

PROFESSIONAL SERVICE AGREEMENT

THIS AGREEMENT, made as of this 1st day of January, 2022, between the BOROUGH OF ALPHA ("Borough"), a municipal corporation of the State of New Jersey, and GIBBONS P.C. organized under the laws of the State of New Jersey, located at One Gateway Center, Newark, New Jersey, and duly authorized to engage in the practice of law in the State of New Jersey ("Gibbons" or "Bond Counsel").

WHEREAS, the Borough, by its Borough Council (the "Council"), desires to retain Bond Counsel to the Borough to advise it with regard to matters involving public finance including, but not limited to the financing of various capital projects through the adoption of appropriate bond ordinances and the issuance of bonds and/or bond anticipation notes and desires to enter into this contract with Gibbons to provide professional services to the Borough as bond counsel in connection with matters of public finance and other matters as directed by the Council; and

WHEREAS, this Professional Service Agreement is authorized to be entered into by the Borough without public advertising or bidding therefor pursuant to Section 40A:11-5(1)(a)(i) of the Local Public Contracts Law.

NOW, THEREFORE, in consideration of the promises and the mutual representations, covenants and agreements herein contained, the Borough and Gibbons do hereby covenant and agree as follows:

1. Gibbons is hereby retained as bond counsel to the Borough in connection with the provision of professional services involving matters of public finance and other matters as directed by the Council including but not limited to the authorization, issuance, sale and delivery of bonds and/or bond anticipation notes for the Borough, including all legal services related to or necessary in connection therewith, including: the preparation of any bond ordinances, the preparation of the resolution authorizing the financing, the preparation and review of the Notice of Sale and the bonds or bond anticipation notes, the assistance in the preparation and review of the Official Statement, the preparation of all closing documents necessary for the issuance of the bonds or bond anticipation notes, attendance at the closing at which time the bonds or bond anticipation notes will be delivered, payments will be made therefor and Bond Counsel will deliver a final approving opinion for the bond or bond anticipation notes issue.

2. Gibbons shall be paid for services rendered pursuant to this Professional Service Agreement in accordance with the following terms:

Traditional Bond Issue

For work done and responsibilities assumed in connection with rendering the type of opinions anticipated in any permanent financings (which are competitively bid or negotiated) for the Borough, Bond Counsel will receive a base fee of \$4,500 plus \$1.00 per \$1,000 of bonds issued, plus out-of-pocket disbursements. Included in this fee is its review of any work performed by predecessor bond counsel that relates to the financing at hand. If there is more than one series of bonds issued, there will be an additional charge of \$1,000 for each additional series. In the event that bond insurance or similar credit enhancement facility is needed in connection

with a bond issue, an additional \$1,000 will be charged. Any work performed in connection with the preparation, review and distribution of a Preliminary Official Statement and Official Statement will be billed on an hourly basis. In addition, if any issue involves refunding of outstanding obligations, there shall be an additional fee of \$5,000 for each refunded issue.

Traditional Note Issue

With respect to work done in connection with any temporary financings of the Borough involving a private placement and not involving preparation of an Official Statement, Bond Counsel will receive \$1,000 for its approving opinion and 50 cents per \$1,000 of notes issued, plus out-of-pocket expenses.

Preparation or Review of Ordinances

For services rendered in connection with the preparation or review of each ordinance and the compiling of a certified record of proceedings in connection therewith, a fee of \$475 for each single purpose ordinance and \$575 for each multiple ordinance would be received by Bond Counsel, plus out-of-pocket disbursements. If the preparation of the ordinance involves consultations, meetings or discussions that are out of the ordinary, there will be an additional fee based on the time required to perform such services charged at the hourly rates set forth below.

Hourly Rates

Both parties recognize that it is difficult to initially estimate the amount of involvement that would be required of bond counsel in the preparation or review of an Official Statement, attention to litigation, coordination with rating agencies, potential purchasers, bond insurers, registrars, paying agents and similar parties, special advice regarding compliance with investment restrictions under the arbitrage regulations, the review of other unusual tax questions, the attendance at meetings/bond sales, the application for investment of proceeds in Federal Treasury obligations, State and Local Government Series or questions referred to bond counsel which arise away from a specific financing. Thus, the fee for such additional or non-transactional services would be on an hourly (time charge) basis. This fee would be calculated by multiplying the number of hours expended by each attorney and paralegal by their respective billing rate in effect at the time the work is performed. Each billing rate is based on experience and expertise and is reviewed and revised by the firm periodically. Services rendered in connection with the Municipalities Continuing Disclosure Cooperation Initiative requiring the services of a securities or litigation attorney will also be based upon the experience and expertise of said attorneys. In this connection, we will furnish a schedule of hourly rates for those individuals who work on the matter and an accounting of the aggregate amount of time expended. The present hourly rates of those attorneys and paralegals anticipated to work on your matters are as follows:

John D. Draikiwicz	\$195
Scott Galano	190
Steven Sholk	175
Karl Teo Molin, III	125
Paralegal	95

We will furnish to you, as often as you may request but at least monthly, a summary of time charges incurred to the date of such statement.

Out-of-Pocket Expenses

In addition to the above-described fees for any bond or bond anticipation notes issue and the foregoing time charges for non-transactional work, Gibbons will include in its billing statement its out-of-pocket costs incurred in connection with the matter, including, without limitation, expenses of travel, word processing (computerized document preparation), telephone, document reproduction, postage and air freight and stenographic overtime, if required.

3. During the performance of this contract, Gibbons P.C., (the "contractor") agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq. as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personal testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractor shall furnish such reports or other documents to the Division of Contract Compliance & EEO as may be requested by the Division from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

4. In the event that after Bond Counsel has performed any of the services set forth herein but (i) such sale of bonds or bond anticipation notes is canceled for whatever reason, or (ii) this Professional Service Agreement is terminated prior to the sale of the bonds or bond anticipation notes in accordance with paragraph 4 hereof, Bond Counsel shall receive a fee based on its hourly rates for such services performed as set forth in paragraph 2 hereof. Payment of such fee shall be made by the Borough within thirty (30) days of presentation by Bond Counsel of its statement for services rendered subsequent to such cancellation or termination.


5. This Agreement will be for an initial term of January 1, 2022 through December 31, 2022. It shall automatically continue thereafter on a month-to-month basis, but shall be terminable by the Borough at any time after December 31, 2022 by giving thirty (30) days written notice of termination to Bond Counsel. During the term of this Agreement, Bond Counsel shall be serving in such capacity only during the actual time frames that Bond Counsel is actually engaged in a public financing transaction for the Borough.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and the Borough has affixed its seal as of the date first above written.


(Seal)

Attest:

BOROUGH OF ALPHA



Clerk

By:  1/6/22

Mayor

Attest:

GIBBONS P.C.



Cassondra Conover

By: 

John D. Draikiwicz