPK
CONSULTING
LAND SURVEYORS
Service Without Boundaries®

Date: October 7, 2022
Job No. 20-8797

Description of property known as Lot 130, Block 23 in the Borough of Sea Bright, Monmouth County, New Jersey.

BEGINNING at a point on the easterly sideline of Ocean Avenue, a 40-foot wide Right-Of-Way, where the same is intersected by the dividing line between Tax Lots 130 and 132, Block 23; and runs thence

1. Along said dividing line N 84° 03' 26" E 60.00 feet to a point; thence
2. S 05° 56' 34" E 40.00 feet to a point; thence
3. Along the dividing line between Tax Lots 130 and 129.01, Block 23, S 84° 03' 26" W 60.00 feet to a point; thence
4. Along the easterly line of Ocean Avenue, N 05° 56' 34" E 40.00 feet to the point and place of BEGINNING.

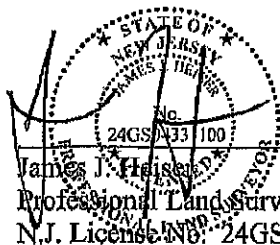
Containing 2,400 square feet or 0.0551 acres of land.

Subject to an 18' wide Bicycle Path/Splash Pad Easement recorded in Deed Book 5093 Page 857 and described as follows:

BEGINNING at a point on the northerly line of Lot 130, Block 23, as shown on the official tax map of the Borough of Sea Bright, said point being located 40'± easterly from the northwest corner of said Lot 130 and running;

- Thence (1) southerly along the toe of the existing seawall, a distance of 40'± to a point;
Thence (2) westerly along the southerly line of Lot 130, a distance of 18'± to a point;
Thence (3) northerly, 18' westerly from and parallel with the toe of the existing seawall, a distance of 40'± to a point;
Thence (4) easterly along the northerly line of Lot 130, a distance of 18'± to the point of place of BEGINNING.

Prepared in accordance with a Survey entitled "Boundary and Topographic Survey, Tax Lots 3.03, 3.04, 3.05 & 3.06, Block 34, Tax Lot 20.02, Block 33, Tax Lot 130, Block 23, Mountain View Way, Borough of Sea Bright, Monmouth County, New Jersey," prepared by DPK Consulting, L.L.C., dated March 12, 2021.


James J. Haisley
Professional Land Surveyor
N.J. License No. 24GS04331100

DPK Consulting, LLC
220 Old New Brunswick Rd., Suite 201, Piscataway, NJ 08854
P: 732-764-0100 F: 732-764-0900
www.dpkconsulting.net



Date: October 7, 2022
Job No. 20-8797

Description of property known as Lot 130, Block 23 in the Borough of Sea Bright, Monmouth County, New Jersey.

BEGINNING at a point on the easterly sideline of Ocean Avenue, a 40-foot wide Right-Of-Way, where the same is intersected by the dividing line between Tax Lots 130 and 132, Block 23; and runs thence

1. Along said dividing line N 84° 03' 26" E 60.00 feet to a point; thence
2. S 05° 56' 34" E 40.00 feet to a point; thence
3. Along the dividing line between Tax Lots 130 and 129.01, Block 23, S 84° 03' 26" W 60.00 feet to a point; thence
4. Along the easterly line of Ocean Avenue, N 05° 56' 34" E 40.00 feet to the point and place of BEGINNING.

Containing 2,400 square feet or 0.0551 acres of land.

Subject to an 18' wide Bicycle Path/Splash Pad Easement recorded in Deed Book 5093 Page 857 and described as follows:

BEGINNING at a point on the northerly line of Lot 130, Block 23, as shown on the official tax map of the Borough of Sea Bright, said point being located 40'± easterly from the northwest corner of said Lot 130 and running;

- Thence (1) southerly along the toe of the existing seawall, a distance of 40'± to a point;
Thence (2) westerly along the southerly line of Lot 130, a distance of 18'± to a point;
Thence (3) northerly, 18' westerly from and parallel with the toe of the existing seawall, a distance of 40'± to a point;
Thence (4) easterly along the northerly line of Lot 130, a distance of 18'± to the point of place of BEGINNING.

Prepared in accordance with a Survey entitled "Boundary and Topographic Survey, Tax Lots 3.03, 3.04, 3.05 & 3.06, Block 34, Tax Lot 20.02, Block 33, Tax Lot 130, Block 23, Mountain View Way, Borough of Sea Bright, Monmouth County, New Jersey," prepared by DPK Consulting, L.L.C., dated March 12, 2021.

James J. Heister
Professional Land Surveyor
N.J. License No. 24GS04331100

DPK Consulting, LLC
220 Old New Brunswick Rd., Suite 201, Piscataway, NJ 08854
P: 732-764-0100 F: 732-764-0990
www.dpkconsulting.net

RESOLUTION NO. 173-2022

**RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF SEA BRIGHT
AUTHORIZING THE UNIFIED PLANNING BOARD TO UNDERTAKE A PRELIMINARY
INVESTIGATION TO DETERMINE WHETHER CERTAIN PROPERTIES QUALIFY AS AN
AREA IN NEED OF REDEVELOPMENT AND SHOULD BE INCLUDED WITHIN THE
SHREWSBURY RIVER PROPERTIES REDEVELOPMENT AREA PREVIOUSLY
DESIGNATED AS AN AREA IN NEED OF REDEVELOPMENT PURSUANT TO COUNCIL
RESOLUTION NO. 102-2019**

Councilmember _____ introduced and offered for adoption the following
resolution; seconded by Councilmember _____ :

WHEREAS, the Borough Council of the Borough of Sea Bright (the "Council") adopted Resolution 80-2016 authorizing the study of certain properties known and designated as Block 13, Lots 13, 14, 15, 18, 20, 21, 22; Block 14, Lots 12, 14; Block 15, Lots 5, 8, 10, 11, 12 as shown on the tax map of the Borough of Sea Bright to determine if they qualified as areas in need of redevelopment with the power of eminent domain as provided for under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redevelopment Law"); and

WHEREAS, the Unified Planning Board (the "Planning Board") proceeded to prepare such a redevelopment study and retained the services of Christine Cofone of Cofone Consulting Group, LLC to assist with the investigation and preparation of a report; and

WHEREAS, Cofone Consulting Group prepared a report entitled "Condemnation Redevelopment Investigation for Shrewsbury River Properties"; and

WHEREAS, the Planning Board, upon giving due notice to the owners of the aforesaid properties, conducted a public hearing on this study on April 25, 2017, at which time Ms. Cofone provided detailed testimony and all persons having an interest in said application were given an opportunity to be heard; and

WHEREAS, following the conclusion of the hearing, the Planning Board voted to find that the properties in question as set forth in the aforesaid study met one or more of the statutory criteria in order to be designated as a condemnation area in need of redevelopment; and

WHEREAS, the Borough Council, after reviewing the aforesaid Report and the subsequent Resolution adopted by the Planning Board memorializing its findings, proceeded to designate the Shrewsbury River properties as a condemnation area in need of redevelopment (the Shrewsbury River properties subject to that designation referred to hereinafter as the "Redevelopment Area"), pursuant to Council Resolution No. 102-2019; and

WHEREAS, on October 20, 2020, the Mayor and Council adopted Ordinance No. 10-2020, approving the Sea Bright River Properties Redevelopment Plan (the "Redevelopment Plan"), which amended and supplemented the Code of the Borough of Sea Bright, Part II "General Legislation" so that the Redevelopment Area would be developed in compliance with the Redevelopment Plan; and

WHEREAS, the Redevelopment goals and objectives include providing “for public access to the Shrewsbury River and public amenities, including but not limited to a boardwalk, a dog park, a kayak launch, a fishing area and cleaning station, parking spaces, and a community green;” and

WHEREAS, included as Figure 6 to the Redevelopment Plan is a development concept plan for the Redevelopment Area (the “Redevelopment Concept Plan”); and

WHEREAS, the Redevelopment Concept Plan provides for a kayak launch being constructed partially upon the Borough-owned property designated as Block 13, Lot 17 and partially upon private properties, as well as a meandering public path from the kayak launch to Front Street that lines up with Surf Street, and a portion of the private development occurring on what is currently situated upon Block 13, Lot 17 (the “Kayak Launch Work”); and

WHEREAS, construction of the Kayak Launch Work will require the reconfiguration and/or adjustment of Block 13, Lot 17 and surrounding private parcels; and

WHEREAS, the Redevelopment Concept Plan also provides for the relocation and improvement of the existing Borough right of way known as Poppinger Place, which is Borough-owned property designated as Block 15, Lot 9 (the “ROW Relocation Work”); and

WHEREAS, Denholtz Properties, the designated redeveloper for the Redevelopment Area (“Redeveloper”) filed an application with the Planning Board for site plan approval for the Redevelopment Area; and

WHEREAS, in connection with the Planning Board’s review of the site plan, an issue was raised with respect to certain properties not being specifically included within the designated Redevelopment Area, including Block 15, Lots 6 and 7; and

WHEREAS, research of the Borough tax records established that Lots 6 & 7 of Block 15 merged into Lot 5 of Block 15 when purchased by C.J. & M. Associates of Sea Bright, LLC on May 30, 2010; and

WHEREAS, because former Lots 6 and 7 of Block 15 were consolidated into Block 15 Lot 5, which was included in designated Redevelopment Area and is subject to the Redevelopment Plan, former Lots 6 and 7 were effectively included in the Redevelopment Area and are subject to the Redevelopment Plan; and

WHEREAS, while Block 13, Lot 17, owned by the Borough, is clearly contemplated for development under the Redevelopment Plan pursuant to the Redevelopment Concept Plan to provide for the Kayak Launch Work and Block 15, Lot 9, owned by the Borough, is clearly contemplated for development under the Redevelopment Plan pursuant to the Redevelopment Concept Plan to provide for the ROW Relocation Work, neither of these parcels was included in the designated Redevelopment Area; and

WHEREAS, as set forth above, it is the clear and express intent of the Redevelopment Plan that Block 13, Lot 17 and Block 15, Lot 9 would be utilized to facilitate the goals and objectives of the Redevelopment Plan to accomplish the Kayak Launch Work and the ROW

Relocation Work, respectively, and, therefore, the Council has determined that the following tax lots should have been and should now be included in the Redevelopment Area:

Block 13, Lot 17 (boat ramp - property owned by the Borough)

Block 15, Lot 9 (owned by the Borough)

(collectively the "Omitted Lots"); and

WHEREAS, the Borough believes that the Omitted Lots are necessary for the effective redevelopment of the Redevelopment Area and to achieve the goals and objectives of the Redevelopment Plan to accomplish the Kayak Launch Work and the ROW Relocation Work; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-3 of the Redevelopment Law, a "redevelopment area may include lands, buildings, or improvements which of themselves are not detrimental to the public health, safety or welfare, but the inclusion of which is found necessary, with or without change in their condition, for the effective redevelopment of the area of which they are a part"; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-6, the Council has decided to exercise that power and does hereby authorize the Planning Board to undertake a preliminary investigation to determine whether the Omitted Lots are necessary for the effective redevelopment of the Redevelopment Area and should be included within the Redevelopment Area and subject to the Redevelopment Plan.

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Sea Bright that:

1. The Preamble set forth above is incorporated by reference herein; and
2. The Planning Board is hereby authorized to undertake a preliminary investigation to determine whether the Omitted Lots constitute a "redevelopment area" according to the criteria set forth in N.J.S.A. 40A:12A-5 and/or pursuant to the statutory authority to consider properties that do not meet the criteria themselves but are necessary for the effective redevelopment of the area, pursuant to N.J.S.A. 40A:12A-3; and
3. If the Omitted Lots shall be designated by the Council as a redevelopment area, such designation shall be a non-condemnation redevelopment area, as the Omitted Lots are Borough-owned, and the Borough shall be authorized to use all those powers provided by the Redevelopment Law for use in a redevelopment area other than the use of eminent domain for the Omitted Lots.
4. Before the public hearing, the Planning Board shall cause to be prepared a map showing the boundaries of the proposed non-condemnation redevelopment area and the location of the various parcels of property included therein. A statement or report setting forth the basis of the investigation, or a copy of this Resolution, shall be appended to the map.

5. The Planning Board is hereby authorized to make its determination after giving public notice as prescribed by law and conducting a public hearing as provided in N.J.S.A. 40A:12A-6(b).

