

Exhibit “A”

**AGREEMENT BY AND BETWEEN
TOWNSHIP OF WEST ORANGE
AND
GABEL ASSOCIATES, INC.**

THIS AGREEMENT made this _____ day of April, 2016 ("Effective Date," which shall be the date on which the last authorized individual executes this Agreement) by and between the Township of West Orange in Essex County ("West Orange"), a body politic and corporate of the State of New Jersey, with principal offices located at 66 Main Street, West Orange, New Jersey 07052 and Gabel Associates, Inc. ("Gabel Associates" or "Consultant") having its principal place of business at 417 Denison Street, Highland Park, New Jersey 08904, hereby recites as follows:

WITNESSETH:

WHEREAS, West Orange desires to retain an Agent for Residential Energy Aggregation Consulting Services for the procurement of energy services in connection with the administration of energy procurement processes for West Orange's Government Energy Aggregation (GEA) program conducted on an on-line basis pursuant to P.L. 2001, c. 30; N.J.S.A. 48:3-50-51; and 48:3-92 et. al.; and

WHEREAS, West Orange published a Request for Proposal ("RFP") seeking an Agent for Residential Energy Aggregation Consulting Services; and

WHEREAS, West Orange received two proposals in response to its RFP; and

WHEREAS, West Orange established an Evaluation Committee (the "Committee") to review and score the proposals; and

WHEREAS, the Committee recommended that the West Orange award the Contract for Residential Energy Aggregation Consulting Services to Gabel Associates; and

WHEREAS, Gabel Associates has agreed to perform Residential Energy Aggregation Consulting Services for West Orange consistent with the terms and provisions of this Agreement and the terms and provisions of its proposal dated February 9, 2016; now, therefore,

IN CONSIDERATION of the mutual promises contained herein, West Orange and the Consultant agree as follows:

1. TERM

The term of this Agreement shall be for the period commencing upon Effective Date of this Agreement for a period of three (3) years (the "Initial Term"). After the expiration of the Initial Term, West Orange shall have the right to renew or extend the terms and condition of this Agreement for an additional amount needed for the completion of the Third Party Electrical Supply Contract (the "Extension Term"). The Extension Term, however, shall not be greater than an additional two (2) years. The Extension Term shall automatically occur unless West Orange issues notice to Consultant on twenty (20) days notice that the Extension Term shall not be granted.

2. CONSULTING SERVICES

The Consulting Services (also referred to as the "Services") to be performed by Gabel Associates, the subject of this Agreement are as follows. All Services under this Agreement shall be undertaken pursuant to direction from West Orange or its project manager employees, and subject to West Orange's review and approval.

These services relate to electricity and may include other energy services including but not limited to natural gas supply service, may be conducted separately (in the event that a GEA does not move forward for a particular service) or as one process.

A) Government Energy Aggregation Services (GEA):

Consultant shall assist West Orange in managing its GEA program. A GEA program is as defined in N.J.S.A. 48:3-92 et al. Such a program is not a standard energy procurement

process but requires the involvement of West Orange residents, local governments, the Board of Public Utilities (BPU) regulators and Third Party Electrical Suppliers (TPS). The services provided by Gabel shall include, but are in no way limited to, the following:

Education:

Consultant shall meet with Municipal representatives to explain the residential energy aggregation program and have them adopt the appropriation resolution. Consultant shall create formulable public outreach program(s) and marketing strateg(ies).

Data Collection:

Consultant shall perform all work necessary in collecting, assembling and analyzing account data from each resident participant into a format that will generate maximum bid participation from the NJBPU licensed TPSs. Consultant shall analyze data to determine appropriate means and method of procurement.

Development of Bid Specifications:

Consultant shall recommend a procurement strategy which includes bid timing, contract duration, contract structure, pricing, pricing alternatives, and account classifications for award of a Third Party Electrical Supply Contract ("TPS Contract") to a NJBPU licensed TPS. Consultant shall prepare and organize energy usage data, compile technical specifications and all related bid documents.

Administration of Bid Process:

Once the bid is advertised, Consultant shall contact all NJBPU licensed TPSs to make them aware of the bid and ensure that all TPSs received a bid package. Consultant shall attend bid opening, review all responses, analyze all bid results, and provide its recommendations for award of the TPS Contract. If bid results are not favorable to the West Orange, the Consultant will make appropriate recommendations on how to proceed. In the event of an award, the

Consultant shall work with the winning TPS to ensure that the proper accounts are enrolled and or transitioned to the new TPS.

