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P.C..PDF](#)

3.II. 148-22

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Documents:

Township of West Orange
CONFERENCE MEETING AGENDA
Council Chambers – 66 Main Street
Tuesday, June 14, 2022
Meeting No. 11

This is to inform the general public that this meeting is being held in compliance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975. The annual notice was emailed to the Star Ledger and filed in the Township Clerk's office on November 24, 2021, and published in the West Orange Chronicle on December 2, 2021.

Roll Call – Councilwoman Casalino, Councilwoman Matute-Brown, Councilman Rutherford, Councilwoman Williams, Council President McCartney, Mayor Parisi

6:30 P.M

- **Swearing in of New Police Officers**
 - **Michael Giovine**
 - **Corey Gray**
 - **James Tiernan**
 - **Joseph Tutela**
- **Mayor's Proclamation: Tourette Syndrome Awareness – Jaiden Mendez**
- **Council Liaison Announcements**
- **Public Meeting – 7:00 p.m.**

PUBLIC MEETING AGENDA

**Township of West Orange
66 Main Street – 7:00 p.m.
June 14, 2022 – Meeting No. 11**

This is to inform the general public that this meeting is being held in compliance with Section 5 of the Open Public Meetings Act, Chapter 231, Public Law 1975. The annual notice was emailed to the Star Ledger and filed in the Township Clerk's office on November 24, 2021, and published in the West Orange Chronicle on December 2, 2021.

Statement of Decorum

**In all matters not provided for in subsection 3-15.1 and except upon consent of the Council President, each person addressing the Council pursuant to this subsection shall be required to limit his or her remarks to five (5) minutes, and shall at no time engage in any personally offensive or abusive remarks. The chair shall call any speaker to order who violates any provision of this rule.
(1972 Code § 3-15.2)**

Roll Call – Councilwoman Casalino, Councilwoman Matute-Brown, Councilman Rutherford, Councilwoman Williams, Council President McCartney, Mayor Parisi

- 1. Pledge of Allegiance**
- 2. Public Comment**
- 3. *Consent Agenda**
- 4. *Approval of Minutes of Previous Meeting – May 24, 2022 Public Meeting**
- 5. *Report of Township Officers – None**
- 6. Reading of Petitions and Communications and Bids**
 - a. Planning Board Resolution No. PB 22-01 Pleasantdale Chateau & Conference Resort, Inc.
 - b. Planning Board Resolution – W.O. Historic Preservation Commission Presentation: Proposed Designation of Certain Properties as Historic Landmarks – George V. Hecker Carriage House, 36 Ridge Rd.
- 7. *Bills**
- 8. *Resolutions**
 - a. **147-22** Resolution Authorizing a Change Order for the Contract Retaining Arcari + Iovino Architects P.C. for the Construction Contract for the New Library in an Amount NTE \$5,000. (Legal-Moon)
 - b. **148-22** Resolution Authorizing the Collector of Taxes to Refund Payment to the Listed Taxpayer Due to An Overpayment of Taxes Due to a Duplicate Payment (Tax Collector)
 - c. **149-22** Resolution Authorizing the Execution of a Parking Agreement for the Issuance of Parking Licenses for Township Owned Municipal Parking Lots for Prospective Residents at the Property at 14 Northfield Avenue (Legal-Moon)
 - d. **150-22** Resolution Endorsing the Enactment of Assembly Bill A938/S386, the “New Jersey Reparations Task Force Act” (McCartney)
 - e. **151-22** Resolution Authorizing Professional Services Agreement with Essex Regional Health Commission for Outreach Coordinator (Legal-Trenk)
 - f. **152-22** Resolution Authorizing the Issuance of Raffle Licenses (Clerk)

- g. 153-22 Resolution Authorizing Professional Services Agreement with Montclair State University for COVID-19 Vaccination Program 2022-2023 (Legal-Trenk)**
- h. 154-22 Resolution Authorizing Change Order No. 1 for the Project MA-2020 Arverne Road, Crestmont Road (portion) and Westover Terrace (portion) Improvement Project with Cifelli & Son General Contracting, 81 Franklin Avenue, Nutley, NJ 07110 in the Amount of \$159,266.83 (Lepore)**
- i. 155-22 Resolution Authorizing a Professional Services Contract with Frank H. Lehr, 101 South Harrison Street, East Orange, NJ 07018 to Provide Professional Services for the Retaining Wall Improvements of Fire House No. 3 for a fee of \$18,400.00. (Lepore)**
- j. 156-22 Resolution to Introduce 2022 Municipal Budget (Prochilo/Gross)**
- k. 157-22 Resolution to Read Budget by Title Only**
- l. 158-22 Resolution Supporting Pending Gun Safety Legislation**
- m. 159-22 Resolution Approving a 10 Year Re-Organization Plan in the 2022 Municipal Budget (Gross)**
- n. 160-22 Resolution Reinstating the Mayor's Recommendation to Fund the Position of Executive Director Housing Authority/Planning & Building Coordinator (Gross)**

9. Ordinances on Second and Final Reading-None

10. Ordinances on First Reading

- a. 2685-22 An Ordinance Amending and Supplementing Chapter XXV Land Use Regulations of the Revised General Ordinances of the Township of West Orange to Implement a Settlement Agreement with Fair Share Housing Center (Legal-Trenk)**
- b. 2686-22 An Ordinance Amending Chapter 2, Section 14.5 and Section 14.9 of the Revised General Ordinances of the Township of West Orange, (Appointment of Police Department, Officers and Personnel) (Legal-Trenk)**
- c. 2687-22 Calendar Year 2022 Ordinance to Exceed the Municipal Budget Appropriation Limits and to Establish a CAP Bank (N.J.S.A. 40A: 4-45.14) (Gross/Prochilo)**

11. Pending Matters/New Matters/Council Discussion

12. ABC Hearing

- a. 682-22 Hearing on Renewal for Plenary Retail Consumption, Distribution and Club Licenses for the 2022-2023 License Term (Clerk) Resolution Subject to Change as Additional Licensees Pay their Fees**
- b. 683-22 Hearing on Renewal for 2022-2023 License Term-Huguitos Restaurant and Bar, LLC 0722-33-024-005 (Special Conditions)**
- c. 684-22 Hearing on Renewal for 2022-2023 License Term-Club 466 0722-33-035-011 (Special Conditions)**
- d. 685-22 Hearing on Renewal for 2022-2023 License Term – Las Palmeras, Inc. 0722-33-045-005 (Special Conditions)**
- e. 686-22 Resolution Authorizing a Place to Place-Extension of Premises on Behalf of ABC Licensee 0722-33-037-008, Panorama, LLC t/a Chit Chat Diner**

13. Adjournment

The Council President may at his/her discretion modify with consent the order of business at any meeting of the Council if he/she deems it necessary and appropriate.

(1972 Code § 3-8; Ord. No. 726-84; Ord. No. 1157-93; Ord. No. 2128-07 § II)

Agenda is subject to change.

THIS MEETING WILL BE HELD IN PERSON AND VIA ZOOM

SEE INSTRUCTIONS BELOW:

<https://us06web.zoom.us/j/85790509698?pwd=S3NhMExvVHp1d0k5emd1d2c2dFhGQT09>

Or Telephone: Dial: US: 1-646-558-8656

Webinar ID: 857 9050 9698

Password: 510269

Next Meeting Date(s): June 28, 2022

RESOLUTION

WHEREAS, the Township of West Orange (the “Township”) has authorized the issuance of bonds with regard to the library redevelopment project at 10 Rooney Circle in the Township (“New Library”); and

WHEREAS, the Township has been the successful recipient of Library Bond Grant Funds from the State of New Jersey; and

WHEREAS, the Library Board and its Executive Director have been working closely with the Township concerning the New Library; and

WHEREAS, on June 22, 2021, the Township Council adopted Resolution 134-21 which authorized the retention of Arcari + Iovino Architects, P.C. of Little Ferry, New Jersey (“Arcari + Iovino”) to provide architectural services related to the New Library and the execution of a professional services agreement (the “Agreement”); and

WHEREAS, the Arcari + Iovino designed the bid specifications for the construction contract for the New Library which the Township issued on January 14, 2022; and

WHEREAS, on March 10, 2022, the Township received ten (10) bids for the New Library which exceeded the previous projected amounts for the construction contract; and

WHEREAS, on April 26, 2022, the Township Council adopted Resolution 106-22 which authorized the rejection of all ten (10) to allow for the revision of the bid specifications to add possible alternates with the goal of obtaining lower bids; and

WHEREAS, due to the additional work required to revise the bid specifications to conduct the rebid for the construction contract, Arcari + Iovino has requested a change order be issued under the Agreement for an amount not to exceed \$5,000 for the additional work in

preparing and implementing the rebid of the construction contract for the New Library, annexed hereto as Exhibit “A;” and

WHEREAS, the Chief Financial Officer has recommended to requested change order.

NOW, BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange authorizes the Township to issue a change order in an amount not to exceed \$5,000 for Arcari + Iovino pursuant to their letter, annexed hereto as Exhibit **A.**”

Karen J. Carnevale, R.M.C.
Municipal Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

Exhibit “A”



Celebrating our 30th year!
1992 – 2022

May 2, 2022

Mr. John O. Gross, Business Administrator/CFO
Township of West Orange
66 Main Street
West Orange, NJ 07052

Re: Additional Services – Library Re-Bid

Dear Mr. Gross,

I am writing to inform you that additional services are required as related to the re-bid of the library project. These services include the following tasks:

1. Modifications to the Drawings and Specification to include the requested Alternate Bid for the exterior patio work
2. Preparation of updated "front-end" bid forms
3. Modifications to include American Water revisions to fire service line
4. Distribution to prior bidders of notice-to-bidders (after ad is formally placed)
5. Receive and respond to bidder inquiries
6. Issuance of Addenda
7. Review of bids and preparation of summary and recommendation

We proposed a not-to-exceed fee of \$5,000 to be billed on an hourly basis. Please note that we have commenced with these services at our own risk for the benefit of the township and this project. If this additional services proposal is acceptable, please give us written authorization to proceed.

Sincerely,

A handwritten signature in black ink, appearing to read "A. Iovino".

Anthony Iovino, AIA, PP, LEED
Arcari + Iovino Architects, P.C.

One Katherine Street
Little Ferry, NJ 07643

201.641.0600

www.aiarchs.com

Edward Arcari, AIA, PP
Anthony Iovino, AIA, PP



RESOLUTION AUTHORIZING THE COLLECTOR OF TAXES
TO REFUND PAYMENT TO THE LISTED TAXPAYER DUE TO A
OVERPAYMENT OF TAXES DUE TO A DUPLICATE PAYMENT

WHEREAS, certain West Orange property owners or their mortgage company have made a duplicate payment for the second quarter 2022 taxes;

WHEREAS, the Tax Collector of the Township of West Orange has indicated that such Taxpayers or their mortgage company are entitled to refunds to the extent of such overpayments;

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Orange that the Tax Collector and the Treasurer of the Township of West Orange be and they are hereby authorized, empowered and directed to cause to be paid to the taxpayers on the attached list sums in full and final satisfaction of the overpayment of the 2022 taxes.

Block	Lot	Name & Address	Amount
55.06	7	Lereta Refund Department PO Box 810490 Dallas, TX 75381	\$3,281.00
154.21	42	Mr. Cooper PO Box 650783 Dallas, TX 75265	\$3,944.00
TOTAL:			\$7,225.00

Karen J. Carnevale, R.M.C.
Municipal Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

I hereby certify funds are available from: _____
Account No./Amount

John Gross, Chief Financial Officer

RESOLUTION

WHEREAS, West Crescent Realty, LLC (“West Crescent”) is the owner of the property located at block 17, lot 62 on the Tax Map of the Township of West Orange (the “Township”), commonly known as 14 Northfield Avenue (the “Property”); and

WHEREAS, the Property has a mixed use building with commercial tenants on the first floor and vacant apartments on the second and third floors; and

WHEREAS, West Crescent seeks to renovate the vacant apartment space to provide for additional units, subject to approval from the West Orange Planning Board (the “Planning Board”); and

WHEREAS, the West Crescent application to the Planning Board will include an application for a parking variance; and

WHEREAS, West Crescent anticipates that such an application for a parking variance will require it to demonstrate the availability of off-site parking for potential tenants to the Property; and

WHEREAS, Section 7-50.3(f) of the Township’s Municipal Code provides that the Police Chief of the West Orange may issue permits for use of municipal parking yards for twenty-four (24) hour parking on an annual or semi-annual basis with automatic renewals for bona fide residents of the Township; and

WHEREAS, West Crescent has negotiated a proposed parking agreement, annexed hereto as Exhibit “A” (the “Parking Agreement”) for a term of five (5) years at Municipal Lot 3 on Lindsley Avenue and Municipal Lot 4 on Valley Street and Main Street for up to twelve (12) parking spaces to West Crescent for use by prospective tenants of the Property; and

WHEREAS, the Parking Agreement provides that the annual rate for the parking permits shall be at a rate set by the Township Council from time to time, currently at \$140 per space; and

WHEREAS, the Parking Agreement is conditioned upon the approval of a parking variance from the Planning Board and the renovations to be set forth in West Crescent's application to the Planning Board.

NOW, BE IT HEREBY RESOLVED, by the Township Council of the Township of West Orange that the Township is hereby authorized to enter into the Parking Agreement, annexed hereto as Exhibit "A" with West Crescent consistent with all of the terms and conditions set forth therein and subject to the approval by the Planning Board; and it is further

RESOLVED, that the Mayor be and is hereby authorized to execute the Parking Agreement on behalf of the Township and the Municipal Clerk be and is hereby authorized to attest to the Mayor's signature; and it is further

RESOLVED, that the original copy of the Parking Agreement between the Township and West Crescent shall be maintained in the Municipal Clerk's office.

Karen J. Carnevale, R.M.C.
Municipal Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

Exhibit “A”

PARKING AGREEMENT

BY AND BETWEEN THE TOWNSHIP OF WEST ORANGE, NEW JERSEY AND

WEST CRESCENT REALTY, LLC

THIS PARKING AGREEMENT is made this ____ day of January, 2022 (hereinafter this "Agreement"), between West Crescent Realty, LLC (hereinafter referred to as the "Owner"), a New Jersey limited liability company having its principal office at 4403-15th Avenue #515, Brooklyn, New York 11219; and The Township of West Orange, a public body corporate and politic in the State of New Jersey with an address at 66 Main Street, West Orange, New Jersey 07052 (the "Township"); and together with the Owner, (the "Parties").