6. The public notice shall comply with the requirements of N.J.S.A. 40A:12A-6(b)(2) and (3) and the hearing procedures shall comply with the requirements of N.J.S.A. 40A:12A-6(b)(4).

7. After completing the public hearing, the Planning Board shall recommend to the Borough Council that the delineated Omitted Lots are or are not necessary for the effective redevelopment of the Redevelopment Area and should therefore be determined to be, or not determined to be, a non-condemnation redevelopment area.

8. Pursuant to N.J.S.A. 40A:12A-6(a), the Borough Council hereby assigns to the Planning Board the conduct of the investigation and the public hearing, which shall comply in all respects with the requirements of N.J.S.A. 40A:12A-6.

9. The Borough Clerk shall transmit a copy of this Resolution to the Secretary of the Planning Board for action by the Board on the authorizations set forth herein, the results of which shall be reported to the Borough Council as provided by law.

Roll Call: Bieber, Birdsall, Booker, Catalano, Keeler, Lamia

October 18, 2022

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk 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, 2022.

Christine Pfeiffer, Borough Clerk

BOND ORDINANCE NO. 09-2022

BOND ORDINANCE PROVIDING AN APPROPRIATION OF \$425,000 FOR VARIOUS ROAD IMPROVEMENTS FOR AND BY THE BOROUGH OF SEA BRIGHT IN THE COUNTY OF MONMOUTH, NEW JERSEY AND, AUTHORIZING THE ISSUANCE OF \$67,400 BONDS OR NOTES OF THE BOROUGH FOR FINANCING PART OF THE APPROPRIATION.

BE IT ORDAINED, BY THE BOROUGH COUNCIL OF THE BOROUGH OF SEA BRIGHT, IN THE COUNTY OF MONMOUTH, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

SECTION 1:

The improvements described in Section 3 of this bond ordinance (the "Improvements") are hereby authorized to be undertaken by the Borough of Sea Bright, New Jersey (the "Borough") as general improvements. For the said Improvement there is hereby appropriated the amount of \$425,000, such sum includes the sum of \$232,600 expected to be received as a grant from the New Jersey Department of Transportation 2022 Municipal Aid Program and \$125,000 expected to be received as a grant from the New Jersey Department of Transportation 2021 Municipal Aid Program. No down payment is required by the Local Bond Law of the State of New Jersey, constituting Chapter 2 of Title 40A of the New Jersey Statutes, as amended and supplemented (the "Local Bond Law") as the purpose authorized herein involve a project funded by a State grant from the New Jersey Department of Transportation as permitted under N.J.S.A. 40A:2-11c.

SECTION 2:

In order to finance the cost of the Improvements, negotiable bonds of the Borough are hereby authorized to be issued in the principal amount of \$67,400 pursuant to the provisions of the Local Bond Law (the "Bonds"). In anticipation of the issuance of the Bonds and to temporarily finance said improvements or purposes, negotiable bond anticipation notes of the Borough are hereby authorized to be issued in the principal amount not exceeding \$67,400 pursuant to the provisions of the Local Bond Law (the "Bond Anticipation Notes" or "Notes").

SECTION 3:

(a) The Improvements authorized and the purpose for the financing of which said obligations are to be issued is for various road improvements, including the reconstruction of Imbrie Place, Osborne Place, Surf Street, Peninsula Avenue and New Street, and including curbing, drainage and other ancillary improvements, including all work and materials necessary therefor and incidental thereto, and as shown on and in accordance with the plans and specifications on file with the Borough Clerk.

(b) The estimated maximum amount of Bonds or Notes to be issued for the purpose of financing a portion of the cost of the Improvements is \$67,400.

(c) The estimated cost of the Improvements is \$425,000 which amount represents the initial appropriation made by the Borough.

SECTION 4:

All Bond Anticipation Notes issued hereunder shall mature at such times as may be determined by the chief financial officer of the Borough (the "Chief Financial Officer"); provided that no Note shall mature later than one year from its date. The Notes shall bear interest at such rate or rates and be in such form as may be determined by the Chief Financial Officer. The Chief Financial Officer shall determine all matters in connection with Notes issued pursuant to this ordinance, and the signature of the Chief Financial Officer upon the Notes shall be conclusive evidence as to all such determinations. All Notes issued hereunder may be renewed from time to time subject to the provisions of Section 8(a) of the Local Bond Law. The Chief Financial Officer is hereby authorized to sell part or all of the Notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The Chief Financial Officer is directed to report in writing to the Borough Council of the Borough at the meeting next succeeding the date when any sale or delivery of the Notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the Notes sold, the price obtained and the name of the purchaser.

SECTION 5:

The capital budget of the Borough is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey is on file with the Borough Clerk and is available for public inspection.

SECTION 6:

The following additional matters are hereby determined, declared, recited and stated:

(a) The Improvements described in Section 3 of this bond ordinance are not current expenses, and are capital improvements or properties that the Borough may lawfully make or acquire as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefited thereby.

(b) The period of usefulness of the Improvements, within the limitations of the Local Bond Law, and according to the reasonable life thereof computed from the date of the Bonds authorized by this bond ordinance, is 20 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Borough Clerk and a complete executed duplicate thereof has been filed in the office of the Director, Division of Local Government Services, Department of Community Affairs, State of New Jersey. Such statement shows that the gross debt of the Borough, as defined in the Local Bond Law, is increased by the authorization of the Bonds and

Notes provided in this bond ordinance by \$67,400 and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$70,000 for items of expense listed in and permitted under Section 20 of the Local Bond Law is included in the estimated cost of the Improvements, as indicated herein.

SECTION 7:

Any funds received from time to time by the Borough as contributions in aid of financing the purposes described in Section 3 of this Ordinance shall be used for financing said Improvements by application thereof either to direct payment of the cost of said Improvements or to the payment or reduction of the authorization of the obligations of the Borough authorized therefor by this Bond Ordinance. Any such funds received may, and all such funds so received which are not required for direct payment of the cost of said Improvements shall, be held and applied by the Borough as funds applicable only to the payment of obligations of the Borough authorized by this Bond Ordinance.

SECTION 8:

The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy ad valorem taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

SECTION 9:

The Chief Financial Officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The Chief Financial Officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

SECTION 10:

This Bond Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Borough reasonably expects to pay expenditures with respect to the Improvements prior to the date that Borough incurs debt obligations under this Bond Ordinance. The Borough reasonably expects to reimburse such expenditures with the proceeds of debt to be

incurred by the Borough under this Bond Ordinance. The maximum principal amount of debt expected to be issued for payment of the costs of the Improvements is \$67,400.

SECTION 11:

This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

I HEREBY CERTIFY this to be a true and correct Bond Ordinance No. 09-2022 of the Mayor and Borough Council of the Borough of Sea Bright, introduced on October 18, 2022, and will be further considered after a Public Hearing held on November 14, 2022, Mayor Dina Long Community Room, 1097 Ocean Avenue, at 7:00 pm.

INTRODUCED: October 18, 2022
Public Hearing: November 14, 2022
ADOPTED:

Witness

BOROUGH OF SEA BRIGHT,

CHRISTINE PFEIFFER, Borough Clerk

BRIAN P. KELLY, Mayor

ORDINANCE NO. 10-2022

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT TO ADD CHAPTER 164 "RESIDENTIAL PROPERTY, SHORT TERM RENTAL REGISTRATION", PERTAINING TO THE REGULATION OF SHORT TERM RENTAL UNITS WITHIN THE BOROUGH.

WHEREAS, the Borough Council finds that many owners of residential dwelling units in the Borough engage in the lease or rental of such dwelling units both for long and short-term rental use; and

WHEREAS, the Borough Council further finds that in order to ensure the public health, safety and welfare it is important in cases of emergency, disturbance, law enforcement and regulatory activities for the Borough to have a record enabling the owner or managing agent of any such residential dwelling unit to be contacted at any time; and

WHEREAS, the Borough Council hereby determines that it would be in the best interests of the Borough of Sea Bright and its residents to prohibit any owner of a residential dwelling unit to rent, lease or otherwise permit the occupancy of the unit by non-owners without first having registered the residential dwelling as a short term rental unit with the Borough;

NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

SECTION ONE. The Code of the Borough of Sea Bright, Part II, "General Legislation", be and is hereby amended and supplemented to add thereto Chapter 164, "Residential Property-Short Term Rental Registration", to read, in full, as follows:

"CHAPTER 164 RESIDENTIAL PROPERTY-SHORT TERM RENTAL REGISTRATION"

§ 164-1 Purpose and Scope.

This section aims to regulate the increasingly widespread practice of renting or leasing various types of dwellings, or segments thereof, located primarily in residential neighborhoods, on a short-term basis to transient guests. This practice has been popularized and facilitated by various websites that advertise and broker these rentals. Left unregulated, this practice could adversely affect the health, safety, and general welfare of the citizens of the Borough. This section seeks to balance the rights of the owners of residential dwelling units and the needs of the community at large.

This section does not apply to lawfully established and operating hotels, motels, rooming houses, boardinghouses, and bed-and-breakfast establishments.

§ 164-2 Definitions.

As used in this Chapter the following terms shall have the meanings indicated below:

OWNER

Shall mean an individual or entity holding title to a property proposed for short-term rental, by way of a legally recorded Deed.

OWNER-OCCUPIED

Shall mean the owner of the property resides in the short term rental property (also referenced as "STRP"), or in the principal residential unit with which the STRP is associated on the same lot, and identifies same as his or her principal residence as that term is defined in this Section 164.

PRINCIPAL RESIDENCE

Shall mean the address: (1) where at least one of the property owners spends the majority of his or her non-working time, and (2) which is identified on his or her driver's license or State Identification Card as being his or her legal address. All the above requirements must be met in order for an address to constitute being a principal residence for purposes of this Section 164.

PROPERTY

Shall mean a parcel of real property located within the boundaries of the Borough of Sea Bright.

RESPONSIBLE PARTY

Shall mean both the short-term rental property owner and a person (or property manager) designated by the owner to be called upon and be responsible at all times during the period of a short-term rental and to answer for the maintenance of the property, or the conduct and acts of occupants of the short-term rental property, and, in the case of the property manager, to accept service of legal process on behalf of the owner of the short-term rental property.

SHORT-TERM RENTAL (ALSO REFERENCED AS "STR")

Shall mean the use of a dwelling unit as defined in Section 130-5 of the Code of the Borough of Sea Bright for occupancy by someone other than the unit's owner or permanent resident for a period of ninety (90) days or less consecutive days. Short Term Rental properties are required to have a minimum stay period of three (3) consecutive days. Any advertisement or rental of Short Term Rental Properties must include and invoke this minimum stay requirement.

SHORT-TERM RENTAL PROPERTY (ALSO REFERENCED AS "STRP")

Shall mean a dwelling unit as defined in Section 130-5 of the Code of the Borough of Sea Bright, that is used and/or advertised for rent as a short-term rental by transient occupants as guests, as those terms are defined in this Section 164. Dwelling units rented to the same occupant for more than ninety (90) continuous days, licensed Bed and Breakfast establishments, licensed rooming or boarding houses, hotels, and motels shall not be considered a Short-Term Rental Property.

TRANSIENT OCCUPANT

Shall mean any person or a guest or invitee of such person, who, in exchange for compensation, occupies or is in actual or apparent control or possession of residential property, which is either: (1) registered as a short-term rental property, or (2) satisfies the definition of a short-term rental property, as such term is defined in this Section 164. It shall be a rebuttable presumption that any person who holds themselves out as being an occupant or guest of an occupant of the short-term rental is a transient occupant.

TRANSIENT SPACE MARKETPLACE

Shall mean a marketplace or travel agency through which a person may offer STRs to customers and through which customers may arrange for occupancies of STRs.