Energy Advisory Services:

Once the electric energy bid is authorized, Consultant shall continue to monitor the TPS Contract for any potential problems with the TPS until the end of the TPS Contract. Consultant must continue to advise and provide support to West Orange, including but not limited to such issues as the resolution of billing issues that may arise. Consultant shall monitor all market conditions for subsequent bid opportunities, monitor regulatory changes that may affect future bids and be available to answer questions on the process and results. Consultant shall monitor and evaluate the TPS's standing and services.

Client Relationship:

Consultant shall with West Orange representatives during and after the bidding process, at the request of said members. Consultant shall be available in person, by phone and by e-mail when necessary, and when asked for by a West Orange representative or municipal officer, at no additional cost.

3. BENCHMARKS AND CONTINGENCIES

Consultant shall prepare and administer a procurement strategy consistent with all BPU Rules, the Local Public Contracts Law (as applicable) and any West Orange program-specific issues. Provided that the Township and/or PSE&G work in good faith with Consultant and meet any reasonable deadlines requested by Consultant, Consultant shall release the RFP for the TPS Contract within three (3) months of the Effective Date of this Agreement. Consultant shall then evaluate all RFP responses and proposals and make a recommendation to the Township regarding a vendor not less than three (3) months from the

date of publication of the RFP, or not less than six (6) months from the Effective Date of this Agreement, whichever is shorter.

In the event that either of the above-stated contingencies is not satisfied by Consultant, West Orange shall have the option to cancel this Agreement on five (5) days' written notice to Consultant, and upon adoption of a resolution by the Township Council authorizing the cancellation.

4. COMPENSATION

For all Consulting Services rendered by Gabel Associates pursuant to Section 2 of this Agreement, Gabel Associates shall be paid by the winning TPS. The Request for Bids for the TPS Contract shall require that Bid Prices include an energy agent fee of \$.00071 per kilowatt hour. The TPSs shall include this agent fee in their bid prices and the winning TPS will invoice participants based on the Bid Price each month and, subsequent to collection of payment from participants, the winning TPS would remit payment of the collected energy agent fees to Gabel Associates on a monthly basis. Gabel Associates will also bear the cost of obtaining usage data for commercial customers. No management fees will be collected by Gabel Associates unless and until a TPS Agreement is awarded by West Orange.

Certain expenses are required in order to implement a GEA which are not included in the energy agent fee. These expenses are recoverable from the selected TPS pursuant to applicable GEA Rules. Two mailings are necessary for a successful GEA: the first will serve to inform the public that a GEA is being implemented in West Orange and that a public information session is being held; and the second will be sent after a winning TPS is chosen and will contain pricing and opt-out provisions. Costs for the initial informational mailer will be paid up-front by Gabel Associates and recovered from the selected TPS. The second mailer will be the responsibility of the selected TPS. If the RFP process does not result in any beneficial proposals

and as a result the Township does not award a contract to a TPS, Gabel Associates will absorb the costs associated with the initial information mailer. If the RFP process does result in a beneficial proposal but the Township decides that it will nonetheless not award a contract to a TPS, Gabel Associates will be reimbursed by West Orange for its out-of-pocket expenses for the initial informational mailer.

Additionally, the GEA requires several actions which will result in some expenses, which shall be identified in the RFP, and which may be recovered from the selected TPS(s):

- 1) Fees by the local LDC if any, pursuant to the EDC Agreement, to supply the needed information on identity and electricity usage of residential accounts participating in the GEA.
- 2) Public announcement of the implementation of a GEA program,
- 3) Setting up a contact number for residential accounts to get information on the GEA program being implemented.

Direct costs related to these activities shall be borne by or recovered from the winning TPS.

In the event natural gas supply or other services are subject to bid, Gabel Associates shall provide a fee proposal to West Orange for its review and consideration.

5. STANDARD OF CARE

The Consultant shall comply with the standard(s) of care attributable to the professions applicable to performing the services detailed herein and shall perform in accordance with the terms and conditions of this agreement. The Consultant agrees that all documents prepared and all specifications provided shall meet the requirements outlined by West Orange and shall comply with all applicable codes and standards.