WHEREAS, the Township has adopted an Ordinance regulating parking in the Township, Section 7-50.1 et. seq.; and

WHEREAS, pursuant to Section 7-50.3(f), the Ordinance provides that the Chief of Police or designate, as authorized by the Township Council, shall have the authority to issue permits for use in municipal parking yards for twenty-four (24) hour parking; and

WHEREAS, pursuant to subsection (f)(2), parking permits can be issued on an annual or semi-annual basis with automatic renewal provided payment is made in full no later than the first day of the first month for which the permit is valid and the applicants for automatic renewal are bona fide residents of the Township of West Orange; and

WHEREAS, the Owner is the owner of property located at 14 Northfield Avenue, a mixed use building with commercial tenants on the first floor and vacant apartments on the second and third floors; and

WHEREAS, the Owner seeks to renovate the vacant apartment space to provide for additional units, which will require local land use approval from the Township; and

WHEREAS, an application for land use approvals will trigger the need for the owner to obtain a parking variance, because the property currently contains no conforming parking spaces; and

WHEREAS, the attractiveness of these apartments to potential tenants will be considerably enhanced by the availability of reserved parking in close proximity; and

WHEREAS, it is anticipated that, for the Owner to be successful in obtaining a parking variance from the Planning Board, it will be necessary to demonstrate to the Planning Board that available off-site parking will be reserved for these tenants for a fixed period of time; and

WHEREAS, the Township desires to promote the reuse of vacant upper story apartment space in downtown buildings to avoid that space remaining vacant.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for good and valuable consideration, it is mutually covenanted and agreed as follows:

1. The Township agrees to provide annual parking permits in Municipal Parking Lot 3 on Lindsley Avenue and Lot 4 on Valley Street and Main Street for up to twelve (12) parking spaces to Owner for parking for tenants in the building at 14 Northfield Avenue. These permits will be renewed automatically on an annual basis for a total period of five years, provided that all conditions for permits are met.

2. The Owner or its designee will make a payment in the amount consistent with the rate set forth by the Township Council of the Township of West Orange or its designee for all parking permits issued by the Township, a rate that is currently set at \$140.00 per calendar year per space. The Owner will also provide proof to the Township that each user of a space is a bona fide resident of the building located at 14 Northfield Avenue. No refunds shall be made for any portion of time when the issued permits are not used. No transfers or assignment of permits shall be made to any non-tenants of the Property.

3. The Owner further certifies that the use of these spaces will be consistent with any other applicable requirements of Ordinance Section 7-50.3.

4. This Agreement is being entered for the purpose of demonstrating available off-site parking in connection with an anticipated application to the Planning Board or for other land use or zoning approvals by the Township. In the event that the Owner does not proceed with those applications and renovate the upper floors of this building for occupancy by residential tenants, the Owner will notify the Township and this Agreement shall be terminated.

5. At the commencement of each annual renewal period, the Owner will notify the Township of the number of spaces required for the residential tenants occupying the building. The Owner will only be responsible for providing parking spaces for tenants of the residential units.

6. The Township will issue placards to the tenants, or authorize the Owner to do so, so that tenants can place the placards in a visible location in their vehicles when parking in a space available to them.

7. There shall be no modification of this Agreement except by virtue of a written instrument executed by and between both parties.

8. The rights under this Agreement shall not be assigned or transferred absent written consent from the Township which it may deny at its sole discretion.

9. All notices required hereunder shall be sent by certified mail, return receipt requested or by a recognized overnight courier, with proof of delivery, or an email transmission

pairing with a hard copy and transmission confirmation sent by a recognized national courier service for next business day delivery, addressed as follows:

- a. Sent by the Township to the Owner:

West Crescent Realty, LLC
c/o Richard Herbst, Managing Agent
4403-15th Avenue #515
Brooklyn, New York 11219

With a copy to:

William C. Sullivan, Jr., Esq.
Scarinci Hollenbeck, LLC
1100 Valley Brook Avenue
P.O. Box 790
Lyndhurst, New Jersey 07071

- b. Sent by the Owner to the Township:

Township of West Orange
66 Main Street
West Orange, New Jersey 07052
Att: Chief of Police, James Abbott

With a copy to:

Richard D. Trenk, Esq.
Township Attorney
Trenk Isabel, P.C.
290 West Mt. Pleasant Avenue, Suite 2350
Livingston, New Jersey 07039

And a copy to:

Karen J. Carnevale
Office of the Township Clerk
Township of West Orange
66 Main Street
West Orange, New Jersey 07052

This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first above written.

WEST CRESCENT REALTY, LLC
A New Jersey limited liability company

By: Richard Herbst
RICHARD HERBST
Title: Owner

Dated: 1/20/22

Sworn and subscribed to
before me this 21st day of
January 2022.

S. Friedman

SHPRINTZA S. FRIEDMAN
NOTARY PUBLIC OF NEW JERSEY
Commission Exp: 3/28/22

TOWNSHIP OF WEST ORANGE

By: _____
ROBERT D. PARISI, Mayor

Dated: _____

APPROVED AS TO FORM AND LEGALITY

RICHARD D. TRENK, ESQ.
Municipal Attorney

Attest:

KAREN J. CARNEVALE, RMC
Municipal Clerk

**A RESOLUTION ENDORSING THE ENACTMENT OF ASSEMBLY BILL A938/S386,
THE "NEW JERSEY REPARATIONS TASK FORCE ACT"**

WHEREAS, this is a resolution endorsing the “New Jersey Reparations Task Force” act to conduct research and develop reparatory proposals and recommendations to address the generational harms caused by New Jersey’s role in America’s institution of slavery and its legacy of systemic racial discrimination; and,

WHEREAS, the Township of West Orange is a multicultural and diverse Township which is home to approximately 12,836¹ Black people who make up more than 26.6% of the Township's population; and,

WHEREAS, over four hundred years ago, enslaved Africans were brought to Jamestown, Virginia as captives; and,

WHEREAS, from 1619 to 1865, approximately 4,000,000 Africans and their descendants, under a practice that was constitutionally and statutorily sanctioned, were enslaved in the United States and the colonies that became the United States; and,

WHEREAS, the system of slavery that flourished in the United States constituted an immoral, shameful, and inhumane deprivation of the life, liberty, humanity, citizenship, and cultural heritage of Africans and also denied them, among other things, the fruits of their own labor upon which this country, and its economy, was built; and,

WHEREAS, an overwhelming body of scholarship, legal and community evidentiary documentation, and the modern day lived experiences of the descendants of enslaved Africans form the basis for inquiry into the ongoing effects of the institution of slavery and its legacy of persistent systemic structures of discrimination on living Black people and communities in the United States; and,

WHEREAS, following the abolition of slavery, state actors at the federal, state, and local level continued to perpetuate, condone, and profit from practices that continued to brutalize and systemically disadvantage Black people, including sharecropping, convict leasing, Jim Crow laws, redlining, unequal education, and disproportionate treatment at the hands of the criminal justice system; and,

WHEREAS, contrary to what many people believe, slavery was not just a Southern institution and took root very deeply in New Jersey. In the early 17th Century, the first enslaved African people arrived in New Netherland, a Dutch settlement established in the Mid-Atlantic, which included portions of present-day New Jersey. As the demand for labor increased, the number of enslaved African people imported to New Jersey increased, with Bergen County becoming the largest slaveholding county in the Province of New Jersey. In 1704, the Province

¹ Obtained from 2021 United States Census Bureau.

of New Jersey introduced the “Slave Code,” which prohibited enslaved Africans and free Africans from owning property and made certain actions, like staying out past curfew, illegal for Black people. Although New Jersey outlawed the importation of enslaved Africans in 1786 and enacted a law in 1804 to abolish slavery gradually, the State Legislature passed “Peace Resolutions” in 1863 denying President Lincoln’s power to emancipate slaves and later voted against the 13th amendment to the United States Constitution; and,

WHEREAS, in 1844, New Jersey also restricted access to the ballot box by denying the vote to people with criminal convictions the same year it restricted voting to white men in its Constitution, the first state in the Northeast to do so. While many Northern states abolished slavery following the Civil War, New Jersey opposed the Emancipation Proclamation and was the last Northern state to abolish slavery. Following the Civil War, New Jersey refused to ratify the Reconstruction Amendments; and,

WHEREAS, New Jersey’s deep roots in American slavery and its vestiges have endured to the present day. A direct line can be traced from New Jersey’s role in American slavery to its system today of voter suppression, racial wealth disparities, mass incarceration, racial segregation, and crumbling infrastructure in Black communities in New Jersey, such as the current elevated lead levels in water and homes; and,

WHEREAS, the full effects of the institution and legacy of slavery on Black people and communities in New Jersey have not been sufficiently examined, nor have there been remedies for past injustice and present harm, or sufficient efforts at transformation; and,

WHEREAS, as a result of historic and continued systemic racial discrimination, Black people in New Jersey confront some of the worst racial disparities in America, including but not limited to these areas; and,

WHEREAS, access to democracy: New Jersey suffers from racialized voter disenfranchisement, denying the vote to over 100,000 people in prison, on parole, or on probation, according to State data. Over half are Black, though Black people comprise just 15 percent of the State’s population. The racism of the criminal justice system is directly imported into the franchise; and,

WHEREAS, youth justice: Generations of Black kids have experienced racism in the youth justice system. Just two years after the Civil War, New Jersey opened Jamesburg, its largest youth prison for boys. Today, Black children are almost 18 times more likely to be locked up than white children, the highest disparity rate in America, even though Black and white children commit most offenses at similar rates. As of February 9, 2022, just 11 white children are incarcerated in New Jersey, compared to 65 Black children, according to State data; and,

WHEREAS, housing and the racial wealth gap: New Jersey also experienced racially restrictive covenants that prohibited Black people from buying, leasing, or occupying property based on race, and redlining, which targeted Black people who were refused housing loans. That legacy of systemic housing discrimination spills into today’s vast discrepancy in New Jersey home ownership rates: 75.9 percent for white households and 38.4 percent for Black households.

Because home ownership is a primary driver of wealth, Black and Latino people in New Jersey confront one of the worst racial wealth gaps in America. The median net worth for New Jersey's white families is \$309,000, the highest in the nation. For New Jersey's Black and Latino families, it is incredibly just \$5,900 and \$7,020, respectively. New Jersey also leads the nation in home foreclosures, according to ATTOM Data Solutions; and,

WHEREAS, racial segregation itself, born from the vestiges of slavery, pervades New Jersey, which, while one of the most racially diverse states in America, is also among the most segregated. New Jersey's racial diversity and racial segregation, combined with its extreme wealth and punishing poverty, has created in New Jersey's public classrooms some of the fiercest segregation by race, ethnicity, and income in this country. Nearly half of New Jersey's Black and Latino students attend schools that are more than 90 percent nonwhite. Almost two-thirds go to schools that are more than 75 percent nonwhite; and,

WHEREAS, to address these systemic challenges in New Jersey, the "New Jersey Reparations Task Force" will research, write, and publish a report that will make the case for State-based reparations in New Jersey and outline policy recommendations that seek to repair the harm that has resulted from America's original sin in the Garden State and its aftermath; and,

WHEREAS, it is in the interest of the State and of the people of New Jersey for the government to initiate and foster methods of improving knowledge and understanding between African Americans and other ethnic groups in New Jersey and to adopt and initiate means to foster communication and dialogue, for the purpose of achieving truth, transformation, and reparation. Therefore, it is in the interest of the State and the people of New Jersey to establish the "New Jersey Reparations Task Force" to urge New Jersey to take responsibility for its role in American slavery and its aftermath, and to set forth comprehensive and sweeping policy recommendations aimed to develop profound and reparative financial and other investments in Black communities impacted by New Jersey's history of systemic racial discrimination; and,

WHEREAS, the urgency for the establishment of this task force is compelling. The elder African-American population, some of whom are the grandchildren of formerly enslaved Black people and can bear direct witness to some of the severest forms of racism and oppression, is advancing in age. As too many generations of Black people have already passed without benefit of any remedies for the injustices they endured, it is important that New Jersey make the establishment of this task force an imperative; and,

WHEREAS, it shall be the duty of the "New Jersey Reparations Task Force" to study and develop reparations proposals for Black people in this State. In performing this duty, the commission shall: Identify, compile, and synthesize the relevant corpus of evidentiary documentation of the institution of slavery that existed within the United States and the colonies that became the United States from 1619 through 1865. The task force's documentation and examination shall include the facts related to: (a) the capture and procurement of Africans; (b) the transport of Africans to the United States and the colonies that became the United States for the purpose of enslavement, including their treatment during transport; (c) the sale and acquisition of Africans as chattel property in interstate and intrastate commerce; (d) the treatment of African slaves in the colonies and the United States, including the deprivation of their

freedom, exploitation of their labor, and destruction of their culture, language, religion, and families; I the extensive denial of humanity, sexual abuse, and chattelization of persons; (f) the role of the federal and state governments of the United States in supporting the institution of slavery in constitutional and statutory provisions, including the extent to which the governments prevented, opposed, or restricted efforts of formerly enslaved Africans and their descendants to repatriate to their homeland; (g) the federal and state laws that discriminated against formerly enslaved Africans and their descendants who were deemed United States citizens from 1868 to the present; (h) other forms of systemic racial discrimination in the public and private sectors against enslaved African people and their descendants who were deemed United States citizens from 1868 to the present, including redlining, Jim Crow segregation, restrictive covenants, mass incarceration, voter suppression, educational funding discrepancies, and predatory financial practices; and (i) the lingering negative effects of the institution of slavery and the matters described in this section on living African-Americans and on society in the United States; and,

WHEREAS, this resolution endorses that the task force recommend appropriate ways to educate the New Jersey public of the task force’s findings.

WHEREAS, we recommend appropriate remedies in consideration of the task force’s findings. In making recommendations, the task force shall address among other issues: (1) how the recommendations comport with international standards of remedy for wrongs and injuries caused by the State, that include full reparations and special measures, as understood by various relevant international protocols, laws, and findings; (2) how the State of New Jersey will offer a formal apology on behalf of the people of New Jersey for the perpetration of gross human rights violations and crimes against humanity on African slaves and their descendants; (3) how New Jersey laws and policies that continue to disproportionately and negatively affect African-Americans as a group and how those that perpetuate the lingering effects, both material and psychosocial, can be eliminated; (4) how the injuries resulting from slavery and its aftermath can be reversed and appropriate policies, programs, projects, and recommendations to reverse the injuries; (5) how, in consideration of the task force’s findings, any form of compensation to the descendants of enslaved Africans is calculated; (6) what form of compensation should be awarded, through what instrumentalities, and who should be eligible for such compensation; and (7) how, in consideration of the task force’s findings, any other forms of rehabilitation or restitution to African descendants is warranted and what the form and scope of those measures should take. The “New Jersey Reparations Task Force” shall issue an interim report of its progress to the Governor and the Legislature no later than 12 months following the initial meeting, and shall submit its final report and recommendations to the Governor and the Legislature no later than 24 months following the initial meeting. The interim and the final report shall be submitted to the Legislature in accordance with the provisions of section 2 of 15 P.L.1991, c.164 (C.52:14-19.1). The task force shall expire upon issuance of its final report; and,

WHEREAS, the “Say the Word: Reparations” campaign, powered by the advocacy of thousands of people across New Jersey, and led by the New Jersey Institute for Social Justice and partners, has called on New Jersey to become the second state in history to establish a statewide reparations task force; and,

WHEREAS, in line with the advocacy of the “Say the Word: Reparations” campaign, we call on the Senate President and the Speaker of the Assembly to hold committee hearings during Black History Month (February 2022) on the “New Jersey Reparations Task Force” bill, call on the Legislature to pass the “New Jersey Reparations Task Force” bill as soon as possible thereafter and then call on the Governor to sign the bill into law; and,

NOW THEREFORE, BE IT RESOLVED by the Township Council of the Township of West Orange that this body fully endorses the enactment of the “New Jersey Reparations Task Force” bill; and,

BE IT FURTHER RESOLVED that the Municipal Clerk is hereby directed to forward a certified copy of this resolution to the New Jersey Assembly and the New Jersey Senate, including the Township of West Orange’s local representatives of those bodies.