The definition of a transient space marketplace does not include a marketplace or travel agency that exclusively offers transient accommodations in New Jersey owned by the owner of the marketplace or travel agency. "Obtained through a transient space marketplace" means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or

indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

§ 164-3 Regulations Pertaining to Short-Term Rentals.

a. It shall be unlawful for the owner of any property within the Borough, to rent or operate a short-term rental contrary to the procedures and regulations established in this Section 164 or applicable State statute.

b. Short-term rentals shall be permitted to be conducted in the following classifications of property in the Borough of Sea Bright:

1. Condominium units, where the Condominium Association By-Laws and Master Deed do not prohibit a short-term rental;

2. Single-family residences;

3. One unit within a two-family residential dwelling, where the other unit is occupied by the owner and identified by the owner as his or her principal residence;

4. Not more than two units in any multi-family residential dwelling, where one other unit in the same dwelling is occupied by the owner and identified by the owner as his or her principal residence.

c. Notwithstanding the provisions of paragraph b above, short-term rentals shall not be permitted in:

1. Condominiums or townhomes, where the Condominium Association By-Laws or Master Deed, or Condominium Rules and Regulations, do not permit such short-term rental of condominium units in the development;

2. A room within a single-family, two-family or multi-family residential dwelling unit, where the room shares common kitchen and bathroom facilities with the occupant(s) of the dwelling unit in which it is located, which occupant(s) is neither the owner of the dwelling unit nor identifies the remainder of the dwelling unit in the single-family, two-family or multi-family residence as his or her principal residence.

d. The provisions of this Section 164 shall apply to short-term rentals as defined in subsection 164.2 above. The following do not qualify as a STRP, as that term is used herein, and are not required to obtain a short-term rental permit pursuant to this Section 164: any hotel, motel, studio hotel, rooming house, dormitory, public or private club, bed and breakfast inn, convalescent home, rest home, home for aged people, foster home, halfway house, transitional housing facility, or other similar facility operated for the care, treatment, or reintegration into society of human beings; any housing owned or controlled by an educational institution and used exclusively to house students, faculty or other employees with or without their families; any housing operated or used exclusively for religious, charitable or educational purposes; or any housing owned by a governmental agency and used to house its employees or for governmental purposes.

§ 164-4 Short-Term Rental Permit, Permit Registration Fee/Application, and Certificate of Occupancy.

a. In addition to any land use requirement(s) set forth by the Zoning and Land Use Regulations of the Borough of Sea Bright, the owner of a short-term rental property shall obtain a short-term rental permit from the Borough of Sea Bright Municipal Clerk, before renting or advertising for rent any short-term rental.

b. No person or entity shall operate a STRP, or advertise a residential property for use as a STRP, without the owner of the property first having obtained a STR permit issued by the Borough of Sea Bright. The failure to obtain a valid STR permit prior to advertising the short-term rental property in any print, digital, or internet advertisement or web-based platform, and/or in the MLS or any realtor's property listing shall be a violation of this Chapter. No STR permit issued under this Chapter may be

transferred or assigned or used by any person or entity, other than the owner to whom it is issued, or at any property location or dwelling unit other than the property for which it is issued.

c. An owner of property intended to serve as a short-term rental property, or any agent acting on behalf of the owner, shall submit to the Borough of Sea Bright Municipal Clerk, a short-term rental permit application provided by the Borough, along with an annual application/registration fee of \$500.

d. The short-term rental permit, if granted, shall be valid for a period of one year from the date of issuance.

e. The owner of a short-term rental property, or any agent acting on behalf of the owner, who intends to rent all of the property, or any permitted part thereof as a short-term rental, shall also make application to the Municipal Clerk, in conjunction with the short-term rental permit application, for the issuance of a rental Certificate of Occupancy for the short-term rental property, on such forms as required by that Department.

f. A short-term rental permit and rental Certificate of Occupancy shall be renewed on an annual basis, based upon the anniversary of the original permit issuance, by submitting to the Municipal Clerk, a short-term rental permit application and rental Certificate of Occupancy application and a registration fee as set forth in subsection 164-4.c.

g. The short-term rental permit shall expire automatically when the short-term rental property changes ownership, and a new initial application and registration fee will be required in the event that the new owner intends to use the property as a short-term rental property. A new application and registration fee shall also be required for any short-term rental that had its short term rental permit revoked or suspended.

§ 164-5 Application Process for Short-Term Rental Permit and Inspections.

[Ord. No. O-2022 § 1]

a. Applicants for a short-term rental permit shall submit, on an annual basis, per Sections 164-4d and f, an application for a short-term rental permit to the Borough of Sea Bright. Such application shall include:

1. The name, address, telephone number and email address of the owner(s) of record of the dwelling unit for which a permit is sought. If such owner is not a natural person, the application must include and identify the names of all partners, officers and/or directors of any such entity, and the personal contact information, including address and telephone numbers for each of them;

2. The address of the unit to be used as a short-term rental;

3. The name, address, telephone number and email address of the short-term rental property responsible party, which shall constitute his or her 7 day a week, 24-hour a day contact information;

4. The owner's acknowledgement that he or she has received a copy of this Chapter, has reviewed it, understands its requirements and certifies as to the accuracy of all information provided in the permit application;

5. The number and location of all parking spaces available to the premises, which shall include the number of legal off-street parking spaces and on-street parking spaces directly adjacent to the premises. The owner shall certify that every effort will be made to avoid and/or mitigate issues with on-street parking in the neighborhood in which the short-term rental is located, resulting from excessive vehicles generated by the short-term rental of the property, in order to avoid a shortage of parking for residents in the surrounding neighborhood;

6. The owner's agreement that all renters of the short-term rental property shall be limited to one (1) vehicle per four (4) occupants in the short-term rental property;

7. The owner's agreement to use his or her best efforts to assure that use of the premises by all transient occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties; and

8. Any other information required to be provided to the Borough in connection with an application for a rental certificate of occupancy. The Borough Administrator or his or her designee shall have the authority to obtain additional information from the STRP owner/applicant or amend the permit application to require additional information, as necessary, to achieve the objectives of this section.

b. Every application for a short-term rental permit shall be subject to inspections every three months for the STRP's compliance with the State's or Borough's fire safety regulations and the Borough's property maintenance code. In addition, each application is subject to review to verify the STRP's eligibility for use as a short-term rental and compliance with the regulations in this Chapter.

c. For a condominium short-term rental permit application, a letter of approval by the condominium association must be submitted with the application.

d. A Zoning Compliance Certificate, which states that the premises are not being occupied or used in violation of the Zoning and Land Use Regulations of the Borough, shall be required.

e. Confirmation that there have been no prior revocations or suspensions of this or a similar license, in which event a license shall not be issued, which denial may be appealed as provided hereinafter.

f. Attached to and concurrent with submission of the permit application described in this Chapter, the owner shall provide:

1. Proof of the owner's current ownership of the short-term rental unit;

2. Proof of general liability insurance in a minimum amount of no less than \$500,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence, except in the case of the owner of a multifamily home which is four or fewer units, one of which is owner occupied, then coverage must be maintained for the foregoing in an amount no less than \$300,000, or such minimum amounts which may be set by State law; and

3. Written certification from the responsible party that they agree to perform all of the respective duties specified in this Chapter.

g. The STRP owner/permit holder shall publish the short-term rental permit number issued by the Borough in every print, digital, or internet advertisement, and/or in the Multiple Listing Service (hereinafter "MLS") or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, in which the short-term rental property is advertised for rent on a short term basis.

h. Each and every time there is a change of occupancy by transient occupants during the year when the permit is active, the STRP owner, their agent, or the responsible party must provide the Borough with information as to the identity of all transient occupants who will be occupying the STRP, on a form to be made available by the Municipal Clerk or in electronic format on the Borough website. The intent is that the Borough shall have basic identifying information of all occupants of the STRP at all times, just as required by the Borough in conjunction with any standard rental Certificate of Occupancy application, which information shall include the occupant's or occupants' names and ages, and the dates of the commencement and expiration of the term of each short-term rental period of the respective occupant(s).

i. In no event shall a short-term rental property be rented to anyone younger than eighteen (18) years of age. The primary occupant of all short-term rentals executing the agreement between the owner and the occupant must be over the age of eighteen (18), and must be the party who will actually occupy the property during the term of the short-term rental. The primary occupant may have guests under the age

of eighteen (18) who will share and occupy the property with them. Both the primary occupant executing the short-term rental agreement and the STRP owner shall be responsible for compliance with this provision, and shall both be liable for a violation, where the property is not occupied by at least one adult over the age of eighteen (18), during the term of the short term rental;

§ 164-6 Issuance of Permit and Appeal Procedure.

a. Once an application is submitted, complete with all required information and documentation and fees, the Municipal Clerk, following any necessary investigation for compliance with this Chapter shall either issue the short-term rental permit and Certificate of Occupancy, or issue a written denial of the permit application (with the reasons for such denial being stated therein), within ten (10) business days.

b. If denied, the applicant shall have ten (10) business days to appeal in writing to the Borough Administrator, by filing the appeal with the Borough Administrator's Office.

c. Within thirty (30) days thereafter, the Borough Administrator or his or her designee shall hear and decide the appeal.

§ 164-7 Short-Term Rental Operational Requirements.

a. All short-term rentals must comply with all applicable rules, regulations and ordinances of the Borough of Sea Bright and all applicable rules, regulations and statutes of the State of New Jersey, including regulations governing such lodging uses, as applicable. The STRP owner shall ensure that the short-term rental is used in a manner that complies with all applicable laws, rules and regulations pertaining to the use and occupancy of a short term rental.

b. A dwelling unit shall be limited to a single short-term rental contract at a time.

c. The owner of a STRP shall not install any advertising or identifying mechanisms, such as signage, including lawn signage, identifying the property for rent as a short-term rental property.

d. Transient occupants of the STRP shall comply with all ordinances of the Borough of Sea Bright including, but not limited to those ordinances regulating noise and nuisance conduct. Failure of transient occupants to comply shall subject the transient occupants, the owner of the STRP and the responsible party listed in the short-term rental permit application, to the issuance of fines and/or penalties, and the possibility of the revocation or suspension of the STRP permit.

e. The owner of a STRP shall post the following information in a prominent location within the short term rental:

1. Owner name; if owner is an entity, the name of a principal in the entity, and phone number for the owner (individual);
2. The name and phone number for the responsible party;
3. The phone numbers for the Borough of Sea Bright Police Department, the Borough of Sea bright Fire Department, the Borough of Sea Bright Department of Code Enforcement and the Borough of Sea Bright Building Department;
4. The maximum number of parking spaces available onsite;
5. Trash and recycling pick-up day, and all applicable rules and regulations regarding trash disposal and recycling;
6. A copy of this Ordinance No. 10-2022
7. Notification that a guest, transient occupant, the responsible party or STRP owner may be cited or fined by the Borough of Sea Bright Police Department, Code Enforcement, or the Borough of Sea Bright

Building Department, for violations of, and in accordance with any applicable ordinance(s) of the Borough of Sea Bright;

f. In the event any complaints are received by the Sea Bright Police Department, Code Enforcement, or the Building Department regarding the short-term rental and/or the transient occupants in the STRP, and the owner of the STRP is unreachable or unresponsive, the responsible party listed in the short-term rental permit application shall have the responsibility to take any action required to properly resolve such complaints, and shall be authorized by the STRP owner to do so.

g. While a STRP is rented, the owner, the responsible party shall be available twenty-four hours per day, seven days per week for the purpose of responding within two (2) hours to complaints regarding the condition of the STRP premises, maintenance of the STRP premises, operation of the STRP, or conduct of the guests at the STRP, or nuisance complaints from the Sea Bright Police Department or neighbors, arising by virtue of the short-term rental of the property.

h. If the STRP is the subject of two (2) or more civil and/or criminal complaints which result in sustained violations of this Chapter, other provisions of the Borough Code or State law, the Borough Administrator or his designee may revoke the short-term rental permit issued for the property, in which case, the STRP may not be the subject of a new STRP permit application for one (1) year following the date of revocation of the permit.

i. Failure to make application for, or to obtain the issuance of, a short-term rental permit prior to advertising the STRP in print publications or newspapers, on any internet-based booking platforms, or online, and/or in the MLS or other real estate listing of a real estate agent licensed by the NJ State Real Estate Commission, shall be equivalent to operation of the STRP without a permit, and shall constitute a violation of this Code, and will result in enforcement action and the issuance of a Summons, and shall subject the STRP owner and the responsible party to issuance of fines and/or penalties.

j. The person offering a dwelling unit for short-term rental use must be the owner of the dwelling unit. A tenant of a property may not apply for a short-term rental permit, nor shall the property or any portion thereof be sub-leased by the tenant on a short-term basis, or operated as a STRP by the tenant. This STRP regulation shall supersede any conflicting provision in a private lease agreement permitting sub-leasing of the property, or any portion of the property. Violation of this Section 164 will result in enforcement action against the tenant, the STRP owner, and the responsible party, and will subject all such parties to the issuance of a Summons and levying of fines and/or penalties.

k. In the event that the Borough finds three (3) occurrences where the number of vehicles belonging to the transient occupants of a STRP exceeds the number allowed pursuant to Section 164-5a6, the short-term rental permit for the property is subject to revocation by the Borough Administrator or his designee.

l. The STRP owner must be current with all tax and sewer charges assessed to the property prior to the issuance of a short-term rental permit. In the event that any code violations have been issued by the Borough relating to the STRP, a short-term rental permit shall not be issued until such time as such violations have been properly abated. The STRP owner must also close any open construction permits for the property prior to the issuance of a short-term rental permit.

m. All fines or penalties issued by the Municipal Court for the Borough of Sea Bright for any past code violations relating to the STRP, including penalties for failure to appear in Court, must be satisfied in full prior to the issuance of a short-term rental permit.