6. INSURANCE

Within ten (10) days of the Effective Date, the Consultant shall furnish West Orange with a Certificate of Insurance as evidence that it has procured the following insurance coverage:

5.1. Professional Liability

\$ 2,000,000.00

5.2. Workers Compensation and Employer's Liability

\$ 1,000,000.00

5.3. General Liability

\$2,000,000.00

5.4. West Orange is to be listed as Additional Insured with respect to the General Liability policy.

5.5 West Orange must be provided sixty (60) days notice of cancellation, non-renewal or change in insurance coverage.

7. INDEMNIFICATION

Consultant shall defend, indemnify and hold harmless West Orange, its officers, agents and employees from and against any and all claims, suits, actions, damages or costs, of any nature whatsoever, including attorney's fees, whether for personal injury, property damage or other liability, arising out of or in any way connected with the Consultant's acts or omissions in connection with this Agreement.

Gabel Associates is acting in a consulting capacity and any opinions, advice, forecasts, or analysis presented by Gabel Associates are based on its professional judgment and do not constitute guarantees.

8. TERMINATION

West Orange may terminate this agreement for cause upon thirty (30) days written notice delivered to Consultant by certified mail, return receipt requested if Consultant materially

breaches any terms of this agreement and does not, within the thirty (30) days written notice period, cure the breach.

All agent fee payment obligations from TPS as described in Section 3 for energy agreements executed prior to termination shall survive termination.

9. GOVERNING LAW

This agreement shall be construed and governed in accordance with the laws of the State of New Jersey and any disputes under this agreement shall be heard in a court of competent jurisdiction in the State of New Jersey.

9. MISCELLANEOUS

The following miscellaneous provisions shall apply to this agreement:

a. Modification.

This agreement may not be amended, altered or modified in any manner except in writing signed by the parties hereto.

b. Invalid Clause.

The invalidity of any clause contained herein shall not render any other provision invalid and the balance of this agreement should be binding upon all parties hereto.

c. Entire Agreement.

This Agreement, including the incorporation of Consultant's Proposal, shall consist of the entire agreement of the parties. Both parties acknowledged that there are no side or oral agreements relating to the undertaking set forth herein. In the event that a provision of this Agreement conflicts with Consultant's Proposal, the provision of this Agreement shall govern.

d. Assignability.

This agreement and all rights, duties and obligations herein may not be assigned by the Consultant to any professional corporation, person and/or other entity without approval of West Orange.

e. Affirmative Action.

The affirmative action provisions set forth in the documents attached hereto and incorporated herein and made a part hereof (Exhibit A).

f. Americans with Disability Act.

The Americans with Disability Act provisions as set forth in the documents attached hereto are incorporated herein and made a part hereof.

g. Waiver.

It is understood and agreed by the parties that a failure or delay in the enforcement of any of the provisions of this agreement by either of the parties shall not be construed as a waiver of those provisions.

h. Binding Agreement.

This agreement shall be binding upon the parties hereto and their respective agents, heirs, executors, administrators, successors, or assigns.

i. Business Registration and Sales and Use Tax Requirements.

Consultant agrees to comply with any applicable provisions of the "Business Registration and Sales and Use Tax Requirements".

SIGNATURE PAGE AFFIXED HERETO

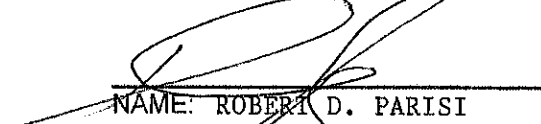
IN WITNESS WHEREOF, the parties hereto have placed their signatures and appropriate seals on the day and year mentioned on the face page of this agreement.

ATTEST:


NAME: KAREN J. CARNEVALE, R.M.C.

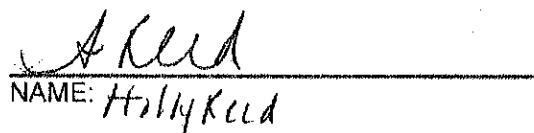
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TOWNSHIP OF WEST ORANGE


NAME: ROBERT D. PARISI

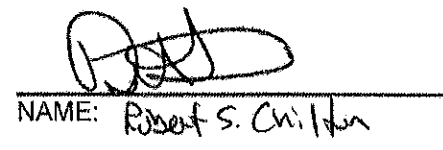
TITLE: MAYOR

WITNESS:


NAME: Holly Keld

TITLE: VILLAGE PRESIDENT

GABEL ASSOCIATES, INC


NAME: Robert S. Childen

TITLE: Executive V.P.

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