Karen J. Carnevale
Township Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

RESOLUTION

WHEREAS, the New Jersey Department of Health, Office of Local Public Health (the “OLPH”) advertised for a non-competitive grant funding opportunity for Strengthening Local Public Health Capacity (the “Local Health Grant”); and

WHEREAS, the Local Health Grant offers funding for local health departments to boost their respective public health capacities; and

WHEREAS, the Township of West Orange (the “Township”) is a recipient of the Local Health Grant for 2022/2023; and

WHEREAS, the Township seeks to utilize funds from the Local Health Grant to hire mandatory full-time Local Health Outreach Coordinator (LHOC), full-time Infectious Disease Preparedness Generalist (IDPG) and two part-time LHOC support staff to assure progress report requirements are met and to provide other assistance as appropriate for the period July 1, 2022 through June 30, 2023;

WHEREAS, the Township seeks to enter into another contract with ERHC utilizing funds awarded via the Local Public Health Capacity Program 2023, pursuant to the Professional Services Agreement annexed hereto as Exhibit “A” (the “Agreement”).

NOW, BE IT HEREBY RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, that the Township be and is hereby authorized to retain Essex Regional Health Commission (“ERHC”) to hire and manage a mandatory full-time Local Health Outreach Coordinator (LHOC), full-time Infectious Disease Preparedness Generalist (IDPG) and two part-time LHOC support staff to assure progress report requirements are met

and to provide other assistance as appropriate for the period July 1, 2022 through June 30, 2023;
and be it further

RESOLVED, that the Mayor is hereby authorized to execute the Agreement with ERHC
annexed hereto as Exhibit “A,” and be it further

RESOLVED, that the Township Clerk is authorized to attest to the Mayor's signature;
and be it further

RESOLVED, that this Resolution shall be made available in the Township Clerk’s
Office for reasonable inspection in accordance with applicable law.

Karen J. Carnevale, R.M.C.
Township Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

I hereby certify funds are available from: _____
Account No.

John O. Gross, CFO

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
ESSEX REGIONAL HEALTH COMMISSION
AND
THE WEST ORANGE TOWNSHIP'S HEALTH DEPARTMENT**

This Professional Services Agreement ("Agreement") is made and entered into as of the 1st day of July, 2022 (the "Effective Date"), by and between Essex Regional Health Commission (hereinafter "ERHC" or "PROVIDER") and The Township of West Orange (hereinafter "WEST ORANGE" or "RECIPIENT").

WHEREAS, ERHC and WEST ORANGE are both designated as Local Health in compliance with N.J.A.C. 8:52-3.3 and N.J.A.C. 8:52-4.1 by the New Jersey Department of Health ("NJDOH"); and

WHEREAS, ERHC and WEST ORANGE are recipients of the Strengthening Local Public Health Capacity funds for fund year 2022/2023, and as Grant recipients, each is required to work on mandated grant activities as specified in "Attachment C - Program Specification" of the Grant Application, attach hereto as Exhibit A; and

WHEREAS, WEST ORANGE has requested the assistance of ERHC in addressing mandatory Strengthening Local Public Health Capacity Grant activities along with the hiring and management of mandatory full-time Local Health Outreach Coordinator (LHOC), full-time Infectious Disease Preparedness Generalist (IDPG) and two part-time LHOC support staff to assure progress report requirements are met and to provide other assistance as appropriate.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, ERHC and WEST ORANGE agree as follows:

1. **Scope of Service.** The PROVIDER and RECIPIENT agree to provide the services set forth in Exhibit B, attached hereto and incorporated herein by this reference (the "Services").
2. **Term.** The term of this Agreement shall commence on the Effective Date and shall terminate June 30, 2023 unless this Agreement is otherwise extended or terminated in accordance with the terms specified herein.
3. **Payment.** WEST ORANGE agrees to pay PROVIDER \$235,000 for Services completed in accordance with the terms of this Agreement. The PROVIDER shall provide an invoice detailing the Services provided during that period. The PROVIDER shall be paid quarterly during the term of the Agreement in the amount of \$58,750 with payment being due and payable on or before September 30, 2022, December 31, 2022, March 31, 2023 and June 30, 2023. If this Agreement is renewed pursuant to its terms, then in that event, RECIPIENT will

continue to pay the sum of \$58,750 per quarter, subject to available funding under the Strengthening Local Public Health Capacity Grant and Municipal Council approval.

4. **Termination.** Either PROVIDER or RECIPIENT may terminate the Agreement upon thirty (30) days written notice to the other party to the Agreement.
5. **Indemnification.** ERHC and WEST ORANGE agree to hold each other harmless from any and all obligations, penalties, fees, liabilities, judgments, claims and demands which may arise out of this Agreement and further agrees to save and hold harmless each other and to defend at its own cost and expense any such claim or lawsuit instituted by third parties against the other party. Nothing contained herein shall relieve ERHC or WEST ORANGE from liability for negligence or other wrong doing of its agents, servants and/or employees.
6. **Insurance.**
 - a. **General Requirements.** PROVIDER shall maintain for the duration of the Agreement, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by PROVIDER, its agents, employees, representatives, assigns or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission and shall be in the amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate.
 - b. **Primary Insurance.** PROVIDER's insurance coverage shall be primary insurance with respect to WEST ORANGE, its officers, officials, employees and volunteers shall apply separately to each project or location. Any insurance or self-insurance maintained by the WEST ORANGE, its officers, officials, employees or volunteers shall be excess of PROVIDER's insurance and shall not contribute with it.
 - c. **Additional Insured Status.** The Township of West Orange is to be listed as additional insured for liability arising out of activities performed by or on behalf of PROVIDER.
 - d. **Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, must be supplied to WEST ORANGE. ERHC must notify WEST ORANGE immediately of any material changes to insurance coverage, such as changes in limits, coverages, status of policy, etc. WEST ORANGE reserves the right to require complete copies of insurance policies at all times.
 - e. **Workers Compensation Insurance.** PROVIDER shall procure and maintain during the life of the Agreement workers' compensation insurance in the statutory amounts, pursuant to N.J.S.A. 34:15-1 et seq. (\$500,000 each accident/\$500,000 policy limit).
 - f. **Amounts.** All insurance shall be written for up to the following limits of liability:

Bodily Injury Liability Insurance	\$1,000,000.00 each person \$2,000,000.00 each occurrence
Property Damage Liability	\$1,000,000.00 each person \$1,000,000.00 each occurrence

7. **Renewal/Extension.** The term of the Agreement may be extended for one (1) year unless terminated by either party by written notice thirty (30) days prior to the end of the then current term subject to Municipal Council approval.
8. **Dispute Resolution.** In the event a dispute arises concerning the terms and conditions of the Agreement, ERHC and WEST ORANGE agree:
 - a. A representative designated by PROVIDER and a representative designated by RECIPIENT shall attempt to resolve the dispute, if that is unsuccessful;
 - b. ERHC and WEST ORANGE agree to appoint a retired Superior Court judge to act as mediator of the dispute. ERHC and WEST ORANGE agree that the decision rendered by the mediator shall not be binding on the parties and shall in no way prejudice any rights they may have to pursue all available legal and equitable remedies.
9. **Authorization.** Each party represents and warrants to the other that all actions necessary to enter into and perform all obligations required by the Agreement have been validly taken and that the undersigned are authorized to execute the Agreement.
10. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.
11. **No Assignments.** This Agreement may not be assigned without the written consent of all parties.
12. **Entire Agreement.** This Agreement, including the Exhibits hereto, represents the entire agreement between the parties hereto and supersedes all prior and contemporaneous written or oral agreements and all other communications between the parties relating to the Services to be rendered hereunder. Any additions, deletions or modifications shall not be binding on either party unless accepted and approved in writing by duly authorized representatives of both parties, subject to Municipal Council approval. In the event of any contradictory provisions between this Agreement and the terms of any Exhibits, attachments or other documents issued by ERHC or WEST ORANGE in connection herewith, the terms set forth in the body of this Agreement shall prevail.
13. **Severability.** The provisions of this Agreement shall be deemed severable, and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties, unless to do so would clearly violate the present legal and valid intention of the parties hereto.

14. **Notice.** All notices, consents, request, demands and other communications required or permitted hereunder shall be in writing (which includes facsimile) and shall be deemed given if (i) delivered personally, by overnight mail or by courier service; (ii) when sent by confirmed facsimile; or (iii) if mailed by U.S. registered or certified mail (return receipt requested) to the party at the party's address written below or at such other address as the party may have previously specified by like notice. If by mail, delivery shall be deemed effective three (3) business days after mailing.

If to PROVIDER:

Carrie Nawrocki, Health Officer
Essex Regional Health Commission
204 Hillside Avenue
Livingston, New Jersey 07039
Fax: 973-251-2779

If to RECIPIENT:

The Township of West Orange
66 Main Street
West Orange, NJ 07052

15. **Copy.**

- a. A copy of this signed Agreement shall be submitted to the New Jersey Department of Health, Office of Local Public Health, P.O. Box 360, Trenton, New Jersey 086250360.
- b. Pursuant to the provisions set forth in N.J.S.A. 40A:65-4(b), a copy of this fully executed Agreement shall be filed by the local authorities with the New Jersey Department of Community Affairs, Division of Local Government Services, 101 South Broad Street, P.O. Box 803, Trenton, New Jersey 08625-0803.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Professional Services Agreement has been duly executed by the authorized representatives of the parties hereto as of the date first set forth above.

Dated: _____, 2022

ESSEX REGIONAL HEALTH COMMISSION

By: _____

Name: _____

Title: _____

Dated: _____, 2022

THE TOWNSHIP OF WEST ORANGE

By: _____

Name: _____

Title: _____

Exhibit B**Essex Regional Health Commission and West Orange Shared Service Agreement****For Provider Responsibilities:**

- Hire one full-time Local Health Outreach Coordinator (LHOC)
- Hire one full-time Infectious Disease Preparedness Generalist (IDPG)
- Hire two part-time LHOC support staff
- Oversight and management of the LHOC, IDPG and LHOC support staff to facilitate the recipient's completion of grant deliverables specified in Grant RFA
- Contact information of the full-time LHOC, IDPG and part-time LHOC support staff will be provided to NJDOH.

For Recipient Responsibilities:

- Provide a primary liaison for coordination of operational activities related to implementation of this agreement and generally make relevant West Orange staff available to participate in these activities as needed.
- Provide intra and interdepartmental coordination as required.
- Provide office supplies, copying, AV/technology equipment and logistical support as needed to support training and exercises conducted pursuant to this agreement.
- Provide a suitable work location and incidentals as needed to support the provider's onsite activities.

RESOLUTION

WHEREAS, the following charitable organization(s) have applied for a Raffle License which raffle is to be conducted within the Township of West Orange,

NOW THEREFORE, BE IT RESOLVED by the Township Council of *the Township of West Orange, that the Municipal Clerk is hereby authorized to* issue a license to conduct a raffle by the following organization (s) at the place (s) and time(s) set opposite their respective name(s):

<u>Organization</u>	<u>Type of Event/Date</u>	<u>Place</u>	<u>RL No.</u>
Clara Maass Medical Center Foundation	Off-Premise 50/50 October 17, 2022	25 Prospect Avenue	7777

Karen J. Carnevale, R.M.C.
Municipal Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

RESOLUTION

WHEREAS, the New Jersey Department of Health, Office of Local Public Health (the “OLPH”) advertised for a non-competitive grant funding opportunity for COVID-19 Vaccination Supplemental Funding Program (the “Vaccination Grant”); and

WHEREAS, the Vaccination Grant offers supplemental funding for local health departments including health departments of local governments towards COVID-19 vaccination programs; and

WHEREAS, the Vaccination Grant was initially for \$50,000 to the Township of West Orange (the “Township”) and has now been extended for a second year with an additional \$50,000; and

WHEREAS, the Township submitted an application for the Vaccination Grant and is awaiting final and formal award of the Vaccination Grant; and

WHEREAS, the Township seeks to utilize a portion of the awarded Vaccination Grant funds by retaining Montclair State University’s School of Nursing faculty and students to provide vaccine administration and other support services pursuant to a Professional Services Agreement, annexed hereto as Exhibit “A” (the “Agreement”); and

WHEREAS, the Agreement was for an initial term of one (1) year at \$26,000 and is now extended until June 30, 2023 at an additional \$26,000.

NOW, BE IT HEREBY RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, that the Township be and is hereby authorized to retain Montclair State University to provide vaccine administration and other support services; and be it further

RESOLVED, that the Mayor is hereby authorized to execute the Agreement with Montclair State University annexed hereto as Exhibit “**A**,” and be it further

RESOLVED, that the Township Clerk is authorized to attest to the Mayor's signature; and be it further

RESOLVED, that this Resolution shall be made available in the Township Clerk’s Office for reasonable inspection in accordance with applicable law.

Karen J. Carnevale, R.M.C.
Township Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

I hereby certify funds are available from:

Account No.

John O. Gross, CFO

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is entered into and dated this 14th day of June, 2022 between MONTCLAIR STATE UNIVERSITY hereinafter referred to as "**MSU**") and the Township of West Orange Health Department c/o the TOWNSHIP OF WEST ORANGE (hereinafter referred to as "**Company**")

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants and promises herein contained, the parties agree as follows:

ARTICLE 1: SCOPE OF SERVICES

MSU shall provide Services, as requested by Company, in accordance with the document attached as Schedule A ("Work").

ARTICLE 2: TERM

Work to be performed by MSU shall start on (July 1, 2022) and be completed by (June 30, 2023). This Agreement shall be subject to the Company's award of grant funds through the COVID-19 Vaccination Supplemental Funding Program from the New Jersey Department of Health, Office of Local Public Health.

ARTICLE 3: COST AND PAYMENT OF SERVICES

- 3.1 **Agreement Limit.** Company shall pay MSU for the work in the Scope of Services and Schedule A on a reimbursable basis, with a contract limit not to exceed (Twenty-six Thousand Dollars (\$ 26,000.00)).
- 3.2 **Reimbursement.** Company shall pay MSU based on the billing rates and other associated costs set forth in Schedule A. All invoices for the Work shall detail the individuals performing the Work, the Work performed and the time spent and materials used in connection with the Work. All invoices submitted to the Company shall be sent to the Company at the address set forth above.
- 3.3 MSU shall invoice the Company on a monthly basis. All invoices shall be submitted to the Company at the address specified.
- 3.4 The Company shall make payment in full to MSU within thirty (30) days of the date of each invoice.

- 3.5 In the event Company fails to make timely payment to MSU, interest shall accrue upon unpaid, undisputed amounts at a rate of 1.5% per month. In the event MSU is required to undertake collection efforts to obtain payment of undisputed amounts past due, Company shall reimburse MSU all collection costs and fees, including attorney's fees.