§ 164-8 Violations and Penalties.

A violation of any provision of this Chapter may subject the STRP owner, transient occupant(s), and the responsible party or their agents to fines assessed by the Court. Penalties for non-compliances with the requirements set forth in the ordinance shall be as follows:

First Offense:	Warning Issued
Second Offense:	\$100 - \$500 Fine
Third or more Offense:	\$500 - \$2000 per Violation and potential revocation of STR permit

§ 164-9 Short Term Rental Municipal Tax.

a. Pursuant to New Jersey Statutes 40:48F-1 et. seq., all STRs which are obtained through a transient space marketplace, and/or all STRs which do not share any living or sleeping space with any other rental unit, and are directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year, are subject to a three (3)% short term rental municipal tax (Tax) on all charges of rent.

This Tax shall not apply to STRs where no maid service, room service, linen-changing service, or other common hotel services are made available by the lessor, and the rental transaction is executed by a real estate broker licensed by the New Jersey Real Estate Commission, and where the keys to the property, whether a physical key, access to a keyless locking mechanism, or other means of physical entrance to the property, are provided to the lessee at the offsite location of the licensed real estate broker.

b. Any unpaid taxes under this Section shall be subject to interest at a rate of five (5) % per annum.

c. The Tax stated herein shall be paid by the lessees of the STR.

d. No vendor of a Transient Space Marketplace shall assume or absorb the tax created in this Section.

e. No vendor of a Transient Space Marketplace shall in any manner advertise or hold out to any person or to public in general, in any manner, directly or indirectly, that the tax will be assumed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.

f. Each assumption or absorption by a vendor of the tax created in this Section shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues to be deemed a separate offense.

g. All violations in regard to the provisions of this Section as to the Tax shall be subject to the penalties stated in Section 164-7.

h. The Tax created by this Section shall be collected on behalf of the Borough by the person collecting the rent from the STR customer.

i. The individual required to collect the Tax per subparagraph h shall be personally liable for the Tax imposed, collected or required to be collected hereunder.

j. Notwithstanding any other provision, Transient Space Marketplaces are required to collect and pay the Tax for transactions obtained through the transient space marketplace in accordance with State Statute.

SECTION TWO. This Ordinance shall be transmitted to the State Treasurer, together with a list of the names and addresses of all STRs located in the Borough.

SECTION THREE. All Ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION FOUR. Should any section, paragraph, clause or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

SECTION FIVE. This Ordinance shall take effect after its passage and publication according to law or January 1, 2023, whichever is later except the Tax provisions of Section 164-9 shall take effect on the first day of the first full month occurring 90 days after the transmittal to the State Treasurer.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on October 18, 2022 and will be further considered after a Public Hearing held on November 14, 2022.

INTRODUCED: October 18, 2022
PUBLIC HEARING: November 14, 2022
ADOPTED:

WITNESS

BOROUGH OF SEA BRIGHT

CHRISTINE PFEIFFER, CLERK

BRIAN KELLY, MAYOR

ORDINANCE NO. 11-2022

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT, PART II, GENERAL LEGISLATION, TO ADD THERETO A NEW CHAPTER 74, ENTITLED "BUSINESS INSURANCE REGISTRATION."

WHEREAS, P.L. 2022, c. 92 recently enacted by the New Jersey Legislature and signed by the Governor into law requires the owners of certain businesses and rental units to maintain certain minimum liability insurance coverages; and

WHEREAS, the aforesaid statute requires such owners to annually file with the municipality in which the business is located certificates of insurance evidencing the required coverages;

NOW THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

SECTION 1. The Code of the Borough of Sea Bright be and the same is hereby amended and supplemented by the addition thereto of a new Chapter to read, in full, as follows:

"CHAPTER 74

BUSINESS INSURANCE REGISTRATION

§74-1 Intent.

It is the intention of this Chapter to comply with the requirements imposed upon the Borough by P.L. 2022, c. 92, which provides for the annual registration of certificates of insurance by business owners and the owners of rental units located in the Borough.

§74-2 Insurance Requirements.

A. As required by the aforesaid statute and except as provided in subsection B. of this section, the owner of a business or the owner of a rental unit or units shall maintain liability insurance for negligent acts and omissions in an amount of not less than \$500,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence.

B. The owner of a multifamily home which contains four or fewer units, one of which is owner-occupied, shall maintain liability insurance for negligent acts and omissions in an amount of not less than \$300,000 for combined property damage and bodily injury to or death of one or more persons in any one accident or occurrence.

§74-3 Registration Requirements.

A. The owner of a business, the owner of a rental unit or units, and the owner of a multi-family home of four or fewer units, one of which is owner occupied, shall annually file a copy of a certificate of insurance demonstrating compliance with P.L. 2022, c. 92 with the Borough Clerk.

B. The copy of the certificate of insurance shall be filed with the Borough Clerk no later than thirty (30) days after the issuance or renewal of the policy or policies of insurance required to be maintained by said owner.

C. Upon filing of an insurance certificate, the Borough Clerk shall issue a certificate of registration to the owner stating the amount of coverage and the policy period of the insurance policy or policies evidenced by the certificate of insurance.

SECTION 2. All Ordinances or parts thereof inconsistent with the provisions of this Ordinance be and the same are hereby repealed to the extent of such inconsistencies.

SECTION 3. Should any section, paragraph, clause of any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not effect or impair the remainder of this Ordinance.

SECTION 4. This Ordinance shall take effect upon its passage and publication according to law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on October 18, 2022 and will be further considered after a Public Hearing held on November 14, 2022.

INTRODUCED: October 18, 2022
PUBLIC HEARING: November 14, 2022
ADOPTED:

Witness

BOROUGH OF SEA BRIGHT

CHRISTINE PFEIFFER, CLERK

BRIAN KELLY, MAYOR

ORDINANCE NO. 12-2022

AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY,
ESTABLISHING PROCEDURES AND STANDARDS REGARDING DEPLOYMENT OF SMALL WIRELESS
FACILITIES IN PUBLIC RIGHTS-OF-WAY IN THE BOROUGH OF SEA BRIGHT

WHEREAS, the wireless telecommunications industry has expressed interest in submitting applications to utilize space in public rights-of-way within the BOROUGH OF SEA BRIGHT ("Sea Bright" or "the Borough") for the installation of small cell wireless telecommunications facilities (hereinafter "Small Wireless Facilities") in connection with the industry's efforts to expand and/or upgrade existing 4G services and as part of the construction of a nation-wide 5G network; and

WHEREAS, the BOROUGH OF SEA BRIGHT encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of Small Wireless Facilities while preserving the BOROUGH'S ability to manage public rights-of-way in the overall interests of the public health, safety and welfare; and

WHEREAS, the BOROUGH recognizes that as usage of wireless technologies continues to rapidly increase, Small Wireless Facilities will be critical to delivering wireless access to advanced technologies, broadband services and 911 services to residences, businesses, schools and individuals within the BOROUGH; and

WHEREAS, the BOROUGH recognizes that Small Wireless Facilities often are most effectively deployed in public rights-of-way; and

WHEREAS, multiple installations of Small Wireless Facilities within the public right-of-way can impact property values, create traffic and pedestrian safety hazards, impact shade trees where proximity conflicts may require trimming of branches or require removal of roots and create visual and aesthetic blights all of which can negatively impact the quality and character of life within the BOROUGH; and

WHEREAS, the BOROUGH wishes to preserve the aesthetics of the community by encouraging the location of 5G equipment on existing or previously approved infrastructure; and

WHEREAS, A September 2018 Ruling and Order of the Federal Communications Commission ("FCC") provides that all local jurisdictions must comply with various restrictions on the exercise of local aesthetic, zoning, public works and fees when dealing with Small Wireless Facility installation siting applications by the effective date of the Order which was January 14, 2019. The FCC Order further provided that all local agencies should be capable of fully implementing its provisions within 180 days of its adoption which was on September 26, 2018. The Order also includes modifications to "shot clocks" which require local governments to approve or deny applications within certain expedited periods of time; and

WHEREAS, the BOROUGH needs to amend its ordinances to address the legal and practical issues that arise in connection with multiple Small Wireless Facility installations deployed in the public rights-of-way; and

WHEREAS, in light of the foregoing, this governing body is of the opinion that the adoption of this Ordinance and its immediate implementation are in the best interest of the BOROUGH and the health, safety and welfare of its residents and visitors.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

Section One. Definitions.

- A. All definitions of words, terms and phrases that are set forth in the Communications Act of 1934, P.L. 73-416, as amended by various statutory enactments including, but not limited to, the Telecommunications Act of 1996 P.L. 104-104, are incorporated herein and are made apart hereof.
- B. All definitions of the words, terms and phrases that are set forth in the portion of the Middle-Class Tax Relief and Job Creation Act of 2012, P.L. 112-96, as codified in 47 USC §455, are incorporated herein and are made a part hereof.
- C. All definitions of words, terms and phrases that are set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, *et. seq.*, are incorporated herein and are made apart hereof.
- D. All of the definitions of words, terms and phrases that are set forth in the Code of Federal Regulations at 47 C.F.R. §1.6002, as amended, are incorporated herein and are made a part hereof.
- E. In addition to the foregoing, the following words, terms and phrases shall have the meanings indicated unless an alternate meaning clearly is discernable from the context in which the word, term or phrase is used:

Personal Wireless Services

"Personal Wireless Services," as defined in 47 U.S.C. §332(c)(7)(C), as supplemented and/or as amended to mean commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

Public Right-of-Way

The surface, the airspace above the surface and the area below the surface of any street, road, highway, lane, alley, boulevard or drive, including the sidewalk, shoulder and area for utilities owned by the BOROUGH of SEA BRIGHT within an easement to the public or other easement owned by the BOROUGH OF SEA BRIGHT

Small Wireless Facility

"Small Wireless Facility," as defined in the Code of Federal Regulations at 47 C.F.R § 1.6002(1), as supplemented and/or as amended.

Smart Pole

A decorative utility pole that conceals, disguises or camouflages one or more Small Wireless Facility installation(s) and may include other features such as street lighting, 911 call service access, public access Wi-Fi and surveillance cameras. A Smart Pole must allow for multiple occupants and allow space for municipal use for other services and/or equipment. Smart Poles shall neither have external latches, external hinges, nor external cabling. The pole should be made of an inherently rust-resistant material (i.e. aluminum alloys or stainless steel).

Utility Pole

A wooden or metal pole that is used by public utilities to support electrical wires, telephone wires, coaxial cables, fiber optic cables and like and similar appurtenances.

- F. In the event that a term, word or phrase is not defined in any of the aforementioned statutes and is not otherwise defined herein then that term, word or phrase shall have its common, ordinary meaning.

Section Two. Small Wireless Facility Siting Permit Required; Consent to Use Rights-of-Way Required.

