

PROFESSIONAL SERVICE AGREEMENT

THIS AGREEMENT, made this _____ day of January 2025 by and between:

BOROUGH OF MENDHAM

A municipal corporation of the State of New Jersey
with offices at Borough Hall, 2 West Main Street,
Mendham, NJ 07945

("Borough")

and:

BOSWELL ENGINEERING, INC.

with offices located at 180 Main Street
PO Box 571
Chester, NJ 07930

("Consultant")

WITNESSETH:

WHEREAS, there exists a need for professional engineering services in the Borough of Mendham in connection with MA-2025 Ironia Road Improvements (the "Project"); and

WHEREAS, Boswell Engineering, Inc. has submitted a proposal dated January 17, 2025 for such services; and

WHEREAS, the Borough wishes to retain Boswell Engineering, Inc. to provide professional engineering services in connection with the Project in accordance with its proposal dated January 17, 2025.

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements herein contained, the parties agree as follows:

1. Consultant shall perform the professional engineering services required in connection with the Project for a contract amount not to exceed \$83,500.00, as outlined in Consultant's proposal dated January 17, 2025, attached hereto and incorporated herein as **Exhibit A**.
2. Payment shall be made by the Borough upon the submission by Consultant of duly authorized monthly vouchers to, and certified by, the Borough Administrator.

Expenses shall be billed at cost. All work shall be subject to prior written authorization and certification of availability of funds. All vouchers shall be submitted in a reasonable time after the services are rendered with an attached itemized bill for those services.

3. The services shall be performed under the supervision and direction of Consultant and professionals within the firm. Consultant is prohibited from naming any other professional outside of the firm to perform services for the Borough in connection with this Agreement.
4. Consultant shall save the Borough harmless from any and all claims that may be filed either in equity or law arising from the performance of this contract, for work performed by Consultant, its agents, servants and employees.
5. This contract has been awarded to Consultant as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a)(i) because the practice of Boswell Engineering, Inc. is regulated by law and because Boswell Engineering, Inc. represents that the firm's employees are authorized to practice professional engineering services.
6. This contract has been awarded to Consultant based on the merits and abilities of Consultant to provide the professional services described herein. This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. As such, the undersigned does hereby attest that Consultant, its subsidiaries, assigns or principals controlling in excess of 10% of the firm have neither made a contribution that is reportable to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44-16, in the one (1) year period preceding the award of the contract, nor will it make a reportable contribution during the term of the contract, to any candidate committee for any individual serving in an elective public office of the Borough when the contract is awarded.
7. Consultant is advised of the responsibility to file an annual statement on political contributions with the New Jersey Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-20.27 if Consultant receives contracts in excess of \$50,000 from public entities in a calendar year. It is Consultant's responsibility to determine if filing is necessary.
8. This contract shall be subject to the provisions of N.J.S.A. 10:5-31 et seq. and N.J.A.C. 17:27. Consultant shall comply with the Affirmative Action requirements attached hereto as **Exhibit B**, and the Americans with Disabilities Act of 1990, attached hereto as **Exhibit C**.
9. Consultant shall furnish the Borough a Certificate of Insurance naming the Borough as an additional insured, showing coverages for errors and omissions in an amount of at least \$200,000.00.

10. The term of this contract shall be until the services for which the Consultant has been retained are concluded or twelve (12) months, whichever is sooner.

ATTEST:

BOROUGH OF MENDHAM

Lauren McBride, Acting Borough Clerk

James Kelly, Mayor

ATTEST:

BOSWELL, INC.

Paul W. Ferriero, P.E., C.M.E.
V.P. Municipal Services

EXHIBIT B

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, c. 127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICES AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, 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, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The 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, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter 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 meet targeted county employment goals established in accordance with 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, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

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

In conforming with the targeted 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, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at http://www.state.nj.us/treasury/contract_compliance/).

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

EXHIBIT C

Americans with Disabilities Act of 1990

The CONTRACTOR and the OWNER do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "ACT") (42 U.S.C~ S12101 et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereunto, are made a part of this contract. In providing any act benefit, or service on behalf of the OWNER pursuant to this contract, the CONTRACTOR agrees that the performance shall be in strict compliance with the Act. In the event that the Contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the CONTRACTOR shall defend the OWNER in any action or administrative proceeding commenced pursuant to this Act. The Contractor shall indemnify, protect, and save harmless the OWNER, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The CONTRACTOR shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the OWNER grievance procedure, the CONTRACTOR agrees to abide by any decision of the OWNER which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the OWNER or if the OWNER must any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the CONTRACTOR shall satisfy and discharge the same at its OWN expense.

The OWNER shall, as soon as practicable after a claim has been made against it, give written notice thereof to the CONTRACTOR along with frill and complete particulars of the claim. if any action or administrative proceedings is brought against the OWNER or any of its agents, servants, and employees, the OWNER shall expeditiously forward or have forwarded to the CONTRACTOR every demand, complaint, notice, summons, pleading, or other process received by the OWNER or its representatives.

It is expressly agreed and understood that any approval by the OWNER of the services provided by the CONTRACTOR pursuant to this contract will not relieve the CONTRACTOR of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the OWNER pursuant to this paragraph.

It is further agreed and understood that the OWNER assumes no obligation to indemnify or save harmless the CONTRACTOR, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the CONTRACTOR expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the CONTRACTOR'S obligations assumed in this Agreement, nor shall they be construed

to relieve the CONTRACTOR from any liability, nor preclude the OWNER from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

Furthermore, the Contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the Contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the Contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.