ARTICLE 4: TAXES

MSU shall be responsible for the payment of all applicable taxes with respect to the labor and materials used in connection with the Work, including, without limitation, all unemployment, payroll and social security taxes. MSU is exempt from all New Jersey sales, use and local taxes under N.J.S.A. 54:32B-9A.

ARTICLE 5: OWNERSHIP and USE of DOCUMENTS

- 5.1 Company agrees that any work, discoveries, inventions, or improvements developed by MSU solely or with others, resulting from the performance of this Agreement are the property of MSU, and Company agrees and does hereby assign all rights therein to MSU. Company further agrees to provide MSU with any assistance required to obtain patents or copyright registrations, including the execution of any documents submitted by MSU.
- 5.2 MSU MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE CONDITION OF THE WORK PRODUCT OR SERVICES, WHETHER TANGIBLE OR INTANGIBLE, CONCEIVED, DISCOVERED OR DEVELOPED UNDER THIS AGREEMENT; OR THE NON-INFRINGEMENT, OWNERSHIP, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE RESEARCH OR ANY SUCH INVENTION OR PRODUCT.
- 5.3 MSU makes no warranty on the work product produced pursuant to this subcontract and is provided "as is" and makes no warranty that it does not infringe the intellectual property rights of any third party. Any intellectual property (including copyrightable work, trademarks and patents) generated by MSU in the course of this Agreement shall be the property of the MSU, but subject to a non-exclusive, revocable royalty-free perpetual license to Company to use the intellectual property for its own internal research purposes.
- 5.4 Consistent with its status as a non-profit academic institution of higher education, MSU shall be free to publish or otherwise publicly disseminate the results of the services provided pursuant to this Agreement.
- 5.5 This provision shall survive expiration and termination of this Agreement.

ARTICLE 6: INDEMNITY

- 6.1 Any agreement or arrangement signed or entered into on behalf of Montclair State University and/or the State of New Jersey by a State Official or employee shall be subject to all of the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq., the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq. and the availability of appropriations. The

State of New Jersey does not carry Public Liability Insurance, but the liability of the State and the obligation of the State to be responsible for Tort Claims against its employees is covered under the terms and provisions of the New Jersey Tort Claims Act. The State of New Jersey and Montclair State University assume no obligation to indemnify or save harmless the Company, its agents, servants, employees or subcontractors for any claim which may arise out of its performance of this Contract.

6.2 Company shall assume all risk of and responsibility for, and agrees to defend, indemnify and hold harmless MSU, the New Jersey Educational Facilities Authority and the State of New Jersey, including their trustees, officers, employees, volunteers and agent from and against any and all claims, demands, suits, actions, recoveries, judgments, costs and expenses (including reasonable attorney's fees) in connection therewith on account of the loss of life, property, or injury or damage to the person, body or property, of any person or persons whatsoever, which shall arise from or result directly or indirectly from facilities, materials or services provided by Company to MSU under this contract. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement.

6.3 Company shall secure and maintain in force for the Term, insurance coverage provided herein. All insurance coverage is subject to the approval of the University and shall be issued by an insurance company authorized to do business in the State of New Jersey and which maintains an A.M. Best rating of A- (VII) or better. Company shall provide MSU with current Certificates of Insurance for all coverage and renewals thereof which must contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after thirty (30) days written notice to MSU. All insurance required herein shall contain a waiver of subrogation in favor of MSU. All insurance required herein, except Workers' Compensation, shall name MSU, the State of New Jersey, the New Jersey Educational Facilities Authority as additional insureds. Insurance requirements may be satisfied by Company through demonstration of adequate self-insurance.

Commercial General Liability insurance written on an occurrence form including independent contractor liability, products/completed operations liability, contractual liability, covering but not limited to the liability assumed under the indemnification provisions of this contract. The policy shall not include any endorsement that restricts or reduces coverage as provided by the ISO CG0001 form without the approval of the University. The minimum limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate, two million dollars (\$2,000,000) product/completed operations aggregate. A "per location or project endorsement" shall be included, so that the general aggregate limit applies separately to the location or project that is the subject of this contract.

Worker's Compensation Insurance applicable to the laws of the State of New Jersey and other State or Federal jurisdiction required to protect the employees of the contracting party and any subcontractor who will be engaged in the performance of this contract. The certificate must so indicate that no proprietor, partner, executive officer or member is excluded. This insurance shall include Employers' Liability Protection with a limit of liability not less than one million dollars (\$1,000,000) bodily injury, each occurrence, one million dollars (\$1,000,000) disease, each employee, and one million dollars (\$1,000,000) disease, aggregate limit. Lower primary

limits will be accepted if employer's liability insurance is included under the umbrella insurance and the umbrella limit exceeds the employer's liability limit requirements.

ARTICLE 7: TERMINATION

Either party may terminate the Agreement, with or without cause, upon thirty (30) days prior written notice to the other party. In the event of termination without cause, Company shall pay MSU for the time spent and materials used in connection with the Work through the effective date of the termination, plus reasonable time and expenses necessary to close out or deliver to the Company copies of the Work, or if the Work is billed on a time and material basis, or a pro rata portion of the fee based upon the percentage of the Work performed, if the Work is billed at a flat fee.

ARTICLE 8: INDEPENDENT CONTRACTOR

MSU shall remain an independent contractor in the performance of this Agreement, and all employees assigned by MSU to perform shall remain at all times the employees of MSU for all purposes and shall not be deemed to be employees of the Company.

ARTICLE 9: NOTICES AND CORRESPONDENCE

The Company and MSU designate the following individuals as their representatives for all matters arising under this Agreement. All notices and correspondence related to this Agreement shall be in writing and sent to these representatives at the following addresses by confirmation of delivery, and shall be deemed sent on the date received:

COMPANY

Township of West Orange Health
Department

66 Main Street

West Orange, NJ 07052

MONTCLAIR STATE UNIVERSITY

Vice President for Finance
Montclair State University
1 Normal Avenue
Montclair, NJ 07043
With a copy to University Counsel

ARTICLE 10: CONFIDENTIALITY

The parties shall, in accordance with applicable laws, treat as confidential, and shall not disclose to any third party, any information developed in connection with this Agreement that requires confidentiality under applicable law.

ARTICLE 11: FEDERAL TERMS

MSU shall comply with the additional terms and conditions applicable to federal grant contracts that are set forth in Schedule B and incorporated herein by reference.

ARTICLE 12: MISCELLANEOUS

12.1 This Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of New Jersey, without regard to choice of law principles, by the Superior Court of New Jersey.

12.2 The parties agree not to discriminate in employment and agrees to abide by all anti-discrimination laws including those contained within N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A.10:5-1 et seq. and N.J.S.A.10:5-31 through 10:5-38, and all rules and regulations issued there under. The parties shall also comply with all provisions of the Americans With Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101 et seq. 1.4.

12.3 If any provision of this Agreement is found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall continue in full force and effect.

12.4 Neither party's delay or failure in enforcing any right or remedy afforded hereunder or by law shall prejudice or operate to waive that right or remedy or any other right or remedy which it shall have available; nor shall any such failure or delay operate to waive either party's rights to any remedies due to a future breach of this Agreement, whether of a like or different character.

12.5 This Agreement constitutes the entire agreement between the parties hereto and supersedes any previous agreements or understandings, whether oral or written. Any printed terms and conditions contained in purchase orders, invoices or other documents issued by the Company or MSU shall be of no effect and shall be superseded by this Agreement.

12.6 No modification or waiver of the provisions of this Agreement shall be valid or binding on either party unless in writing and signed by both parties.

12.7 The headings assigned to the articles of this Agreement are for convenience only and shall not limit the scope and applicability of the articles.

12.8 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns; however, no right or interest in this Agreement shall be assigned by either party without the prior written permission of the other party, and no delegation of any obligation owed, nor the performance of any obligation, by either party may be made without the prior written permission of the other party.

12.9 The terms, provisions, representations, warranties and covenants contained in this Agreement that by their sense and context are intended to survive the performance thereof by either party or both parties hereunder shall so survive the completion of performance, expiration or termination of this Agreement.

12.10 Each party agrees to execute such further papers, agreements, documents, instruments and the like as may be necessary or desirable to effect the purpose of this Agreement and to carry out its provisions.

12.11. Montclair State University will not be liable for performance delays or for non-performance due to unforeseen events such as acts of God, war, riot, national or state emergencies, epidemic, labor dispute, fire, casualty, natural disaster, power failure or other circumstances beyond the University's reasonable control ("Force Majeure"). In the event of Force Majeure, the University shall send notice to the other party indicating those obligations, in whole or part, that cannot be performed as a result of Force Majeure, and the expected duration of the inability to perform. If Force Majeure exists for a period of 30 days or longer, the University may elect to reschedule or terminate the Agreement or Purchase Order. If the University elects to reschedule, the sole remedy provided to the other party shall be satisfaction of the obligations on a mutually agreeable date in the future, and a credit of amounts previously paid. In the event the University elects to terminate, the parties shall have no further obligation to each other except for payment obligations pro-rated to the date of termination. The University's obligation to make or refund payments to the other party shall be subject to the availability of annual appropriations by the State of New Jersey sufficient to meet all of the University's annual payment obligations.

12.12. DISCLOSURE OF INVESTMENT ACTIVITIES IN IRAN. As a condition precedent to this contract, MSU shall certify that it has no investment activities in Iran.

12.13. This Agreement may be executed in two (2) or more counterparts, each of which shall for all purposes be deemed an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement is entered into by the parties as of the day and year first written above and is to be executed by the parties' duly authorized representatives.

Township of West Orange Health Montclair State University
Department

Signature

Signature

Print Name

Print Name

Title

Vice President for Finance and Treasurer

Date

Date

SCHEDULE A

Montclair State University, through its School of Nursing faculty and students, will provide vaccine administration and other support services at locations to be identified by the Township of West Orange Health Department on dates and times to be mutually agreed to by the parties.

The West Orange Health Department will pay MSU the sum of \$26,000 per annum to be prorated on a quarterly basis of \$6,500 per quarter and paid within thirty (30) days of receipt of invoice for the term of the contract July 1, 2022 – June 30, 2023.

SCHEDULE B

Consultant will be paid for its professional services by Township of West Orange pursuant to subaward by the State of New Jersey and its federal contract number TBD.

(A) If the payments made to Consultant exceed the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, and Consultant violates or breaches the terms of this Agreement, Consultant shall be subject to sanctions and penalties as appropriate under applicable law.

(B) If the value of this Agreement exceeds \$10,000, this Agreement may be terminated for cause and for convenience, by sending Consultant notice of termination fixing the date of termination. Consultant shall be aid for any undisputed amount that is due and related to Consultant's time spent and materials used in connection with the Work through the effective date of the termination, if the Work is billed on a time and material basis, or a pro rata portion of the fee based upon the percentage of the Work performed, if the Work is billed at a flat fee. There shall be no further obligation to Consultant after the date of termination.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, the contract that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). If applicable, all prime construction contracts in excess of \$2,000 awarded by University entities must comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Consultant must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Consultant must pay wages not less than once a week. A copy of the current prevailing wage determination issued by the Department of Labor will be provided by the University to the Consultant. This Agreement and any subcontract is conditioned upon the acceptance of the wage determination provided by the University. All suspected or reported violations by Consultant shall be reported to the Federal awarding agency. Consultant shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). In accordance with the Act, the parties are prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. All suspected or reported violations by the Consultant shall be reported to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable and if the Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, Consultant shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Consultant shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40

U.S.C. 3704 are applicable to construction work performed by Consultant and Consultant shall not require any laborer or mechanic to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. Consultant shall comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended— If this Agreement exceeds \$150,000, Consultant shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)— Consultant warrants and represents that it is not listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—If this Agreement exceeds \$100,000, Consultant shall file the certification required by 31 U.S.C. 1352. Consultant certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Consultant shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) 2 CFR §200.322 is applicable to procurement of recovered materials.

Pursuant to 2 CFR 200.322, Consultant must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including: 1) Paper and paper products listed in 40 C.F.R. 247.10; 2) Certain vehicular products as listed in 40 CFR 247.11; 3) Certain construction products listed in 40 C.F.R. 247.12; 4) Certain transportation products listed in 40 C.F.R. 247.13; 5) Certain park and recreation products, 40 C.F.R. 247.14; 6) Certain landscaping products listed in 40 C.F.R. 247.15; 7) Certain non-paper office products listed in 40 C.F.R. 247.16; and 8) Other miscellaneous products listed

in 40 C.F.R. 247.17.

- B. As defined in 40 CFR 247.3, "recovered material" means: 1) waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and 2) for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes: a) Postconsumer materials such as: i) Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and b) Manufacturing, forest residues, and other wastes such as: i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; ii) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others; iii) Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues; iv) Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and.v) Fibers recovered from waste water which otherwise would enter the waste stream.
- C. For contracts in an amount greater than \$ 100,000, at the beginning of each contract year, Consultant shall provide estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed in subsection (A). At the conclusion of each contract year, Consultant shall certify the minimum recovered material content actually utilized in the prior contract year.



TOWNSHIP OF WEST ORANGE

25 LAKESIDE AVENUE, WEST ORANGE, N.J. 07052

DEPARTMENT OF PUBLIC WORKS

ROBERT D. PARISI

Mayor

Tel: (973) 325-4160

Fax: (973) 669-9588

Email: Engineering@westorange.org

LEONARD R. LEPORE

Director, Municipal Engineer

June 8, 2022

Mayor and Township Council
Municipal Building
66 Main Street
West Orange, New Jersey 07052

RE: MA-2020 Arverne Road, Crestmont Road (portion) and
Westover Terrace (portion)
CHANGE ORDER NO. 1
CIFELLI AND SON, GENERAL CONTRACTING

Mayor Parisi, Council President McCartney and Council Members,

The contract Street Improvements, MA-2020 Arverne Road, Crestmont Road (portion) and Westover Terrace (portion) Improvement Project with Cifelli and Son General Contracting of Nutley, NJ consists of hot mix asphalt pavement milling and resurfacing, curb replacement, driveway aprons, ADA accessible curb ramps and minor drainage improvements such as storm drain inlet retrofitting with the installation of curb pieces and bicycle safe grates for compliance with NJDEP stormwater management regulations. During the design process there was no indication that the existing sump pump drains were discharging directly and/or in close proximity to the roadway. Therefore, our office did not anticipate the need to include the construction of sump pump lines, underdrains, inlets and excavation associated with these items. In addition, the Asphalt Cement and Fuel Price Index has been escalating at a high percentage in a biweekly and monthly basis since the project was awarded on December 14, 2021.

However, during curb construction operations, it was revealed that a substantial amount of existing sump pump drains and underdrains need to be constructed and connected to our existing storm sewers to prevent future ponding and add to the longevity of the roadways. In our experience when sump pump lines discharge to the street there is usually a visual indicator at the curb line or edge of the roadway. As a result, this work is being considered an unforeseen change order.

The original contract amount was \$873,652.41. I estimated that it will cost an additional \$159,266.83 to account for the required drainage improvements and Asphalt Cement and Fuel Price index using current prices. I recommend an additional \$159,266.83 be authorized as Change Order No. 1 to reflect the supplemental items needed in the contract for drainage improvements as well as the increase associated with the asphalt cement and fuel price index. This Change Order brings the contract amount to \$1,032,919.24.