- A. No person shall place a Small Wireless Facility in any right-of-way without first filing a Small Wireless Facility siting permit application, in the form specified herein and in accordance with the procedures specified herein, with the BOROUGH Clerk and obtaining a siting permit therefore, except as otherwise may be provided in this ordinance. Upon approval of a siting permit application, the siting permit authorizing placement of a Small Wireless Facility in a public right-of-way shall not be issued by the BOROUGH Clerk to any Applicant unless:

- 1. All siting permit application fees and escrow fees, as established herein, have been paid; and

- 2. All other governmental permits or other governmental approvals that are required for the deployment(s) proposed by the Applicant's siting permit application under the New Jersey Uniform Construction Code Act, N.J.S.A. 52:27D-119, et. seq., and the administrative regulations adopted thereunder, Chapter 182, of the Code of the BOROUGH of SEA BRIGHT, and by any other applicable federal, state or municipal law have been issued by the appropriate issuing authority therefore to the Applicant and the Applicant has supplied copies of such other permits or approvals to the BOROUGH Clerk for inclusion with the Applicant's application documents; and

- 3. The Applicant has entered into a "Right-of-Way Use Agreement," the approved form of which is set forth in Appendix "A" to this ordinance, with the BOROUGH. The approved form of "Right-of-Way Use Agreement" may from time-to-time be revised, supplemented or otherwise amended or replaced. All such revisions, supplements, amendments or replacements shall be approved by Resolution of the BOROUGH Council. The BOROUGH Clerk shall maintain on file the currently approved Right-of-Way Use Agreement version and shall provide a copy to all siting permit applicants. Minor deviations to the terms and conditions that are set forth in the approved form of Right-of-Way Use Agreement may be approved by BOROUGH Council at the time that it grants consent to use a right-of-way to a siting permit Applicant.

- B. No siting permit authorizing placement of a Small Wireless Facility in a public right-of-way shall be issued to any Applicant unless BOROUGH Council, in the manner prescribed by applicable laws of the State of New Jersey, has granted to the siting permit Applicant its consent to use public rights-of-way within the BOROUGH. No siting of a Small Wireless Facility shall be permitted within nine-hundred (900) feet of another Small Wireless Facility unless it can be established by clear and convincing evidence that co-location on an existing or previously approved Small Wireless Facility is not feasible. Any claims of carriers of technical incompatibility or inability to collocate need to be proven by the carrier, not disproven by the municipality. Responsibility for judging proof of said claims lies solely with the municipality and/or its chosen representative(s).

Section Three. Installation of New Structures; Installation on Existing Structures.

- A. No application for a Small Wireless Facility siting permit shall be approved if the application proposes the deployment of a Small Wireless Facility upon an existing structure in a right-of-way unless the structure is one of the types of Smart Poles that are set forth in Section One: Definitions to this ordinance and such Smart Pole specifically is designed to accommodate the reasonable and customary equipment necessary for a Small Wireless Facility installation which will accommodate at least three carriers per Small Wireless Facility deployment.
- B. No Small Wireless Facility shall be installed upon any new structure within any right-of-way unless the new structure is one of the pre-approved types of Smart Poles that are identified in Section One: Definitions to this ordinance. A replacement pole is a new structure.
- C. No application for a Small Wireless Facility siting permit shall be approved if the application proposes the deployment of a Small Wireless Facility in an area other than those specific locations set forth within the BOROUGH'S Wireless Siting Plan, which can be found on file with the Office of the BOROUGH Clerk. All Small Wireless Facilities must be placed within a 25 ft. radius of those specific locations set forth on the City's Wireless Siting Plan. No more than one (1) Smart Pole shall be permitted per intersection or block if the Siting Plan calls for the deployment of a Small Wireless Facility at any location other than an intersection, unless otherwise specified within the Wireless Siting Plan. No Smart Poles shall be located within 900 ft. of another.

Section Four. Siting Permit Application Process.

- A. Application Filing. An application for a siting permit to place one or more Small Wireless Facility within a right-of-way shall be made on forms which shall be available from the Office of the BOROUGH Clerk. The application, along with the required application fee and the required escrow fee, shall be filed with the BOROUGH Clerk. Immediately upon receipt of an application, the BOROUGH Clerk shall provide copies of the application and all supporting documents that were submitted by the Applicant with the application, to the BOROUGH Engineer, the Construction Official and the BOROUGH Attorneys.
- B. Application Form. The Small Wireless Facility siting permit application shall be made by a provider of personal wireless services, or its duly authorized representative as noted in a notarized statement from the provider of personal wireless services on whose behalf the representative is acting, and shall contain the following:
 - 1. The Applicant's name, address, telephone number and e-mail address;
 - 2. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
 - 3. A general description of the proposed Small Wireless Facility, existing structure and new structure work to be performed. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with particular emphasis on those matters, including, but not limited to, subservice utilities likely to be affected or impacted by the work proposed along with a

description of such other governmental permits or approvals as may be required by applicable law with respect to the proposed installation(s) and a description of such other permits or approvals for which the Applicant has applied;

4. Prior to further review by the Borough Council a pole location map must be submitted to the Borough Administrator and the Borough Engineer for review of locations, number of poles and service area covered by the poles.

5. Authorization for any consultant acting on behalf of the Applicant to speak with the BOROUGH, or a designee of the BOROUGH, on the area of consultation for the Applicant even if the Applicant cannot be available;

6. Verification from an appropriate professional that the Small Wireless Facility shall comply with all applicable federal, state and local laws, administrative regulations and codes;

7. The Applicant shall certify that they shall market the availability of approved facilities to all major wireless carriers in the marketplace. The Applicant shall further certify that they will encourage, manage and coordinate the location and placement of any interested carrier's equipment on their structure.

8. The Applicant shall certify that the poles are tall enough for three (3) carriers to utilize the same pole.

9. The Applicant shall certify that if the pole location is found to be in a high traffic and/or sensitive area as determined by the Borough, the Applicant will place a pole in another location, or, place the equipment underground.

10. The Applicant shall certify that it will take down and remove from any pole or other structure any equipment or wires that are deactivated and no longer working.

11. The Applicant shall certify that the location of all poles will be no closer than nine-hundred (900) feet apart. In the event that the Applicant wishes to place poles closer than 900 feet, the Applicant shall submit an explanation through a technical report why the Applicant's system could not function at nine-hundred (900) feet apart and why the Applicant needs the poles closer subject to review and approval by the BOROUGH OF SEA BRIGHT.

12. The Applicant shall certify the location and number of vaults needed for their poles in the BOROUGH OF SEA BRIGHT.

13. The Applicant shall procure any and all necessary State and/or local permits required for placement of poles in the BOROUGH OF SEA BRIGHT.

- C. An Applicant seeking to deploy a network of Small Wireless Facilities, all of which are to be located in rights-of-way, may file a batched application for up to twenty-five (25) Small Wireless Facilities and receive a single siting permit for multiple Small Wireless Facilities.

Section Five. Procedure on Permit Application; No Exclusive Rights.

- A. The BOROUGH shall review the application for a Small Wireless Facility siting permit in light of its conformity with the provisions of this Ordinance, and shall approve a siting permit on nondiscriminatory terms and conditions subject to the following requirements:
1. Within ten (10) days of receiving an Application, the BOROUGH Clerk shall determine and notify the Applicant:
 - (a) Whether the Application is complete;
 - (b) If the Application is incomplete, what specific information is missing; and
 - (c) Whether the deployment of the Small Wireless Facilities as proposed requires the Applicant to apply for other permits, such as a street opening permit or construction permit, for which the Applicant has not yet applied. No Small Wireless Facility siting permit application shall be deemed complete until the Applicant has applied for all other permits and approvals required by all other laws and regulations that are applicable to the Applicant's proposed Small Wireless Facility deployment.
- B. The BOROUGH shall make its final decision to approve or deny the Application within the following timeframes:
- (a) Sixty (60) days from the submission of a complete application to install a Small Wireless Facility upon one or more existing structures.
 - (b) Ninety (90) days from the submission of a complete application to install a Small Wireless Facility upon one or more new structures.
 - (c) Ninety (90) days from the submission of a complete batched application to install Small Wireless Facilities upon both existing and new structures.
- The timeframes described above by which an application shall be either approved or denied may be extended by mutual consent of the Applicant and BOROUGH. Such consent shall be set forth on a form for such purposes which shall be available from the Office of the BOROUGH Clerk. Such consent on behalf of the BOROUGH shall be exercised by the Mayor in his/her reasonable discretion.
- C. The BOROUGH Clerk shall notify the Applicant in writing of the final decision, and if the Application is denied Specify the basis for denial; and Cite such specific provisions, as may be recommended by the BOROUGH Attorneys, from federal, state, or local laws, administrative regulations or codes as to why the Application was denied.
- D. Notwithstanding an initial denial, the Applicant may cure any deficiencies identified by the BOROUGH within thirty (30) days of the denial without paying an additional application fee, provided the BOROUGH Clerk shall approve or deny the revised application within thirty (30) days of receipt of the amended application which shall be limited to the deficiencies specified in the original notice of denial.
- E. If the BOROUGH fails to act upon an application within the timeframes prescribed

by this section, the Applicant may provide written notice to the BOROUGH that the application review and decision period has lapsed. Upon receipt of such notice, BOROUGH Council, by resolution adopted no later than its second regularly scheduled public meeting next following receipt of the notice, shall either deny the application or direct that the siting permit shall be approved and issued. Nothing in this paragraph is intended in any way to impact any other right or remedy that may be available to the Applicant under applicable federal or state law if the BOROUGH fails to act upon an application within the timeframes prescribed by this section.

- F. A siting permit from the BOROUGH authorizes an Applicant to undertake only certain activities in accordance with this ordinance. No approval or consent granted, or siting permit issued, pursuant to this ordinance shall confer any exclusive right, privilege, license or franchise to occupy or use any public right-of-way within the BOROUGH OF SEA BRIGHT for the delivery of telecommunications services or for any other purpose.

Section Six. Duration.

No siting permit issued under this ordinance shall be valid for a period longer than twelve (24) months unless construction has actually begun and continuously and diligently is pursued to completion. Upon written request from the Applicant, the Mayor, upon consultation with the Construction Official, may extend the siting permit for a period of up to twelve (12) months so long as construction has begun at the time that the Applicant's request for an extension is made.

Section Seven. Routine Maintenance and Replacement.

A Small Wireless Facility siting permit shall not be required for:

- A. Routine maintenance of a Small Wireless Facility.
- B. The replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight and height to the Small Wireless Facility that is being replaced.
- C. Provided, however, that on a location where the BOROUGH and/or another provider has placed equipment or facilities, any routine maintenance or replacement that is done shall not occur until written authorization from the BOROUGH and/or the other provider, as the case may be, to proceed is provided to the BOROUGH, which authorization to proceed shall not unreasonably be withheld by the BOROUGH and/or the other provider.
- D. Provided further that if the replacement of a Small Wireless Facility with another Small Wireless Facility includes replacement of the structure to which the Small Wireless Facility is attached then an application for a siting permit shall be required.

Section Eight. Application Fees.

- A. All applications for approval and issuance of a Small Wireless Facility siting permit pursuant to this ordinance shall be accompanied by a fee as follows:
 - 1. For applications that do not include the installation of any new structures within a right-of-way the application fee shall be \$500.00 for up to five (5) Small Wireless

Facilities with an additional \$100.00 for each Small Wireless Facility beyond five (5).

2. For applications that include the installation of a new structure within a right-of-way the application fee shall be \$1000.00 for up to five (5) Small Wireless Facilities with an additional \$100.00 for each Small Wireless Facility beyond five (5).

Section Nine. Escrow Fee for Third-Party Professionals and Consultants.

A. In addition to the application fee, all applications for approval and issuance of a Small Wireless Facility siting permit shall be accompanied by an escrow fee as follows:

1. For applications whose proposed Small Wireless Facility deployment(s) will not require a street opening permit pursuant to Chapter 182, of the Code of the BOROUGH OF SEA BRIGHT: \$5,000.00.

2. For applications whose proposed Small Wireless Facility deployment(s) will require a street opening permit of the Code of the BOROUGH: \$7,500.00.

B. The escrow account deposits are required to pay for the costs of professional services, including engineering, planning, legal and other third-party professional consulting expenses connected with the review of submitted materials, including any traffic engineering review or other special analyses related to the BOROUGH'S review of the materials submitted by the Applicant and the preparation of any reports or any necessary legal agreement regarding rights-of-way use. An Applicant is required to reimburse the BOROUGH for all fees, costs and expenses of third-party professionals and consultants incurred and paid by the BOROUGH for the review process of a Small Wireless Facility siting permit application, such as, but not limited to:

1. Professional fees for reviews by third-party professionals or consultants of applications, plans and accompanying documents;

2. Issuance of reports or analyses by third-party professionals or consultants to the BOROUGH setting forth recommendations resulting from the review of any documents submitted by the Applicant;

3. Charges for any telephone conference(s) or meeting(s), including travel expenses, requested or initiated by the Applicant, the Applicant's attorney or any of the Applicant's experts or representatives;

4. Review of additional documents submitted by the Applicant and issuance of reports or analyses relating thereto;

5. Review or preparation of right-of-way use agreements, easements, deeds, right-of-way municipal consent ordinances or resolutions and any and all other like or similar documents; and

6. Preparation for and attendance at all meetings by third-party professionals or consultants serving the BOROUGH, such as the BOROUGH Attorney, BOROUGH Engineer and BOROUGH Planner or other experts as required.