Attached, please find Change Order No. 1 with Cifelli and Son, General Contracting in the amount of \$159,266.83 along with a Resolution authorizing the same including a list of the supplemental items for drainage improvements and fuel and asphalt price adjustment calculations supporting the request. When the project is completed later this month; there will be a detail account of all as-built quantities.

If you have any questions, please contact me.

Very truly yours,

Leonard R. Lepore

Leonard R. Lepore, Municipal Engineer
Director of Public Works

LRL/zyc

Cc: John Gross
Ken Kayser
Cifelli & Son

SUPPLEMENTAL ITEMS

DATE: June 8, 2022

CONTRACTOR:

CIFELLI & SON GENERAL CONTRACTING, INC.

81 FRANKLIN AVENUE

NUTLEY, NJ 07110

2020 ROAD IMPROVEMENTS PROJECT ARVERNE ROAD, CRESTMONT ROAD AND WESTOVER TERRACE

Date Awarded: 12/14/2021

Contract Amount

\$873,652.41

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	PRICE	AMOUNT
74s	Inlet, Type B, Precast	3	UNIT	\$3,000.00	\$9,000.00
75s	Rock Excavation, Storm Sewer	100%	LS	\$7,128.00	\$7,128.00
76s	4 Inch PVC Schedule 40 Sump Pump Line	264	LF	\$45.00	\$11,880.00
77s	6" Perforated Drainwith Clean Stone, Cleanout Box and Connections 98 Arverne Road to Dead End, 400 LF, 9 Arverne Road to 17 Arverne Road, 15 Arverne Road	1	LS	\$50,666.00	\$50,666.00
78s	Drain w/ Rip Rap 98 Arverne Road	1	LS	\$9,200.00	\$9,200.00
79s	Rock Excavation, Sanitary Sewer	100%	L.S.	\$7,675.00	\$7,675.00
80s	Type B Inlet Reconstruct with Driveway Access Plate	3	UNIT	\$2,565.00	\$7,695.00
81s	3/4" Clean Stone Underneath and Behind Curb	50.11	TONS	\$28.00	\$1,403.08
		SUB-TOTAL AMOUNT		\$104,647.08	



TOWNSHIP OF WEST ORANGE

25 Lakeside Avenue, West Orange, New Jersey 07052

DEPARTMENT OF PUBLIC WORKS

Engineering Division

ROBERT PARISI
MAYOR

LEONARD R. LEPORE
Municipal Engineer
Director of Public Works

Tel: (973) 325-4160

Fax: (973) 669-9588

Email: Engineering@westorange.org

FUEL PRICE ADJUSTMENT CALCULATION FOR **ARVERNE ROAD, CRESTMONT ROAD & WESTOVER TERRACE**

Asphalt Index:

MF = \$ 5.46 – PRICE DURING INSTALLATION (JUNE 2022)

T = 1,742 TON (HMA 12.5M64)– BASED ON CONTRACT AMOUNT

T = 0 TON (HMA 19M64)

T_{total} = 1,742 TON

HMA MILLING, 3" OR LESS = 13,168 SY– BASED ON CONTRACT AMOUNT

BF = \$ 3.30 – BID OPENING IN NOVEMBER 2021, (OCTOBER 2021 PRICE)

HMA SURFACE COURSE= 1,742 TON * 2.5 GAL/TON = 4355 GAL

HMA MILLING, UNCLASSIFIED DEPTH= 13,168 SY * 0.25 GAL/SY= 3292 GAL

7647 GAL

EQUATION USED: $F = (MF - BF) \times G$

WHERE:

F= FUEL PRICE ADJUSTMENT (FPA)

MF= MONTHLY FPA

BF = BASIC FPA

G= GALLONS OF FUEL FOR PRICE ADJUSTMENT

$F = (MF - BF) \times G$

$F = (\$5.46 - \$3.30) \times (7647 \text{ GAL}) = \underline{\$16,517.52}$

AN EQUAL OPPORTUNITY EMPLOYER

www.westorange.org



TOWNSHIP OF WEST ORANGE

25 Lakeside Avenue, West Orange, New Jersey 07052

DEPARTMENT OF PUBLIC WORKS

Engineering Division

ROBERT PARISI
MAYOR

LEONARD R. LEPORE
Municipal Engineer
Director of Public Works

Tel: (973) 325-4160

Fax: (973) 669-9588

Email: Engineering@westorange.org

ASPHALT PRICE ADJUSTMENT CALCULATION FOR ARVERNE ROAD, CRESTMONT RD & WESTOVER TERRACE

Asphalt Index:

MA = \$ 750.00 – PRICE DURING INSTALLATION (JUNE 2022)

T = 1,742 TON (HMA 12.5M64) – BASED ON CONTRACT AMOUNT

T = 0 TON (HMA 19M64)

T_{total} = 2000 TON

BA = \$ 513.00 – BID OPENING IN November 2021, (October 2021 PRICE)

% BINDER = 5.00%

EQUATION USED: $A = (MA - BA) \times T$

WHERE:

A= ASPHALT PRICE ADJUSTMENT (API)

MA= MONTHLY API

BA = BASIC API

T= TONS OF NEW BINDER

$A = (MA - BA) \times T$

$A = (\$750 - \$513) \times (1,742 \text{ TON} \times 5.00\%) = \underline{\underline{\$20,642.70}}$

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[FILENAME:ma 2020 asphalt price adjustment for resolution]

ZYC

06/06/2022-CALCULATIONS

RESOLUTION

WHEREAS, by Resolution No. 315-21 dated December 14, 2021, the Township Council awarded the Contract MA-2020 Arverne Road, Crestmont Road (portion) and Westover Terrace (portion) Improvement project to Cifelli & Son General Contracting, 81 Franklin Avenue, Nutley, NJ 07110 in the amount of \$873,652.41; and

WHEREAS, the work under this contract included street improvements consisting predominantly of asphalt pavement milling and resurfacing, curb replacement, driveway aprons, ADA accessible curb ramps and minor drainage improvements to three (3) Municipal Streets or parts thereof; and

WHEREAS, supplemental items are needed in the contract for drainage improvements; and

WHEREAS, the asphalt cement and fuel price index are escalating at a high percentage since the project was awarded; and

WHEREAS, the Municipal Engineer by letter dated June 8, 2022 recommends additional funding in the amount of \$159,266.83 to complete the work; and

WHEREAS, sufficient funds exist for this additional work; and

WHEREAS, the Township Council concurs in the foregoing.

NOW THEREFORE BE IT RESOLVED by the Township Council of the Township of West Orange that Change Order No. 1 for the project MA-2020 Arverne Road, Crestmont Road (portion) and Westover Terrace (portion) Improvement Project with Cifelli & Son General Contracting, 81 Franklin Avenue, Nutley, NJ 07110 in the amount of \$159,266.83 or a 18.23 percent increase in the original contract amount is hereby approved bringing the adjusted contract amount to \$1,032,919.24.

BE IT FURTHER RESOLVED that the Municipal Engineer is authorized to execute the Change Order on behalf of the Township of West Orange.

Karen J. Carnevale, RMC, Municipal Clerk

Susan McCartney, Council President

Adopted: June 14, 2022

I hereby certify funds are available

**ACCT NO. 03 2610 20 0500 170
2020 Capital Budget
Road Improvements
\$159,266.83**

John Gross, Chief Financial Officer



TOWNSHIP OF WEST ORANGE

25 LAKESIDE AVENUE, WEST ORANGE, N.J. 07052

DEPARTMENT OF PUBLIC WORKS

ROBERT D. PARISI

Mayor

LEONARD R. LEPORE

Director, Municipal Engineer

154-22

Tel: (973) 325-4160

Fax: (973) 669-9588

Email: Engineering@westorange.org

June 8, 2021

CHANGE ORDER NO. 1

PROJECT: MA-2020 Arverne Road, Crestmont Road (portion) and Westover Terrace (portion) Improvement Project

CONTRACTOR: CIFELLI & SON GENERAL CONTRACTING
81 FRANKLIN AVENUE
NUTLEY, NJ 07110

Original Contract Amount \$873,652.41

Change Order No. 1:

Asphalt Price Adjustment \$20,642.70

Fuel Price Adjustment \$16,517.52

Supplemental Items
(Drainage Improvements) \$104,647.08

Additional As-Built Quantities \$17,459.53

Total \$159,266.83

Adjusted Contract Amount \$1,032,919.24
Through Change Order No. 1

Percent Increase in Contract 18.23%

Reason for Change Order and Increase:

Supplemental items for drainage improvements and asphalt and fuel price adjustment due to current asphalt cement and fuel price index.

Approved by

Municipal Engineer

Date

Contractor

Date

Township of West Orange, NJ

Date

This Change Order was approved by Resolution No. 154-22 dated June 14, 2022 of the West Orange Township Council.

R E S O L U T I O N

WHEREAS, the Township of West Orange proposes improvements to Fire House No. 3 at 93 Ridgeway Avenue; and

WHEREAS, the Township requires the services of a Professional Engineering Firm to analyze and conduct a field investigation to determine the site features that will impact or constrain the replacement of the existing timber wall, to prepare a design for a new retaining wall including the preparation of plans and specifications for the project and to provide construction support at Fire Station No. 3 for this project; and

WHEREAS, the Township Engineer requested a Proposal for Engineering Services from Frank H. Lehr Associates for these professional engineering services; and

WHEREAS, Frank H. Lehr of East Orange, NJ responded to the request; and

WHEREAS, Frank H. Lehr of East Orange, New Jersey submitted a proposal dated June 1, 2022 to provide professional services for improvements and upgrades to Fire Station No. 3 on Ridgeway Avenue, for a fee not to exceed \$18,400.00; and

WHEREAS, by letter dated June 8, 2022, the proposal of Frank H. Lehr is acceptable to the Municipal Engineer; and

WHEREAS, sufficient funds exist for this work; and

WHEREAS, the Township Council concurs in the foregoing.

NOW THEREFORE BE IT RESOLVED, by the Township Council of the Township of West Orange that the Township be and hereby authorized to enter into a Professional Services Contract with Frank H. Lehr, 101 South Harrison Street, East Orange, NJ 07018 to provide

professional services for the retaining wall improvements of Fire House No. 3 for a fee of \$18,400.00.

BE IT FURTHER RESOLVED that a copy of this Resolution be published in the West Orange Chronicle within 10 days of approval in accordance with N.J.S.A. 40A:11-5(1)(a)(i).

Karen Carnevale, RMC, Municipal Clerk

Susan McCartney, Council President

Adopted: June 14, 2022

I hereby certify funds are available from:

**ACCOUNT NO. 03 2584 19 0200 110
2019 CAPITAL BUDGET
FIRE HOUSES
\$18,400.00**

John Gross, Chief Financial Officer

**RESOLUTION INTRODUCING THE 2022
LOCAL MUNICIPAL BUDGET**

BE IT RESOLVED, by the Township Council of the Township of West Orange, on this 14th day of June 2022, that the 2022 Local Municipal Budget of the Township of West Orange be and is hereby introduced on first reading and the Township Clerk is directed to read the title thereof in full.

The public hearing for the budget will be **July 19, 2022 at 7 p.m.** at the Town all, Council Chambers, 66 Main St. and/or via Zoom if necessary.

M1 _____ Council member offered the above resolution and moved its adoption

M2 _____ Seconded by Council member and adopted by the following vote.

Council members:

Council President McCartney	_____
Councilwoman Casalino	_____
Councilwoman Matute-Brown	_____
Councilman Rutherford	_____
Councilwoman Williams	_____

Karen J. Carnevale, R.M.C.
President
Municipal Clerk

Susan McCartney, Council

Adopted: June 14, 2022

Township of West Orange Resolution to Read Budget by Title

WHEREAS, N.J.S.A. 40A:4-8 is amended to read as follows:

The budget shall be read, in full, or it may be read by its title, if

1. At least one week prior to the date of the hearing and at the hearing, a complete copy of the approved budget,
 - a. shall be made available for public inspection, and
 - b. shall be made available to each person upon request, and
2. The governing body shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in subsection (1) of this section have been met.

After closing the hearing, the governing body may adopt the budget, by title without amendments, or may approve amendments as provided in N.J.S.40A:4-9 before adoption.

Karen J. Carnevale, R.M.C.
President
Municipal Clerk

Susan McCartney, Council

Adopted: June 14, 2022

RESOLUTION

WHEREAS, gun violence and gun related crime constitutes a grave public concern that affects the public health and safety of people throughout the United States and the State of New Jersey; and

WHEREAS, according to the most recent statistics compiled by the Center for Disease Control and Prevention there were 478 firearm deaths in the State of New Jersey in 2017; 485 firearm deaths in the State of New Jersey in 2016; 475 firearm deaths in the State of New Jersey in 2015; and 468 firearm deaths in the State of New Jersey in 2014; and

WHEREAS, the New Jersey State Assembly passed six (6) bills to strengthen gun control laws in the State of New Jersey (the “Gun Control Legislation”); and

WHEREAS, the Gun Safety Reform Package includes (i) Assembly Bill A993/ Senate Bill 2506 which would strengthen New Jersey’s firearm purchase permit system to include requiring training; (ii) Assembly Bill A2216/Senate Bill 1462 which would help investigate and prevent gun crimes by requiring microstamping technology; (iii) Assembly Bill A1765/Senate Bill 1893 which would allow the Attorney General to bring a cause of action for certain public nuisance violations arising from the sale of marketing of firearms; (iv) Assembly Bill A1302 which regulates the sale of handgun ammunition and develops system for electronic reporting of firearm information; (v) Assembly Bill A509/ Senate Bill 504 which raises the minimum age to purchase rifles and shotguns to 21; (vi) Assembly Bill A2215 which encourages secure storage to safeguard children from rising incidents of firearm suicide; (vii) Assembly Bill S1416 which prohibits the possession of weapons that can fire .50 caliber cartridges; and (viii) Assembly Bill A1179/Senate Bill 1204 which requires all new firearm residents of New Jersey to apply for a Firearms Purchase Identification Card (FPIC); and

WHEREAS, the Gun Safety Reform Package is now before the New Jersey State Senate for consideration; and

WHEREAS, the Township seeks to support the passage and adoption of the Gun Safety Reform Package into law.

NOW THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, that the Township hereby urges New Jersey State Senate to pass and adopt the Gun Safety Reform Package; and be it further

RESOLVED, that the Township also urges Governor Phil Murphy to sign into law the Gun Safety Reform Package as soon as possible; and be it further

RESOLVED, the Township Clerk is directed to send a copy of this Resolution to New Jersey State Senator and former Governor Richard Codey, New Jersey State Assemblywoman Mila Jasey, New Jersey State Assemblyman John F. McKeon, and Governor Phil Murphy; and be it further

RESOLVED, that a copy of this Resolution shall be made available in the Clerk's office in accordance with applicable law.

Karen J. Carnevale, R.M.C.
Township Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

**RESOLUTION APPROVING A 10-YEAR RE-ORGANIZATION PLAN
IN THE 2022 BUDGET**

WHEREAS, the Township of West Orange Administration recommended a 6-year re-organization plan in the 2022 Mayor's Recommended Budget; and

WHEREAS, the West Orange Township Council rejected the proposal; and

WHEREAS, certain members of the Township Council suggested alternatives that might make the re-organization plan acceptable; and

WHEREAS, the Township of West Orange Administration revised the plan to be implemented over a 10-year period instead of 6-years; and

WHEREAS, the 10-year re-organization plan's budgetary impact to the 2022 Budget would be \$43,150.00, 23,308.68 less than the proposed 6-year re-organization plan;

THEREFORE, BE IT RESOLVED that the West Orange Township Council hereby approves the inclusion of the Ten-Year Re-Organization Plan into the 2022 Budget for introduction with an offsetting revenue from fund balance.

Karen J. Carnevale, R.M.C.
Township Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

**RESOLUTION REINSTATING THE MAYOR’S RECOMMENDATION TO FUND THE
POSITION OF EXECUTIVE DIRECTOR HOUSING AUTHORITY/PLANNING &
BUILDING COORDINATOR**

WHEREAS, the Township of West Orange Administration recommended funding the position of Executive Director Housing Authority/Planning & Building Coordinator with the elimination of the funding for the position of Tenant Relations Assistant/HUD Executive Director in the 2022 Mayor’s Recommended Budget; and

WHEREAS, the West Orange Township Council rejected the proposal; and

WHEREAS, the Township of West Orange Administration has requested West Orange Township Council to reconsider the matter which the Administration believes is vital to manage the day-to-day affairs of the affected divisions; and

THEREFORE, BE IT RESOLVED that the West Orange Township Council hereby reinstate the funding for the position of Executive Director Housing Authority/Planning & Building Coordinator and eliminates the funding for the position of Tenant Relations Assistant/HUD Executive Director in the net amount of \$7,233.74 into the 2022 Budget for introduction with an offsetting revenue from fund balance.

Karen J. Carnevale, R.M.C.
Township Clerk

Susan McCartney
Council President

Adopted: June 14, 2022

**CALENDAR YEAR 2022 ORDINANCE TO EXCEED THE MUNICIPAL
BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Council of the Township of West Orange in the County of Essex finds it advisable and necessary to increase its CY 2022 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township of West Orange hereby determines that a 3.5% increase in the budget for said year, amounting to \$715,250 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Township of West Orange hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget, shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Council of the Township of West Orange, in the County of Essex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2022 budget year, the final appropriations of the Township of West Orange shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$2,565,959 and that the CY 2022 municipal budget for the Township of West Orange be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

This ordinance shall take effect after its final passage and publication in accordance with the law.

ROBERT D. PARISI, MAYOR

**SUSAN McCARTNEY
COUNCIL PRESIDENT**

**KAREN J. CARNEVALE, R.M.C.
MUNICIPAL CLERK**

INTRODUCED: June 14, 2022

ADOPTED: July 19, 2022

Introduced: June 14, 2022

Adopted: July 19, 2022

Susan McCartney, Council President

Robert D. Parisi, Mayor

RESOLUTION

WHEREAS, unless otherwise noted herein, the holders of alcoholic beverage licenses from the Township of West Orange set forth on Exhibit A attached hereto and made part hereof, have made applications to this Township of West Orange ABC Board to renew said licenses for the **2022-2023** license term; and

WHEREAS, said licenses have paid all license renewal fees and submitted the appropriate application to renew; and

WHEREAS, a public hearing was held before the Township of West Orange ABC Board on **June 14, 2022** and no one appeared in opposition to any license renewal; and

NOW, THEREFORE, BE IT RESOLVED that the Township of West Orange ABC Board wishes to renew the following alcoholic beverage licenses set forth for the **2022-2023** license term:

0722-31-074-001 W.O. Elks Home Corp.

0722-32-019-007 WL West Orange, LLC t/a Wine Legend

0722-33-002-012 The Pour House, LLC t/a Mama Dags Seafood & Pizza House

0722-33-003-003 Dillon Liquors, Inc.

0722-33-007-001 Crestmont Country Club

0722-33-022-006 Sakura Grill & Buffet, Inc. t/a Kinya Ramen & Sushi Bar

0722-33-025-010 Mondial Consulting t/a Heritage Restaurant & Lounge, LLC

0722-33-040-003 Mayfair Farms, Inc.

0722-33-043-008 Los Tapatios, Inc.

0722-33-044-002 Friendly Sons of the Shillelagh, Inc.

0722-33-052-003 Pleasantdale Chateau & Conference Resort

0722-33-060-009 Wilshire Hospitality Services II, LLC

0722-33-064-008 Julio's II, LLC t/a Julio's Restaurant

0722-36-073-002 Apple Nine Hospitality Mgmt. Inc. t/a Courtyard West Orange

0722-36-075-002 Sun Development & Mgmt. Corp.

0722-44-010-006 S.P. Enterprises, Inc. t/a Don's Wine & Liquor Shoppe

0722-44-018-007 T&T Liquors, Inc. t/a Liquor Lobby

0722-44-046-009 E.G. Holding Corp., Inc. t/a Total Wine and More

KAREN J. CARNEVALE, RMC
ABC Board Secretary

SUSAN McCARTNEY
Council President/ABC Board member

Adopted: June 14, 2022
Effective: June 14, 2022

**TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
WEST ORANGE ABC BOARD**

RESOLUTION

WHEREAS, an Application has been filed by Huguitos Bar and Restaurant LLC, 19 White Street, West Orange, NJ, for renewal of its Plenary Retail Consumption License # 0722-33-024-005, for the period **July 1, 2022 through June 30, 2023**, the Application submitted to the Township Clerk and in compliance with New Jersey State Laws regulating the sale, consumption, and distribution of alcoholic beverages; and

WHEREAS, in May, 2018, following an ABC inspection, numerous ABC violations were observed and recommendations made for certain ABC violation charges to be brought against the Licensee, including, but not limited to, failure to provide a copy of the most recent full application and/or current renewal application, having an incomplete employee list, failure to have true book or books of account available on the licensed premises, failure to produce same within seven business days of demand, employee hindering an investigation, lease out of the License, and non-payment of required taxes, or failure of proof of payment of same, such charges currently pending; and

WHEREAS, in February, 2009, notices of alcoholic beverage control charges, including seven separate allegations of violation of *N.J.A.C. 13:2-23.6*, prohibiting immoral activities, disturbance and nuisance on the premises, and two separate allegations of violation of *N.J.A.C. 13:2-23.1(b)*, prohibiting the sale of alcoholic beverages to intoxicated persons, were brought by the Township of West Orange against Huguitos Bar and Restaurant, LLC, License # 0722-33-024-005, and properly served upon that Licensee; and

WHEREAS, the Township and the Licensee, each represented by counsel, in order to avoid the time and expense of a hearing on the charges, came to a mutually satisfactory agreement to resolve all of the charges; and

WHEREAS, the Township Council of the Township of West Orange, sitting as and constituting the Township's ABC Board, at its regular meeting held on the evening of March 24, 2009, having pursuant to the aforesaid agreement accepted a plea of non-vult to Count III of the ABC charges brought against the Licensee on February 18, 2009, alleging violation of *N.J.A.C. 13:2-23.6*, Prohibition Against Immoral Activities, Disturbance, and Nuisance on Premises, specifically that "The Licensee has violated *N.J.A.C. 13:2-23.6*, in that it has repeatedly and over a period of more than a year, allowed, permitted, or suffered in or upon the licensed premises brawls, acts of violence, disturbances and/or unnecessary noise, requiring many calls to and interventions by the West Orange Police Department, and numerous charges against the licensed premises, including, but not limited to, incidents and charges of such conduct occurring on September 8, 2007, May 7, 2008, May 18, 2008, June 22, 2008, August 17, 2008, August 28, 2008, and November 23, 2008, such that the operation of this licensed premises has been a nuisance."; and

WHEREAS, in exchange for the non-vult plea of the Licensee, the agreement provided for a 10 day suspension of the license, 5 days to be held in abeyance for a period of one year and to be served in the event of a liquor license violation within that one year period of time, 5 days to be served commencing on a Sunday, and the voluntary restrictions in place since September,

2008, are to be continued as follows: Sunday through Wednesday last call at 12:30 a.m., closing at 1:00 a.m., and Thursday, Friday and Saturday last call at 1:00 a.m., and closing by 2:00 a.m., no patrons admitted to the premises after 12:30 a.m., on Sunday through Wednesday, and no patrons admitted to the premises after 1:00 a.m., on Thursday, Friday and Saturday, the additional security to be continued, one officer on Thursday and two on Friday and Saturday, all of those voluntary restrictions to be revisited in connection with the licensee's renewal for the 2009/2010 license year in June, 2009, when the West Orange ABC Board can consider whether or not special conditions should be imposed with renewal of the license; and

WHEREAS, the Licensee, the West Orange Police Department and the municipal ABC Board came to an agreement with respect to Special Conditions to be imposed for the 2009 to 2010 License year; and

WHEREAS, the Licensee requested that the requirement for one security personnel being present on Thursday nights be deleted because there is so little business on Thursday nights and the Police Department reporting that in view of the lack of significant incidents over the past year at the licensed premises and the existing 90-day review period, it had no objection to this requested change which was made at the time of License renewal for the 2010 to 2011 License year; and

WHEREAS, the Licensee was notified by certified mail, return receipt requested, of the ABC Board's intention to continue the same Special Conditions for the 2012 to 2013 License Term, and was provided with an opportunity to object and be heard with respect to the Special Conditions to be imposed, and notified the ABC Board by letter dated June 6, 2012, from counsel for the Licensee, that the Licensee requested the Special Conditions to be amended to include that the Licensee shall have last call Monday through Wednesday at 12:30 a.m., with no patrons to be admitted to the premises after 12:30 a.m., and closing at 1:00 a.m., and shall have last call Thursday through Sunday at 1:00 a.m., with no patrons to be admitted to the premises after 1:00 a.m., and closing at 2:00 a.m., requesting a hearing with respect to said request; and

WHEREAS, the West Orange Police Department had reviewed its records with respect to this Licensee over the 2011 to 2012 license year and agreed that its records supported a modification of the Special Conditions consistent with the request of the Licensee; and

WHEREAS, the ABC Board then approved renewal of the License for the 2012 – 2013 License Term as follows;

- A. The Licensee shall have last call on Monday through Wednesday at 12:30 a.m., no patrons to be admitted to the premises after 12:30 a.m., closing at 1:00 a.m.;
- B. The Licensee shall have last call on Thursday through Sunday at 1:00 a.m., no patrons to be admitted to the premises after 1:00 a.m., and closing at 2:00 a.m.;
- C. The Licensee shall provide at least two security officers on Friday and Saturday evenings until closing on each of those nights;
- D. The Licensee shall provide at least two security video cameras outside the premises, one covering the Ashland Avenue side of the building and the other the White Street side of the building, and at least two security video cameras inside the premises, one covering the entire bar area and the other covering the back room, all security video cameras to be properly maintained, kept in proper working order and the video disks or tapes kept for 30 days before being recycled;

- E. Members of the West Orange Police Department shall periodically monitor the security system in place at the Licensed premises including all security video cameras, personnel and deployment of all of them, and the Licensee shall work with the Police Department to maintain and, as necessary or advisable, improve security in and outside the Licensed premises to address and remedy alcohol consumption related problems;
- F. All of the above Special Conditions shall be subject to review by the Board every ninety (90) days, and in the event there are incidents implicating the purpose of the ABC regulatory scheme to protect the health, safety and welfare of the people of the State of New Jersey, and the fostering of moderate and responsible use and consumption of alcoholic beverages, then, subject to the Licensee's right to be heard at a public hearing, the Board may adjust the Special Conditions without the need to wait for the next license renewal; and

WHEREAS, by letter dated **May 20, 2022**, sent by the Municipal Clerk that day to the Licensee via certified mail, registered return receipt, and to the Licensee's counsel via e-mail advising all of the ABC Board's intention to impose the same Special Conditions upon renewal of the License for the **2022-2023** License Term, modifying the language in Special Condition D., and offering a formal hearing in the event the Licensee had any objection to such Special Conditions; and

WHEREAS, the Licensee has by its inaction consented to the same Special Conditions upon renewal together with the proposed modification of the language in Special Condition D.; and

WHEREAS, the ABC Commissioner for the State of New Jersey has advised that the Special Condition set forth in paragraph F., above, exceeds the Township's lawful discretion; and

WHEREAS, the Township has never actually imposed or modified a Special Condition at times other than expressly permitted by statute; and

WHEREAS, this Licensee currently has seven (7) ABC violation charges pending hearing and resolution as follows:

Violation #1: On May 4, 2018, you failed to provide a copy of the most recent full application and/or current renewal application in violation of N.J.A.C. 13:2-23.13(a)(2); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #2: On May 4, 2018, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #3: On May 4, 2018, you failed to maintain true book or books of account available on the licensed premises but produced same within seven (7) business days of demand in violation of N.J.A.C. 13:2-23.32; Recommended Penalty: 1st Offense= 2-day suspension;

Violation #4: On May 4, 2018, you failed to maintain true book or books of account available on the licensed premises and failed to produce same within seven (7) business days of demand in violation of N.J.A.C. 13:2-23.32; Recommended Penalty: 1st Offense= 30-day suspension;

Violation #5: On May 4, 2018, your employee(s) hindered or attempted to hinder an ABC investigation in violation of N.J.S.A. 33:1-35/N.J.A.C. 13:2-23.30; Recommended Penalty: 1st Offense= 30-day suspension;

Violation #6: On May 4, 2018, you allowed, permitted the lease of the licensed premises in violation of N.J.S.A. 33:1-26; Recommended Penalty: 1st Offense= 45-day suspension; and

Violation #7: On May 4, 2018, you knowingly failed to pay to pay excise taxes or other payment required by law to be paid to the State Tax Commissioner in violation of N.J.S.A. 33:1-31(c); Recommended Penalty: 1st Offense = 15-day suspension;

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE serving as the Township Board of Alcoholic Beverage Control, does hereby approve the renewal of the Plenary Retail Consumption License heretofore issued to the Licensee, Huguitos Bar and Restaurant, LLC, bearing License # 0722-33-024-005, for the **2022-2023** licensing term for the premises at 19 White Street, subject to the following Special Conditions pursuant to *N.J.S.A. 33:1-32*:

- A. The Licensee shall have last call on Monday through Wednesday at 12:30 a.m., no patrons to be admitted to the premises after 12:30 a.m., closing at 1:00 a.m.;
- B. The Licensee shall have last call on Thursday through Sunday at 1:00 a.m., no patrons to be admitted to the premises after 1:00 a.m., and closing at 2:00 a.m.;
- C. The Licensee shall provide at least two security officers on Friday and Saturday evenings until closing on each of those nights;
- D. The Licensee shall provide at least two security video cameras outside the premises, one covering the Ashland Avenue side of the building and the other the White Street side of the building, and at least two security video cameras inside the premises, one covering the entire bar area and the other covering the back room, all security video cameras to be operating during all hours when the Licensed Premises is open for business, to be properly maintained, kept in proper working order and the video disks or tapes kept and made available to the West Orange Police Department upon request for at least thirty (30) days following the date of recording and before being recycled;
- E. Members of the West Orange Police Department shall periodically monitor the security system in place at the Licensed premises including all security video cameras, personnel and deployment of all of them, and the Licensee shall work with the Police Department to maintain and, as necessary or advisable, improve security in and outside the Licensed premises to address and remedy alcohol consumption related problems;

AND BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Director of the Division of Alcoholic Beverage Control of the State of New Jersey and shall be maintained in the Township's permanent Alcoholic Beverage Control records, and that the Director is, and hereby is, respectfully requested to grant his approval to the foregoing Special Conditions as required by statute, and to communicate that approval to the Township of West Orange, which approval shall then also be maintained in the Township's permanent ABC records;

The above Resolution was passed by the Township Council of the Township of West Orange sitting and serving as the West Orange Board of Alcoholic Beverage Control at their regular meeting held on **June 14, 2022**.