- C. The escrow account deposits shall be placed in a separate account by the BOROUGH'S Chief Financial Officer at the request of the BOROUGH_Clerk and an accounting shall be kept of each Applicant's deposit. Thereafter:
1. All third-party professional or consultant fees, costs, expenses and charges shall be paid from the escrow account and charged to the applicant;
 2. Upon either final denial of a Small Wireless Facility siting permit application or upon issuance of a Small Wireless Facility siting permit, any moneys not expended for third-party professional or consulting services shall be returned to the Applicant within 90 days upon written request by the Applicant and as authorized by the BOROUGH Council;
 3. If at any time during the application review process 75% of the money originally posted shall have been expended, the Applicant shall be required to replenish the escrow deposit to 100% of the amount originally deposited by the Applicant;
 4. No Small Wireless Facility siting permit application shall be considered complete until such time as the required escrow fee has been posted to guarantee payment of third-party professional or consultant fees, costs, expenses and charges;
 5. All payments charged to the escrow deposit shall be pursuant to vouchers from the third-party professionals or consultants stating the hours spent, the hourly rate and the fees, costs, expenses and charges incurred;
 6. Third-party professionals and consultants submitting charges pursuant to this section shall be permitted to charge for such services at the same rates as they would charge their private clients for like or similar work provided that:
 - (a) Professional fees are billed at rates that do not exceed such professional fees as are customarily charged by other like professionals and consultants performing similar work within MONMOUTH COUNTY; and
 - (b) Out-of-pocket costs, expenses and charges are billed on a dollar-for-dollar basis with no mark-up being permitted;
 7. The BOROUGH shall render a written final accounting to the Applicant on the uses to which the escrow deposit was put. The written final accounting shall include copies of all vouchers that were submitted by third-party professionals and consultants and paid by the BOROUGH.

Section Ten. Municipal Access to New Structures.

An Applicant whose siting permit includes the installation of any new Smart Pole structure of any of the types that are defined in in Section One: Definitions to this ordinance shall provide the BOROUGH with access to any of the technological features that are a component the new Smart Pole structure such as, for example, public access Wi-Fi, 911 call service or security cameras, before the Applicant offers such access to any other person or entity. Should the BOROUGH decide to utilize any such technological features then the BOROUGH, on an annual basis, shall reimburse

the Applicant or the subsequent owner of the structure, the costs, on a dollar-for-dollar basis, of providing the BOROUGH with such access. Such costs shall be limited to the costs of providing electricity to the components used by the BOROUGH and the costs of any repairs required to be made to the components used by the BOROUGH, unless the repair costs are necessitated by the acts of the Applicant or subsequent owner of the structure, without regard to whether such acts are negligent or intentional.

Section Eleven.

All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

Section Twelve.

This Ordinance shall take effective immediately upon final passage and publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on October 18, 2022 and will be further considered after a Public Hearing held on November 14, 2022.

INTRODUCED: October 18, 2022
PUBLIC HEARING: November 14, 2022
ADOPTED:

Witness

BOROUGH OF SEA BRIGHT

CHRISTINE PFEIFFER, CLERK

BRIAN KELLY, MAYOR

APPENDIX A

(Form of Approved Small Wireless Facility Right-of-Way Agreement)

SMALL WIRELESS FACILITY RIGHT-OF-WAY USE AGREEMENT

This Right-Of-Way Use Agreement ("Agreement") is made and entered into on , 20__ by and between the BOROUGH ("BOROUGH") a New Jersey Municipality, having its municipal offices at 1099 E OCEAN AVE, SEA BRIGHT, NEW JERSEY 07760 and APPLICANT (____) ("Licensee"), having a mailing address at (_____).

Throughout this Agreement BOROUGH and Licensee each may be referred to as a "Party" and collectively may be referred to as the "Parties."

WITNESSETH

WHEREAS, the BOROUGH OF SEA BRIGHT is a municipality duly formed, organized and existing in accordance with the laws of the State of New Jersey; and

WHEREAS, the BOROUGH OF SEA BRIGHT possesses and exercises control over various permanent rights-of-way that are, or are planned to be, utilized for streets, roads and highways and those rights-of-way are depicted on the current BOROUGH Tax Map and/or other maps and documents of public record; and

WHEREAS, N.J.S.A. 48:17-8 provides that any telegraph or telephone company organized under the laws of any state, or of the United States, may erect, construct and maintain the necessary poles, wires, conduits and other fixtures for its lines, in, upon, along, over and under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles and such consent previously has been provided to such companies for the erection of such poles; and

WHEREAS, various public utilities that are subject to the jurisdiction of the New Jersey Board of Public Utilities such as, by way of example and not by way of limitation, JERSEY CENTRAL POWER AND LIGHT have erected and maintain utility poles within the public rights-of-way in the BOROUGH for use in connection with supplying and distributing electricity, telephone services, cable television, telecommunication services and/or other utilities pursuant to consent previously granted by the BOROUGH; and

WHEREAS, Licensee does not presently have the right to maintain utility poles in any municipal right-of-way within the BOROUGH or to otherwise use or occupy any municipal right-of-way within the BOROUGH for any of its Small Wireless Facilities, as hereinafter defined; and

WHEREAS, in accordance with the provisions of N.J.S.A. 48:3-11, et. seq., Licensee has petitioned the BOROUGH for its consent to locate, place, attach, install, operate, control, maintain, upgrade and enhance its Small Wireless Facilities in municipal rights-of-way as well as on utility poles and/or other facilities that are owned by third parties which already are located in municipal rights-of-way pursuant to municipally granted franchises or otherwise; and

WHEREAS, N.J.S.A. 48:3-18 provides that any person may enter into a written agreement with any other person owning utility poles erected under municipal consent in any street, highway or other public place for use by the former person and N.J.S.A. 48:3-19 requires that the former person obtain the consent of the municipality for use by the former person of the poles of another if the former person does not have the lawful right to maintain poles in such street, highway or public place; and

WHEREAS, as to those utility poles or structures that are owned by third parties and which are located in municipal rights-of-way pursuant to municipally granted franchises or otherwise, Licensee has provided the BOROUGH with evidence, consisting of written agreements, that it has obtained consent from those third parties to use the utility poles or structures that are owned by those third parties; and

WHEREAS, N.J.S.A. 48:3-15 provides that, upon satisfaction of the procedures that are set forth in N.J.S.A. 48:3-11 through N.J.S.A. 48:3-14, consent for use of any street, avenue, park, parkway, highway or other public place may be granted by ordinance and not otherwise; and

WHEREAS, the BOROUGH Council adopted Ordinance NO. 12-2022 which authorizes the making and execution of this Agreement.

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein and for other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Preamble.** All of the statements of the Preamble are repeated and are incorporated herein and are made apart hereof by this reference thereto as if set forth at length.
2. **Definitions.** All definitions of words, terms and phrases that are set forth in the Communications Act of 1934, P.L. 73-416, as amended by various statutory enactments including, but not limited to, the Telecommunications Act of 1996 P.L. 104-104, are incorporated herein and are made apart hereof.

All definitions of the words, terms and phrases that are set forth in the portion of the Middle-Class Tax Relief and Job Creation Act of 2012, P.L. 112-96, as codified in 47 USC §455, are incorporated herein and are made a part hereof.

All definitions of words, terms and phrases that are set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:550-1, et. seq., are incorporated herein and are made apart hereof.

In the event that a term, word or phrase is not defined in any of the aforementioned statutes and is not otherwise defined by this Agreement then that term, word or phrase shall have its common, ordinary meaning.

"County" means the County of MONMOUTH in the State of New Jersey.

"Borough" means the BOROUGH of SEA BRIGHT in the County of Monmouth.

"Licensee" means (_____) (NAME OF LICENSEE).

"Public Right-Of-Way" means the surface, the airspace above the surface and the area below the surface of any street, road, highway, lane, alley, boulevard or drive, including the sidewalk, shoulder and area for utilities owned by the BOROUGH OF SEA BRIGHT within an easement to the public or other easement owned by the BOROUGH.

"Utility Pole" means a wooden or metal pole that is used to support electrical wires, telephone wires, coaxial cables, fiber optic cables and the like.

3. **Grant of Consent.** In accordance with the provisions of N.J.S.A. 48:3-19, et. seq., and BOROUGH Ordinance NO. 12-2022, and subject to obtaining the permission of the owner(s) of the affected Utility Poles, the BOROUGH hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the Municipality for the purpose of owning, constructing, attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof, upon the Utility Poles that are particularly identified in Section One: Definitions all of which Utility Poles are located in Public Rights-Of-Ways and all of which Utility Poles are owned by third parties. Licensee represents that it has obtained consent from the owners of the Utility Poles to utilize

those Utility Poles for the aforementioned purposes. Upon request, Licensee shall furnish the BOROUGH with evidence of its Utility Pole attachment agreement(s) made pursuant to N.J.S.A. 48:3-18 and/or N.J.S.A. 14:18-2.9, et. seq. Further, the BOROUGH hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the Municipality for the purpose of constructing and owning, such new utility poles or new structures for the purposes attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof. Nothing in this Agreement shall be construed as authorizing Licensee to own, construct, attach, operate, maintain, remove, reattach, reinstall, relocate and/or replace any Small Wireless Facility, Utility Pole or any other structure unless the Licensee first has obtained all permits and other approvals therefore, as required by all applicable laws and regulations. Nothing in this Agreement shall be construed as granting Licensee consent to utilize any rights-of-way over which the BOROUGH lacks authority to grant consent such as any right-of-way over which the County or the State of New Jersey have exclusive authority.

All poles will be no closer than nine-hundred (900) feet apart. In the event that the Licensee wishes to place poles closer than 900 feet, the Licensee shall submit an explanation through a technical report why the Licensee's system could not function at nine-hundred (900) feet apart and why the Licensee needs the poles closer subject to review and approval by the BOROUGH OF SEA BRIGHT.

4. **Term.** The term of this Agreement shall be ten (10) years, commencing on _____, 2022 unless sooner terminated by either Party in accordance with the provisions of this Agreement. The term of this Agreement automatically shall be renewed for five (5) successive terms of five (5) years each on the same terms and conditions as are set forth herein, unless Licensee notifies the BOROUGH of its intention not to renew not less than sixty (60) days prior to the end of the Term then in effect.

5. **Non-Exclusive License.** This Agreement is a non-exclusive license. It shall not be recorded. Any and all rights granted to Licensee under this Agreement shall be exercised at Licensee's sole cost and expense, shall be subject to the prior and continuing right of the BOROUGH to use any and all parts of its Public Rights-of-Way exclusively or concurrently with any other person or entity and further shall be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title of record which may affect the Public Rights-of-Way. Nothing in this Agreement shall be deemed to grant, convey, create or vest in Licensee a real property interest in any land, including any fee, leasehold interest or easement.

6. **Compliance with Laws; Required Permits; Utilities; Maintenance.**

(a) **Compliance with Laws.** Licensee shall comply with all applicable federal, state and BOROUGH laws, administrative regulations, codes, zoning ordinances, ordinances, standards, specifications and requirements relating to the construction, installation, operation, maintenance and control of Licensee's Small Wireless Facilities, appurtenant equipment, structures and utility poles defined in Section One: Definitions, in the designated locations within the Public Rights-of-Way. Licensee shall not attach, install, maintain or operate any Small Wireless Facility within any Public Right-of-Way without a permit therefore first having been issued by the BOROUGH. Therefore, in the event that Licensee desires to construct, attach, install, maintain or operate any additional Small Wireless Facilities, Utility Poles or structures within a Public Right-of-Way that is not defined in Section One: Definitions then such construction, attachment, installation, maintenance or operation first shall be approved by a majority vote of the governing body and permit therefore issued by the BOROUGH prior to the commencement of such construction, attachment, installation, maintenance or operation of the Small Wireless Facilities, Utility Poles or structures.