Susan McCartney, Council President
and ABC Board Chairman

Karen J. Carnevale, Municipal Clerk
and Secretary to the ABC Board

Adopted: June 14, 2022

**TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
ALCOHOLIC BEVERAGE AND CONTROL BOARD**

RESOLUTION

WHEREAS, the Township Council of the Township of West Orange serves as the Township of West Orange Board of Alcoholic Beverage Control; and

WHEREAS, on May 24, 2016, the Township Council of the Township of West Orange, sitting as the ABC Board for the Township of West Orange, approved the person-to-person transfer of Plenary Retail Consumption License No. 0722-33-035-011, from DJF Realty, Inc., 466 Prospect Avenue, West Orange, NJ, to Club 466 Caterers, LLC, 466 Prospect Avenue, West Orange, NJ 07052, and the License for the new Licensee having been renewed for the July 1, 2016 through June 30, 2017 License Term by West Orange ABC Board Resolution 563-16, on June 14, 2016; and

WHEREAS, an application has been filed by Club 466 Caterers, LLC, 466 Prospect Avenue, West Orange, NJ 07052, for the renewal of its Plenary Retail Consumption License, bearing License #0722-33-035-011, for the period **July 1, 2022 through June 30, 2023**; and

WHEREAS, said Application complies with New Jersey State Laws regulating the sale, consumption, and distribution of alcoholic beverages; and

WHEREAS, there is a long history with respect to the Licensed Premises located at 466 Prospect Avenue and its previous Licensee, DJF Realty, Inc., as set forth below, DJF Realty, Inc., continuing as the Landlord of the Licensed Premises following transfer of its Plenary Retail Consumption License to Club 466 Caterers, LLC; and

WHEREAS, Public Hearings were held by the Township Council in its capacity as the Municipal Board of Alcoholic Beverage Control on January 4, 2005 and January 18, 2005, in which the following Exhibits were marked and admitted into evidence:

- DJF-1 Planning Board Resolution PB-02-11 (October 21, 2002 Meeting, Resolution adopted November 13, 2002;
- DJF-2 First Floor Plan of Premises dated August 4, 2004;
- DJF-3 Fire Department Occupancy for Prior Licensed Premises;
- DJF-4 Second Floor Plan of Premises dated December 20, 2003;
- DJF-5 Foundation Plan dated August 4, 2004;
- DJF-6 Sky Dance Brochure and Etcetera Restaurant/Flirt Nightclub Business Plan Executive Summary;
- DJF-7 Letter dated January 12, 2005, from attorney for applicant listing Special Conditions acceptable to Licensee;
- DJF-8 Marketing flyer/advertisement for proposed June, 2003 opening of Etcetera Restaurant and Flirt Nightclub;
- DJF-9 Revised list of Special Conditions acceptable to Licensee;

DJF-10 Petitions to Insure the Quality of Life at Eagle Ridge Condominiums signed by 93 residents of Eagle Ridge Condominium community; and

WHEREAS, in addition to representatives of the applicant, one owner of a residence adjacent to the applicant's property, Richard S Schkolnick, Esq., an attorney on behalf of the Eagle Ridge Condominium Association, and more than a dozen residents of the adjacent Eagle Ridge Condominium community testified at the Public Hearings regarding their experiences with excessive noise, trespass, litter, and nuisance behavior by patrons of the prior license holder and concern about the likelihood of those problems increasing due to the larger size, capacity and intensification of use of the premises, including expansion of the parking areas to be used by the new licensed premises all adjacent to the Eagle Ridge community, almost a hundred residents of which signed petitions expressing these same concerns, and

WHEREAS, the Board expressed the belief that the noise problems faced by the residents of Eagle Ridge, many of whom retire for the night relatively early since they must leave early in the morning to commute to New York City, would be at least somewhat alleviated by cutting off the sale of alcohol at an earlier than usual hour to promote a more gradual departure of patrons during the hour or so before closing time, and

WHEREAS, the Board expressed concern about the "sky dance" cages or boxes, the advertisements for which show scantily clad women dancing inside them, and the applicant unable or unwilling to fully describe how they would be used other than for "motivational dancing", and their visibility from almost any and all parts of the premises, including the dining areas, and as elected officials and representatives of the conscience of the West Orange community, and wishing to maintain the community's character and moral standards, determined that the use of such entertainment equipment does not fit the character and standards of the community and should not be permitted on the premises, and

WHEREAS, the purpose of the ABC regulatory scheme is to protect the health, safety and welfare of the people of the State of New Jersey, and the fostering of moderate and responsible use and consumption of alcoholic beverages, and the proposed special conditions limiting hours of sale of alcohol and the use of entertainment devices which encourage excessive and irresponsible consumption of alcoholic beverages being logically related to the regulatory scheme and being reasonable efforts to promote the purposes of that scheme, and

WHEREAS the Board, by Resolution adopted following the January 18, 2005 hearing, approved the renewal of the Plenary Retail Consumption License issued to the Licensee bearing License #0722-33-035-008 for the 2004-2005 licensing term and further approved the Place-to-Place Transfer of said license (Expansion of Premises) for premises located at 466 Prospect Avenue, West Orange, New Jersey to place under license the area delineated in the Application Form and sketch of the licensed premises attached thereto or as otherwise approved by the West Orange Planning Board, the renewal and Place-to-Place Transfer subject to the following sixteen Special Conditions pursuant to *N.J.S.A. 33:1-32* (1 through 14 of which were agreed to by the Licensee, 15 and 16 of which, dealing with the sky dance boxes or cages and the hours of operation, respectively, were not agreed to by the Licensee):

1. All parking provided for the licensed premises shall be done by way of valet parking after 5:00 p.m. seven days per week and all valet parking employees shall be required to wear earphones with microphones in order to limit unnecessary shouting in the parking areas;
2. The Licensee shall hire one or more off-duty police officers at prevailing rates to direct traffic entering and exiting the premises in order to ease vehicular congestion on and around the premises. The officer or officers are to be on the site by 9:00 p.m. every Friday and Saturday night until closing, or earlier than 9:00 p.m., or additional nights, or both, as may be needed. The Licensee shall work in conjunction with the West Orange Police Department in determining the needs of the site;
- 3 The Licensee shall refuse motorcycles on the site in order to limit noise on the premises;
4. There shall be no music outside the building, including but not limited to, the outside patio area;
5. The Licensee will not permit teen nights on the premises at any time;
6. The Licensee shall not advertise to the general public that the premises are opened as follows:
 - A. "Eighteen to party, twenty-one to drink" or other language to the same effect;
7. No alcoholic beverages or food shall be sold, served or consumed by patrons in the basement or on the third floor and said areas shall not be open to patrons;
8. Licensee shall not admit persons to the licensed premises who have not parked their vehicle with Licensee's valet service except in the case of persons arriving by taxicab, public transportation, car service or those persons who reside or are employed in homes and buildings on the East Side of Prospect Avenue, i.e., Eagle Ridge Condos, etc;
9. The sale of alcoholic beverages shall be prohibited on the premises until a Certificate of Occupancy is issued for the premises as well as any other license, permit, or Governmental approval required by law.
10. There shall be no outside bar service, including, but not limited to, the patio area.
11. The total number of patrons permitted on the premises which shall include the interior and patio areas shall be limited to 499 persons. This provision shall not restrict the authority of the Planning Board, Fire Department, or any other governmental authority from imposing further or different restrictions pursuant to their lawful authority;
12. The Licensee shall not remove bottles or other kinds of noise-producing refuse from the building after 10:00 p.m.
13. The Licensee shall provide private security personnel to monitor parking areas leased by the licensed premises for additional parking.

14. The Licensee shall install a second set of doors in the main entrance area to limit the amount of sound escaping from the premises.
15. The Licensee shall not be permitted to have “sky dance” cages or boxes, or similar devices, mechanisms, or equipment, on the premises.
16. The hours for sale of alcoholic beverages on the licensed premises are restricted as follows:
 - Sunday - 12:00 p.m. to 11:00 p.m.
 - Monday, Tuesday, Wednesday - 7:00 a.m. to 11:00 p.m.
 - Thursday - 7:00 a.m. to 12:00 a.m.
 - Friday - 7:00 a.m. to 1:00 a.m. Saturday
 - Saturday - 7:00 a.m. to 1:00 a.m. Sunday; and

WHEREAS, the licensee appealed those special conditions, which appeal was transmitted to the Office of Administrative Law where it was assigned docket no. ABCPL 03686-2005N, and was pending a plenary hearing, and

WHEREAS, those special conditions were submitted to the Director of Alcoholic Beverage Control for approval as required by *N.J.S.A. 33:1-32*, and his approval was granted by letter dated June 13, 2005, and

WHEREAS, the West Orange Planning Board, following numerous public hearings on the Licensee’s application for amended site plan approval with variances, having decided on March 11, 2009, and memorializing said decision by adopting a Resolution of Approval on April 1, 2009, setting forth findings of fact and conclusions of law, and approving the application of DJF Realty, Inc., for amended Preliminary and Final Site Plan Approval with variances, all subject to certain conditions set forth in the Resolution, and the Applicant and Owner of the property at 466 Prospect Avenue, West Orange, NJ, having entered into a private Agreement with the Property Owners Association of Eagle Ridge, previously an objector to the application before the Planning Board, resolving their differences subject to certain conditions, and the Licensee having withdrawn its appeal and consenting to its dismissal for each and every one of the appeals filed to that point, and the Township agreeing to withdraw Special Conditions 15 and 16, which had been attached to the license renewals since the 2005 term, the remaining Special Conditions, imposed pursuant to *N.J.S.A. 33:1-32*, numbered 1 through 14, to remain in effect unless and until withdrawn by the West Orange ABC Board, in whole or in part, in conjunction with the next and subsequent annual license renewal periods, and following a hearing as may be required by law, and

WHEREAS, at its regular meeting on October 13, 2009, upon request by counsel for the Licensee, and due to changed circumstances, the West Orange ABC Board agreed to eliminate what had in prior approvals been Special Condition no. 8, regarding the refusal of admission of persons not using valet parking; and

WHEREAS, at the same meeting, the West Orange ABC Board, after hearing requests and argument by the Licensee’s counsel as well as counsel to the ABC Board, made modifications to what had been Special Condition no. 2, in prior approvals, to add the Special

Condition required by the then most recent Special Ruling, and to incorporate all pertinent parts of the Planning Board's Approval Resolution and the Agreement with the Property Owners Association of Eagle Ridge into its Special Conditions as follows:

1. All parking provided for the licensed premises shall be done by way of valet parking after 5:00 p.m. seven days per week and all valet parking employees shall be required to wear earphones with microphones in order to limit unnecessary shouting in the parking areas.
2. Every Thursday, Friday and Saturday night, and any night when the nightclub portion of the facility is open for business, meaning when there is dancing, 4sixty6 shall have not less than two (2) off-duty West Orange police officers present to control traffic and any disturbances at the proposed restaurant and nightclub. The Licensee shall hire such off-duty police officers at prevailing rates to direct traffic entering and exiting the premises in order to ease vehicular congestion on and around the premises. On those nights when the officers are required, they are to be on the site by 9:00 p.m., and to remain until closing. The Licensee shall work in conjunction with the West Orange Police Department in determining the specific needs of the site and, when required by that Department, the officers shall be on site earlier than 9:00 p.m., or on additional nights, or both. In the event that West Orange Police Officers are not available for these purposes, 4sixty6 may hire police officers from other municipalities or Essex County Police or Sheriff's Officers.
3. The Licensee shall refuse motorcycles on the site in order to limit noise on the premises.
4. There shall be no music outside the building, including but not limited to, the outside patio area.
5. The Licensee will not permit teen nights on the premises at any time.
6. The Licensee shall not advertise to the general public that the premises are opened as follows: "Eighteen to party, twenty-one to drink", or other language to the same effect.
7. No alcoholic beverages or food shall be sold, served or consumed by patrons in the basement or on the third floor and said areas shall not be open to patrons.
8. The sale of alcoholic beverages shall be prohibited on the premises until a Certificate of Occupancy is issued for the premises as well as any other license, permit, or governmental approval required by law.
9. There shall be no outside bar service, including, but not limited to, the patio area.
10. The total number of patrons permitted on the premises which shall include the interior and patio areas shall be limited to 499 persons. This provision shall not restrict the authority of the Planning Board, Fire Department, or any other

governmental authority from imposing further or different restrictions pursuant to their lawful authority.