(b) **Required Permits.** If the attachment, installation, operation, maintenance or location of any Small Wireless facility by Licensee in any Public Right-of-Way requires any permit, including any BOROUGH street opening permit, then Licensee, if required under applicable BOROUGH ordinances, shall apply for the appropriate permit with the appropriate municipal official and shall pay the required fee therefore.

(c) **Utilities.** Licensee shall pay for all utilities used (and connections to said utilities) in connection with the installation, operation and maintenance of its Small Wireless Facilities. Licensee agrees to take utility access from the nearest possible connection in order to minimize utilization of the Public Rights-of-Way.

(d) **Maintenance.** In the performance and exercise of its rights and obligations under this Agreement, Licensee, at its sole cost and expense, shall maintain its Small Wireless Facilities, its Utility Poles, its structures and any real property utilized to access any of the foregoing in a safe and satisfactory condition as directed by, and to the satisfaction of, the BOROUGH including, but not limited to, removal of any debris generated by Licensee and replacement of any plants, trees or vegetation damaged or destroyed by Licensee. In the event that any of Licensee's Small Wireless Facilities, and appurtenances thereto, its Utility Poles or its structures causes damage to any Public Right-of-Way or interferes with the performance of any of the BOROUGH'S public duties or other uses of the Public Rights-of-Way, Licensee agrees, upon notice from the BOROUGH to promptly commence and complete all necessary repairs to cure any such damage at Licensee's sole cost and expense. If Licensee fails to repair the damage after receiving notice from the BOROUGH or if an emergency necessitates immediate repair of the damage then the BOROUGH, in its sole discretion, may perform the repair work itself in which case Licensee shall reimburse the BOROUGH for the cost of the repair work within thirty (30) days after receiving a statement detailing such costs. The Licensee shall take down and remove from any pole or other structure any equipment or wires that are deactivated and no longer working.

7. **Removal and Relocation.** Within 30 days following written notice from the BOROUGH, Licensee, at its own expense, shall temporarily or permanently remove, relocate, change or alter the position of any of its Small Wireless Facilities, Utility Poles or structures if the BOROUGH determines that (a) such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any the BOROUGH improvement in or upon, the Public Right-of-Way; or (b) because the Small Wireless Facilities, Utility Poles or structures are interfering with or adversely affecting proper operation of street lighting, traffic signaling or other poles; or (c) the widening of the Public Right-of-Way necessitates such removal, relocation, change or alteration. In such instance, the BOROUGH shall cooperate with Licensee to find a replacement location for its Small Wireless Facilities that will provide similar radio frequency coverage as is provided by the Small Wireless facilities to be removed or relocated. Once the emergency condition no longer exists Licensee shall apply for any permit for the work that was performed during the emergency that it would have had to secure for said work prior to performing said work in the absence of the emergency.

If a pole location is found to be in a high traffic and/or sensitive area as determined by the Borough, the Licensee will place a pole in another location, or, place the equipment underground.

8. **Emergent Conditions.** Licensee shall maintain all of its Small Wireless facilities, Utility Poles and structures at Licensee's sole cost and expense. The noncompliance with normally required procedures for securing a required permit shall be excused when Licensee reasonably determines that an emergency exists. If an emergency creates a hazard on the traveled portion of the Public Right-of-Way, then Licensee shall take immediate steps to provide all necessary protection for traffic on the roadway including the use of signs, lights, barricades or flaggers. Licensee shall, as soon as practical, notify the BOROUGH Engineer, Construction Official, or their designees, and the BOROUGH Police Department of the emergency, informing them as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. On nights and weekends the Licensee shall notify the BOROUGH Police Department of an emergency if the BOROUGH Engineer and Construction Official are unavailable. If the nature of the emergency is such as to interfere with the free movement of traffic, the BOROUGH Police Department shall be notified immediately, prior to any other action being taken. To the extent that the BOROUGH has actual knowledge of the displacement or damage to any of Licensee's Small Wireless Facilities, Utility Poles or structures, it shall inform Licensee upon learning of the same.

9. **Personal Property Owned by Licensee.** All Small Wireless Facilities, Utility Poles and structures covered under this Agreement shall be considered personal property and shall remain the property of and shall be under the dominion and control of the Licensee. Such personal property may not be utilized by any third party without the express prior written consent of Licensee, but Licensee, upon the request of the BOROUGH and at no cost to Licensee, shall cooperate with any third party in collocating the third party's equipment upon any Utility Pole or structure upon which Licensee has installed any Small Wireless facility.

10. **Insurance and Indemnity.**

(a) Licensee shall secure and maintain commercial general liability insurance or self-insurance with limits of \$2,000,000 for injury or death on one or more persons in any one occurrence and in the aggregate and \$2,000,000 for damage or destruction in any one occurrence and in the aggregate insuring Licensee as named insured and listing the BOROUGH as an included insured on the policies. The BOROUGH'S included insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of the BOROUGH, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence

of the BOROUGH, its employees, agents or independent contractors; and, (iii) not exceed Licensee's indemnification obligation under this Agreement, if any. Notwithstanding the forgoing, Licensee may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. In the event Licensee elects to self-insure its obligation under this Agreement to include the BOROUGH as an additional insured, the following conditions apply: (i) the BOROUGH shall promptly and no later than thirty (30) days after notice thereof provide Licensee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) the BOROUGH shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee; and (iii) the BOROUGH shall fully cooperate with Licensee in the defense of the claim, demand, lawsuit, or the like. If Licensee elects to self-insure then it or its affiliated parent shall maintain a financial net worth of at least \$100,000,000 and it or its affiliated parent shall provide the BOROUGH with a certificate of self-insurance along with a copy of its or its affiliated parent's latest financial statement (or a link to an internet web site from which the BOROUGH may print a copy of the financial statement) showing a net worth of not less than \$100,000,000 as sufficient evidence to demonstrate its or its affiliated parent's financial ability to self-insure the insurance coverage and limits that are specified in this paragraph 10(a).

(b) Certificates of the insurance required by this paragraph 10, along with the evidence of financial ability to self-insure as described in paragraph (a) above, if applicable, shall be provided to the BOROUGH within ten (10) days following the effective date of this Agreement and prior to obtaining any permits required under paragraph 6(b). Thereafter, and so long as this Agreement remains executory, Licensee shall provide certificates of insurance or of self-insurance reflecting the requirements of this paragraph to the BOROUGH within ten (10) days following receipt of a written request from the BOROUGH. Production of a certificate of self-insurance always shall be accompanied by the evidence of ability to self-insure that is described in paragraph 10(a) above. Should any policy of insurance on which the BOROUGH is an included insured be cancelled before the expiration date thereof then Notice of the cancellation shall be provided to the BOROUGH in accordance with the policy provisions by Licensee or by its affiliated parent or by the insurer.

(c) Licensee agrees to indemnify and hold harmless the BOROUGH against any claim of liability or loss from personal injury or property damage to the extent directly resulting from or arising out of the negligence or willful misconduct of the Licensee, its employees, contractors or agents, except to the extent such claims or damage may be due to or caused by the negligence or willful misconduct of the BOROUGH, or its employees, contractors or agents. The BOROUGH will provide the Licensee with prompt, written notice of any claim covered by this indemnification and hold harmless provision; provided that any failure of the BOROUGH to provide any such notice, or to provide it promptly, shall not relieve the Licensee from its indemnification and hold harmless obligation in respect of such claim, except to the extent the Licensee can establish actual prejudice and direct damages as a result thereof. The BOROUGH shall cooperate with the Licensee in connection with the Licensee's defense of such claim. The Licensee shall defend the BOROUGH at the BOROUGH'S request, against any claim with counsel of the BOROUGH'S choosing that is reasonably satisfactory to the Licensee.

(d) The legal liability of the Licensee to the BOROUGH and any person for any of the matters that are the subject of the insurance policies required by this paragraph shall not be limited by such insurance policies or by the recovery of any amounts thereunder, however neither the BOROUGH nor the Licensee shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this Agreement.

11. **No Waiver of Breach of Remedies.** No waiver by a Party of any breach of this Agreement or of any representation hereunder by the other Party shall be deemed to be a waiver of any other breach by the other Party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation hereunder by the other Party whether or not the first Party knows of such breach at the time it accepts such performance. No failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be so in default. Any remedy that either Party may have by reason of a breach of any provision of this Agreement by the other Party at all times shall be preserved and may not be waived.

12. **Mediation of Disputes.** In the event of any dispute concerning the interpretation of the terms of this Agreement or of the obligations of either Party under this Agreement, the Parties shall attempt in good faith to resolve such dispute via consultation between their designated representatives. If such consultation fails to resolve the dispute, then the Parties agree to submit the dispute to mediation. The mediation shall be initiated by one Party serving the other Party with a written demand to mediate. The mediation demand shall include the initiating Party's designation of a mediator. Within fourteen (14) days of receipt of the mediation demand the Party receiving the mediation demand shall either agree to the mediator designated by the other Party or shall provide the other Party with its written designation of a mediator. Thereafter, the designated mediators immediately shall jointly designate a third mediator who shall be either a New Jersey licensed attorney-at-law or a retired judge of the Superior Court of New Jersey. Payment of mediation fees, costs and expenses shall be split evenly amongst the Parties. The mediated resolution of the dispute may include a provision that provides for something other than an even split of the mediation fees, costs and expenses.

13. **Severability.** If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

14. **Governing Law.** This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of New Jersey without reference to conflict of law principles, except in such instances when the laws of the United States preempt the laws of the State of New Jersey and all actions, suits and litigation arising under the terms of this Agreement shall be litigated in the Superior Court of New Jersey, MONMOUTH COUNTY, or in the United States District Court for the District of New Jersey, but no such litigation shall be initiated by a Party until there has been compliance with the mediation provisions of this Agreement that are set forth above. In the event of litigation arising out of this Agreement, the prevailing party shall not be entitled to recover its costs of suit and attorney's fees from the non-prevailing party unless such recovery is specifically and expressly provided for by a statute of the United States or a statute of the State of New Jersey.

15. **Entire Agreement.** This Agreement contains the entire understanding between the parties, and such understanding may not be modified or terminated except in writing and signed by all parties to this Agreement.

16. **Notice.** Any notice required or permitted under this Agreement or under state or federal law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested or by a nationally-recognized overnight delivery service. The BOROUGH and Licensee may change the address required for service of any notice by providing the other party to this Agreement with a new address for sending and receiving of required notices under this Agreement. No notice required under this Agreement may be served validly by email. All notices to the BOROUGH or Licensee shall be delivered to the following addresses:

BOROUGH OF SEA BRIGHT: Christine Pfeiffer, BOROUGH CLERK

1099 Ocean Ave, Sea Bright, NJ 07760

Licensee: (INSERT NAME AND ADDRESS)

With a copy to: (INSERT NAME AND ADDRESS)

17. **Emergency Contact Information for Licensee.** The emergency telephone contact number to reach Licensee 24 hours per day, seven days per week, is: (INSERT PHONE NUMBER). Should that number be disabled or revised for any reason, Licensee shall give the BOROUGH immediate notice of an alternate emergency contact telephone number. Additionally, Licensee may be reached during business hours as follows:

(INSERT ADDITIONAL CONTACT INFORMATION)

18. **Assignment.** Licensee may sell, assign or transfer this Agreement without the need for any approval or consent of the BOROUGH to Licensee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Licensee's assets in the market defined by the Federal Communications Commission in which the BOROUGH is located by reason of a merger, acquisition or other business reorganization. Except as provided in the previous sentence, Licensee may not assign this Agreement without the prior express written consent of the BOROUGH, which consent shall not be unreasonably withheld, conditioned, or delayed after written notice to the BOROUGH of the request. The terms and conditions herein contained shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto.

19. **Miscellaneous.**

a. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and all those who succeed to their rights and responsibilities, including their respective successors in interest.

b. The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement and shall not be deemed to explain, modify, amplify or otherwise alter the substance of this Agreement.

c. The BOROUGH and Licensee each acknowledge that they have had adequate opportunity to review the contents of this Agreement with legal counsel and have executed this Agreement with full and complete understanding of its terms.

d. This Agreement (and all exhibits thereto) is deemed to have been jointly prepared by the Parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any Party, but shall be interpreted according to the application of the rules of interpretation for arm's-length agreements.

20. **Execution.** Each Party represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform its respective obligations under this Agreement. This Agreement may be executed in one or more counterparts, each of which should be deemed an original, but which together shall constitute one and the same instrument.

[Signature Page to Follow]

IN WITNESS WHEREOF, and in order to bind themselves to the terms and conditions of this Agreement, the Parties have caused this Agreement to be executed by their proper corporate officers and their corporate seals have been affixed hereto on the date first set forth above.

ATTEST:

BOROUGH OF SEA BRIGHT

CHRISTINE PFEIFFER, CLERK

BRIAN P. KELLY, MAYOR

ATTEST:

(INSERT LICENSEE NAME)

_____, Witness

_____, Witness

**VOUCHER LIST
BOROUGH OF SEA BRIGHT
OCTOBER 18, 2022**

2790	ACB SERVICES, INC. 22-01166 10/13/22 BLDGS & GRDS	Open	3,888.73
2703	ACTION UNIFORM CO. 22-01094 10/03/22	Open	169.00
02227	APOLLO SEWER & PLUMBING, INC. 22-01014 09/06/22 Beach 22-01015 09/06/22 Beach 22-01016 09/06/22 Beach	Open Open Open	375.00 395.00 175.00
			----- 945.00
2597	AT&T MOBILITY 22-01101 10/03/22 BEACH	Open	554.43
2626	AUTOMATIC PROTECTION SYSTEMS 22-00939 08/17/22 Sewer Utility	Open	338.00
01241	BAIN'S HARDWARE, INC. 22-01131 10/06/22 HARDWARE	Open	218.68
2640	BATHGATE,WEGENER & WOLF 22-01121 10/05/22 LEGAL	Open	2,695.43
01957	BENEMAX BENEFIT MANAGEMENT CO. 22-01059 09/20/22 INSURANCE 22-01133 10/12/22 HEALTH	Open Open	336.00 336.00
			----- 672.00
01631	BOROUGH OF OCEANPORT 22-01150 10/13/22 COURT	Open	6,500.00
01565	BOROUGH OF SEA BRIGHT 22-01146 10/13/22	Open	12,217.50
01974	BOROUGH OF SEA BRIGHT COURT 22-01154 10/13/22 COURT	Open	24.90
00530	BULLET LOCK & SAFE CO., INC. 22-01124 10/05/22 BLDGS & GRDS	Open	4.00
2680	CINTAS 22-01097 10/03/22 Beach 22-01160 10/13/22 BLDGS & GRDS	Open Open	298.30 899.95
			----- 1,198.25
2555	CJM ASSOC. OF SEA BRIGHT 22-01149 10/13/22 LEASE	Open	500.00
01801	COLLIER ENGINEERING & DESIGN 22-01165 10/13/22 ENGINEER	Open	1,063.75
01493	COOPERATIVE INDUSTRIES, L.L.C. 22-01107 10/04/22 NATURAL GAS	Open	541.78
02231	COUSINS LANDSCAPING 22-00755 06/23/22 BLDGS & GRDS	Open	4,495.00
02172	CUSTOM BANDAG 22-01024 09/06/22 Tire Repairs - 4385	Open	945.14
02253	DAVID HODER ASSOCIATES 22-01120 10/05/22 ENGINEER	Open	4,690.00

2655	DE SESA ENGINEERING CO.		
	22-01010 09/06/22 Buildings & Grounds	Open	11,016.00
	22-01012 09/06/22 Buildings & Grounds	Open	4,174.77

			15,190.77
2540	DOG WASTE DEPOT		
	22-01027 09/06/22 Streets & Roads	Open	299.98
00419	DRAGER SAFETY DIAGNOSTICS,INC		
	22-01089 10/03/22 POLICE: DDEF	Open	11.00
	22-01110 10/04/22	Open	380.00

			391.00
2858	ECO-CRETE,LLC		
	22-01167 10/13/22	Open	20,620.00
2241	EVERBRIDGE		
	22-01095 10/03/22	Open	1,639.09
02168	EVOQUA WATER TECHNOLOGIES, LLC		
	22-00952 08/17/22 Sewer	Open	2,648.00
00254	FLOWERS BY VAN BRUNT		
	22-01100 10/03/22 REC	Open	250.00
00575	GALLS, INC.		
	22-01088 10/03/22	Open	105.20
02101	GANNETT NJ		
	22-01062 09/20/22 A&E	Open	96.80
01549	GENERAL CODE, LLC		
	22-01157 10/13/22 A&E	Open	4,130.89
02219	GOODYEAR AUTO CENTER		
	22-01029 09/06/22	Open	528.00
	22-01115 10/04/22	Open	140.00

			668.00
01198	GUARANTEED PLANTS & FLORIST		
	22-01130 10/06/22 A&E	Open	132.00
2710	HOLMDEL TOWNSHIP		
	22-01147 10/13/22 fiscal	Open	3,312.50
01285	HOME DEPOT CREDIT SERVICES		
	22-00540 05/06/22 BLDGS & GRDS	Open	41.76
	22-00815 07/20/22 Streets & Roads	Open	47.61
	22-00828 07/20/22 Beach	Open	20.25
	22-00978 08/25/22 Buildings & Grounds	Open	58.45
	22-01079 09/21/22 Streets & Roads	Open	99.00
	22-01125 10/05/22 BEACH	Open	359.88
	22-01129 10/06/22 BLDGS & GRDS	Open	469.00

			1,095.95
00421	IIA-FIRE DEPT. TESTING SERVICE		
	22-00286 03/16/22 Annual Testing	Open	3,498.05
2561	INTRON TECHNOLOGY SOLUTIONS		
	22-01155 10/13/22 I.T.	Open	11,194.42
2573	JCP & L		
	22-01138 10/13/22 ELECTRIC	Open	15,307.34
02224	JERSEY CAPE DIAGONOSTIC CENTER		
	22-01085 09/29/22 BEACH	Open	669.00
00297	JESSE A. HOWLAND & SONS, INC.		
	22-01148 10/13/22 DPW	Open	1,705.00

01784	JUNGLE LASERS, LLC		
	22-01064 09/21/22 BLDG DEPT	Open	2,900.00
	22-01127 10/05/22 BLDG DEPT	Open	450.00

			3,350.00
2264	KETCHAM, MICHELLE		
	22-01123 10/05/22 A&E	Open	164.37
2804	LEGAL SHRED		
	22-01168 10/13/22 A&E	Open	95.00
2782	LIMA CHARLIE CONSTRUCTION		
	21-01136 09/22/21 SANITARY SEWER	Open	13,392.74
2278	MCLAUGHLIN,STAUFFER & SHAKLEE		
	22-01087 09/30/22 LEGAL	Open	9,919.02
2838	MOBILE PAYMENT PROCESSING SYS		
	22-01060 09/20/22 PARKING	Open	2,516.75
	22-01134 10/12/22 PARKING	Open	884.25

			3,401.00
02045	MONMOUTH COUNTY SPCA		
	22-01152 10/13/22 ANIMAL	Open	325.00
00441	MONMOUTH COUNTY TREASURER		
	22-00092 01/20/22	Open	2,000.00
00339	NAPA AUTO PARTS CENTER		
	22-01114 10/04/22 Streets & Roads	Open	26.97
01399	NEW JERSEY AMERICAN WATER		
	22-01106 10/04/22 WATER	Open	5,771.88
02234	NJ ASSOC FOR FLOODPLAIN MNGMT		
	22-01099 10/03/22	Open	410.00
00113	NJ NATURAL GAS COMPANY		
	22-01126 10/05/22 NATURAL GAS	Open	911.72
00502	NJ STATE LEAGUE/MUNICIPALITIES		
	22-01068 09/21/22 Mayor's Lunch - Conference	Open	60.00
01426	NW FINANCIAL GROUP, LLC		
	22-01108 10/04/22 A&E	Open	1,500.00
00885	OCEAN TWP FIRE DISTRICT NO. 2		
	22-01151 10/13/22	Open	350.00
01309	OCEANPORT BOARD OF EDUCATION		
	22-00760 06/28/22 SCHOOL TAX	Open	73,450.92
02019	OMEGA GRAPHICS		
	22-01084 09/29/22 BEACH	Open	850.00
00046	ONE CALL CONCEPTS, INC.		
	22-01104 10/04/22 SEWER	Open	51.48
2290	PORZIO,BROMBERG & NEWMAN		
	22-01159 10/13/22 LEGAL	Open	16,545.50
00164	RAIN, WILLIAM		
	22-01102 10/03/22 HEALTH	Open	161.10
2330	RAW POWER GENERATOR SERVICE		
	22-00943 08/17/22 sewer Dept.	Open	731.25
	22-00974 08/25/22 Buildings & Grounds	Open	887.50

			1,618.75
2745	REMINGTON & VERNICK ENGINEERS		
	22-00904 08/11/22 ENGINEER	Open	1,397.00

00244	SEA BRIGHT FIRST AID, INC.		
22-01118	10/04/22 A&E	Open	2.00
01554	SEA BRIGHT SERVICE CENTER		
22-01011	09/06/22	Open	379.40
22-01025	09/06/22	Open	1,621.07
22-01091	10/03/22	Open	1,431.70

			3,432.17
01120	SEA BRIGHT TAX COLLECTOR		
22-01153	10/13/22 PROPERTY TAX	Open	313.74
02263	SEA COAST CHEVROLET		
22-01090	10/03/22 POLICE: VEHICLE MAINTENANCE	Open	695.61
00053	SHORE REGIONAL HIGH SCHOOL		
22-00758	06/28/22 SCHOOL TAX	Open	181,370.18
02225	STAPLES ADVANTAGE		
22-01069	09/21/22 Office Supplies	Open	193.42
2585	STATE TOXICOLOGY LABORATORY		
22-00879	08/03/22	Open	180.00
2535	SUBURBAN DISPOSAL, INC.		
22-01065	09/21/22 TRASH	Open	23,155.73
22-01066	09/21/22 DUMPSTERS	Open	1,649.87
22-01067	09/21/22 LANDFILL	Open	10,335.34
22-01140	10/13/22 TRASH	Open	1,756.09
22-01141	10/13/22 TRASH	Open	21,686.87
22-01142	10/13/22 TRASH	Open	9,122.39

			67,706.29
00656	TAYLOR FENCE CO., INC.		
22-00667	06/06/22	Open	771.29
00973	THE TWO RIVER TIMES		
22-01105	10/04/22 POLICE	Open	32.25
00439	TREASURER, COUNTY OF MONMOUTH		
22-01143	10/13/22 TAX	Open	40,474.75
00523	TREASURER, COUNTY OF MONMOUTH		
22-01144	10/13/22 TAX	Open	74,605.78
00223	TREASURER, COUNTY OF MONMOUTH		
22-01145	10/13/22 TAX	Open	537,862.56
2658	VERIZON		
22-01122	10/05/22 PHONE	Open	222.89
2291	VERIZON		
22-01139	10/13/22 FIOS	Open	171.99
2658	VERIZON		
22-01163	10/13/22 PHONE	Open	76.44
2291	VERIZON		
22-01164	10/13/22 FIOS	Open	88.99
02061	VERIZON WIRELESS		
22-01161	10/13/22 FIRE	Open	268.07
22-01162	10/13/22 CELLS	Open	213.85

			481.92
00418	VON ZIEGESAR, ELIZABETH		
22-01158	10/13/22 LIBRARY	Open	220.00
2425	WALLABY TALES		
22-01083	09/29/22 LIBRARY	Open	345.00

01063 WEST MARINE		
22-00454 04/14/22 MARINE SUPPLIES	Open	72.68
22-00621 06/01/22 BEACH	Open	857.37

		930.05
2850 WEX BANK (NEW)		
22-01137 10/12/22 GASOLINE	Open	7,838.79
02150 WRIGHT NATIONAL FLOOD		
22-01136 10/12/22 INSURANCE	Open	1,901.00

TOTAL: \$1,180,285.14

Manual Checks

22-01031	CMRS-FP/U.S. POSTAL SERVICE	\$607.00
9/8/2022	REFILL POSTAGE MACHINE	
22-01128	NJ DEPT OF LABOR & WORKFORCE	\$208.50
10/5/2022	UNEMPLOYMENT ASSESSMENT BILL	
22-01156	NJ DEPT OF HEALTH	\$1.20
10/13/2022	MONTHLY DOG REPORT-SEPT.	

Total: \$816.70

GRAND TOTAL: \$1,181,101.84