11. The Licensee shall not remove bottles or other kinds of noise-producing refuse from the building after 10:00 p.m.
12. The Licensee shall provide private security personnel to monitor parking areas leased by the licensed premises for additional parking.
13. The Licensee shall install a second set of doors in the main entrance area to limit the amount of sound escaping from the premises.
14. Pursuant to the ABC Director's Special Ruling dated September 29, 2009, pursuant to *N.J.S.A. 33:1-12.39*, since at the time it was the sixth license term for which relief was sought pursuant to *N.J.S.A. 33:1-12.39*, no further renewals of this license shall be granted unless the license is being actively used at an approved site on or before June 30, 2010. The license is being actively used at an approved site and has been so used for some time before June 30, 2010.
15. Consistent with the Agreement entered into between Licensee DJF Realty, Inc., the Applicant before the West Orange Planning Board for development of the site at 466 Prospect Avenue, and the owner of that property, Marjac, LLC, and the Property Owners Association of Eagle Ridge, the paragraphs in that Agreement numbered 4 (Closing Hours) and 7 (Police Presence), are incorporated into the West Orange ABC Board's approval of renewal of the liquor license such that it shall be a Special Condition of Renewal for this and for each and every renewal term to follow, that the restaurant and/or nightclub at 466 Prospect Avenue shall have a last call no later than 1:30 a.m., with a grace period of not more than ten (10) minutes prior to enforcement, which time requirement will not be effective on New Year's Eve or on the night when Daylight Savings Time takes effect in the spring of each year, when the closing hour will be one (1) hour later, which closing time may be extended in the event a State law or a municipal ordinance is adopted extending closing hours for Alcoholic Beverage establishments. Paragraph 7 (Police Presence) of that Agreement has already been incorporated in paragraph 2, above and herein.
16. The Licensee shall comply with all conditions and requirements of the West Orange Planning Board approval as set forth in its Resolution of Approval dated April 1, 2009; and

WHEREAS, the Township discovered a U.S. Third Circuit Court of Appeals decision holding it to be arbitrary and unreasonable for a municipal land use board to require as a condition of approval of a variance that off-duty police officers be hired to direct traffic and monitor compliance with occupancy limits, it not having been shown that the Licensee's own employees were incapable of performing such tasks (See 256 F.3d 107 (3rd Cir. 2001)), and as a matter of policy determined to cease the requirement of using Township Police Officers working side jobs for traffic control and security at or about Alcoholic Beverage Control Licensed premises, and

WHEREAS, the License renewal for the 2011 - 2012 License term incorporated such change in policy, which has been continued thereafter; and

WHEREAS, the new Licensee, Club 466 Caterers, LLC, is an experienced catering operator which has been since the transfer of License, and will be operating the premises, leased from the previous Licensee, not as a bar/restaurant/nightclub, but as a catering venue for weddings and other special occasions, which the new Licensee had and has agreed to operate within the Special Conditions previously in place as they will not adversely affect the New Licensee's catering use; and

WHEREAS, the Licensee was notified by certified mail, return receipt requested, of the ABC Board's intention to continue the same Special Conditions for the **2022-2023** License Term and having offered no objection to same, indicating its continuing consent;

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE serving as the Township Board of Alcoholic Beverage Control does hereby approve the renewal of the Plenary Retail Consumption License heretofore issued to the Licensee, Club 466 Caterers, LLC, bearing License #0722-33-035-011, for the **2022-2023** Licensing term, said renewal being subject to the following Special Conditions pursuant to N.J.S.A. 33:1-32, all of which Special Conditions having been found by the Board to be necessary and proper to accomplish the objects of Title 33 and secure compliance with its provisions, and submitted for approval by the Director of the Division of Alcoholic Beverage Control in accordance with law:

1. All parking provided for the licensed premises shall be done by way of valet parking after 5:00 p.m. seven days per week and all valet parking employees shall be required to wear earphones with microphones in order to limit unnecessary shouting in the parking areas.
2. Every Thursday, Friday and Saturday night, and any night when the nightclub portion of the facility is open for business, meaning when there is dancing, 4sixty6 shall have not less than two (2) security personnel, at least one of whom shall be qualified to direct traffic on the streets and roads of New Jersey, present to control traffic and any disturbances at the proposed restaurant and nightclub. The Licensee shall hire such security personnel at prevailing rates, one to direct traffic entering and exiting the premises in order to ease vehicular congestion on and around the premises, and the other to control any disturbances. On those nights when the security personnel are required, they are to be on the site by 9:00 p.m., and to remain until closing. The Licensee shall work in conjunction with the West Orange Police Department in determining the specific needs of the site and, when required by that Department, the security personnel shall be on site earlier than 9:00 p.m., or on additional nights, or both.
3. The Licensee shall refuse motorcycles on the site in order to limit noise on the premises.

4. There shall be no music outside the building, including but not limited to, the outside patio area.
5. The Licensee will not permit teen nights on the premises at any time.
6. The Licensee shall not advertise to the general public that the premises are opened as follows: "Eighteen to party, twenty-one to drink", or other language to the same effect.
7. No alcoholic beverages or food shall be sold, served or consumed by patrons in the basement or on the third floor and said areas shall not be open to patrons.
8. The sale of alcoholic beverages shall be prohibited on the premises until a Certificate of Occupancy is issued for the premises as well as any other license, permit, or governmental approval required by law.
9. There shall be no outside bar service, including, but not limited to, the patio area.
10. The total number of patrons permitted on the premises which shall include the interior and patio areas shall be limited to 499 persons. This provision shall not restrict the authority of the Planning Board, Fire Department, or any other governmental authority from imposing further or different restrictions pursuant to their lawful authority.
11. The Licensee shall not remove bottles or other kinds of noise-producing refuse from the building after 10:00 p.m.
12. The Licensee shall provide private security personnel to monitor parking areas leased by the licensed premises for additional parking.
13. The Licensee shall install a second set of doors in the main entrance area to limit the amount of sound escaping from the premises.
14. Pursuant to the ABC Director's Special Ruling dated September 29, 2009, pursuant to *N.J.S.A. 33:1-12.39*, since at that time it was the sixth license term for which relief was sought pursuant to *N.J.S.A. 33:1-12.39*, no further renewals of this license were to be granted unless the license is being actively used at an approved site on or before June 30, 2010. The license is and has for some time now been actively used at an approved site.
15. Consistent with the Agreement entered into between Licensee DJF Realty, Inc., the Applicant before the West Orange Planning Board for development of the site at 466 Prospect Avenue, and the owner of that property, Marjac, LLC, and the Property Owners Association of Eagle Ridge, the paragraphs in that Agreement numbered 4 (Closing Hours) and 7 (Police Presence), to the extent not inconsistent herewith, are incorporated into the West Orange ABC Board's approval of renewal of the liquor license such that it shall be a Special Condition of Renewal for this and for each and every renewal term to follow, that the

restaurant and/or nightclub at 466 Prospect Avenue shall have a last call no later than 1:30 a.m., with a grace period of not more than ten (10) minutes prior to enforcement, which time requirement will not be effective on New Year's Eve or on the night when Daylight Savings Time takes effect in the spring of each year, when the closing hour will be one (1) hour later, which closing time may be extended in the event a State law or a municipal ordinance is adopted extending closing hours for Alcoholic Beverage establishments. Paragraph 7 (Police Presence) of that Agreement has already been incorporated in paragraph 2, above and herein, except to make clear that private security personnel rather than Police Officers are acceptable alternatives to perform the required tasks.

16. The Licensee shall comply with all conditions and requirements of the West Orange Planning Board approval as set forth in its Resolution of Approval dated April 1, 2009, to the extent not inconsistent herewith.

AND BE IT FURTHER RESOLVED that a copy of this Resolution shall be provided to the Director of the Division of Alcoholic Beverage Control of the State of New Jersey and shall be maintained in the Township's permanent Alcoholic Beverage Control records.

The above Resolution was passed by Township Council of the Township of West Orange serving as the West Orange Board of Alcoholic Beverage Control at their regular meeting held on **June 14, 2022**.

Susan McCartney, Council President and
ABC Board Chairman

Karen J. Carnevale, Municipal Clerk
and Secretary to the ABC Board

Adopted: June 14, 2022
Effective: June 14, 2022

**TOWNSHIP OF WEST ORANGE, ESSEX COUNTY, NEW JERSEY
ALCOHOLIC BEVERAGE AND CONTROL BOARD**

RESOLUTION

WHEREAS, the Township Council of the Township of West Orange serves as the Township of West Orange Board of Alcoholic Beverage Control; and

WHEREAS, an application has been filed by Las Palmeras, Inc. t/a La Dolce Vita Bar Restaurante (formerly Las Palmeras), 364 Valley Road, West Orange, NJ, for the renewal of its Plenary Retail Consumption License, bearing License #0722-33-045-005, for the License Period **July 1, 2022 through June 30, 2023**; and

WHEREAS, the Licensee's application for renewal complies with the New Jersey State Laws regulating the sale, consumption, and distribution of alcoholic beverages; and

WHEREAS, the Licensee, in or about early June, 2016, resolved with the State of New Jersey at least ten (10) charges filed by the Office of the Attorney General, Department of Law and Public Safety, Division of Alcoholic Beverage Control, alleging that the Licensee had committed various and serious offenses during 2014, and seeking suspension of the license for 209 days, the resolution of which included payment of \$8,600 in lieu of a 72 day suspension, with 45 days held in abeyance for a period of 2 years, and the mitigating factor that the Township had imposed Special Conditions on this Licensee, including, but not limited to, the requirement to install and maintain a video security system, and the Township learning of such disposition shortly after the Licensee's License had been renewed for the 2016-2017 License term; and

WHEREAS, the Special Conditions existing on the Licensee for that License Term were as follows"

1. The Licensee shall hire one off-duty WOPD Officer or private security guard at prevailing rates to provide for exterior security at the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to 1:30 a.m.;
2. The Licensee shall hire a licensed security company to provide security for the interior of the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to 1:30 a.m.;
3. The Licensee shall install and maintain a video surveillance system to cover the interior of the Licensed Premises, including the bar area, the front and back entrances and exits and the front sidewalk area on Valley Road, which surveillance system shall be maintained in good working order and operating during all hours when the Licensed Premises is open for business, and recordings shall be kept and made available to the West Orange Police Department upon request for at least thirty (30) days following the date of recording, and the Licensee shall

cooperate with the West Orange Police Department in the implementation and maintenance of this video surveillance system; and that

4. The Licensee, every day it is open, shall close its doors to new customers at 12:30 a.m., shall cease the sale of alcoholic beverages at 1:00 a.m., and all customers shall be off the premise by 1:30 a.m.; and

WHEREAS, new ABC charges were brought by the Township against this Licensee in February, 2017, as follows: On or about November 27, 2016, at or about 11:20 p.m., in the Township of West Orange, County of Essex and State of New Jersey, at and about the Licensed premises of the Licensee located at 364 Valley Road, West Orange, New Jersey, the Licensee did conduct the premises so as to allow, permit or suffer in, upon and about that premises, an act of violence and disturbance, specifically a patron shoving and throwing a bottle at another patron, who was highly intoxicated, and causing a laceration above the victim's left eye, in violation *N.J.A.C. 13:2-23.6(a)2*, and the Licensee has violated *N.J.A.C. 13:2-23.6(b)*, in that it has repeatedly and over a period of at least the past three years allowed, permitted, or suffered in or upon the licensed premises assaults, acts of violence and/or disturbances, including, but not limited to seventeen incidents requiring police intervention in or about the year 2014, adversely affecting public safety or the rights of the public, to which a non-vult plea was entered and disposition made on June 1, 2016, by the State of New Jersey, Department of Law and Public Safety, Division of Alcoholic Beverage Control, Trans. No. R42991, as well as fifteen incidents of affrays, two incidents of aggravated assault, an incident of strong arm robbery, urinating in public, disorderly conduct, and ten noise complaints, all occurring in 2015, as well as twenty-one incidents of affrays, four incidents of simple assault, an aggravated assault, assault with a weapon, fighting, strong arm robbery, disorderly conduct, theft and noise complaints in 2016, all contrary to the public health, safety and welfare, requiring many calls to and interventions by the West Orange Police Department, such that the operation of this licensed premises has become, and its operation is, a nuisance, the Licensee unable to maintain control of its patrons and its licensed and surrounding premises; and

WHEREAS, counsel for the Licensee had advised that the Licensee employed a new Co-Manager in February, 2017, and had voluntarily self-imposed certain time constraints on its operation since that time, which were greater constraints than those currently existing Special Conditions, in an effort to eliminate the incidents which have given rise to the pending and earlier ABC charges and Special Conditions during the past several years; and

WHEREAS, the West Orange Township ABC Board and the Licensee agreed with respect to said pending charges to proceed as follows:

The Township ABC Board shall adjourn the hearing on the pending ABC charges for a period of 90 days, from the currently scheduled June 27, 2017, to the second regular Council Meeting in September, or first such meeting in October, 2017, and shall then determine based upon the Licensee's operation in the interim whether there is a need to go forward with prosecution of those charges, or to forego them in view of the Licensee's improved and acceptable operation during 2017; and

The Licensee agrees to continue its to date self-imposed modifications to the previously imposed Special Condition no. 4, closing its doors to new customers at 12:00 a.m., rather than 12:30 a.m., ceasing the sale of alcoholic beverages at 12:15 a.m., rather than at 1:00 a.m., and having all customers off the premises by 1:00 a.m., instead of at 1:30 a.m., all of those limitations applicable every day the Licensee is open; and

The Licensee understands and acknowledges that Special Conditions 1 and 2, previously imposed and to continue for the 2017-2018 License Term, contemplate that any security company and security guard, or officer, shall be licensed and registered pursuant to the “Security Officer Registration Act” (“SORA”), *N.J.Stat. §45:19A-1, et seq.*, the terms “security guard” and “security officer” meaning the same thing, and, if not already in full compliance with “SORA”, full compliance shall be achieved within sixty (60) days of enactment of this Resolution; and

WHEREAS, twenty-two new charges were brought against this Licensee and hearings held on those charges on July 10, 2018 and August 21, 2018, twelve of those charges having been sustained as evidenced in ABC Board Resolution 598-18, dated August 21, 2018, as follows:

- Violation of N.J.A.C. 13:2-23.6(a) 2 - Prohibition Against Any Brawl, Act of Violence, Disturbance, or Unnecessary Noise on Premises relating to an incident occurring on or about October 9, 2017;
- Violation of N.J.A.C. 13:2-23.6(a) 2 - Prohibition Against Any Brawl, Act of Violence, Disturbance, or Unnecessary Noise on Premises relating to an incident occurring on or about January 13, 2018;
- Violation of N.J.A.C. 13:2-23.6(b) - Prohibition Against Operation of Liquor License Business in a Manner Which Fails to Avoid Acts of Violence and Disturbances so as to Constitute a Nuisance Contrary to the Public Health, Safety and Welfare, relating to numerous incidents occurring over the last three years;
- Violation of N.J.A.C. 13:2-23.13, Requirement to Maintain copies of current license certificate; application; list of employees on the licensed premises, resulting from an ABC inspection occurring on October 13, 2017, during which an incomplete E141a Form was produced by the Licensee;
- Violation of N.J.S.A. 33:1-31(h), for violation of any ordinance, resolution or regulation of the issuing authority, the Licensee at the time of the October 9, 2017, assault incident not in compliance with one of its Special Conditions of operation in that its video surveillance system was not operating properly and not properly maintained to ensure such proper operation, not recording the incident occurring on that date, a violation of the Special Condition;
- Violation of N.J.S.A. 33:1-25 and 1-26, for circumvention of the application and licensing process and effectively sharing profits with unlisted and unlicensed owners, specifically, with women hired to entertain customers, in and about October, 2017;
- Violation of N.J.A.C. 13:2-23.13(a)(2), requiring Class C Licensees to have a photostatic

or other true copy of the current license application as well as the last filed long-form application (if the current application is short form), kept on the Licensed premises in order to conduct the licensed business, at the time of an ABC investigation on October 13, 2017;

- Violation of N.J.A.C. 13:2-23.32 (e), requiring that for an unlimited period of time licensees must keep permanent records of account truly and accurately containing a record of all moneys invested in the licensed business, etc., such documents able to be stored off the licensed premises but produced within 7 days of a request by the Director, the issuing authority or agents or representatives thereof, occurring during an ABC inspection on October 13, 2017;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority or governing body, on January 8, 2018, the Licensee remaining open after the closing time required by its Special Conditions;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority or governing body on January 13, 2018, the Licensee remaining open after the closing time required by its Special Conditions;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority, on or about July 9, 2017, the Licensee remaining open after the closing time required by its Special Conditions;
 - Violation of N.J.S.A. 33:1-31(h), Suspension or revocation of license for any violation of any ordinance, resolution or regulation of the issuing authority on or about July 24, 2017, the Licensee remaining open after the closing time required by its Special Conditions;
- and the penalties imposed having been consolidated, including a thirty-day suspension of the License with fifteen days held in abeyance; and

WHEREAS, new incidents have occurred since resolution of those charges and for which written charges were prepared as well as some additional charges being in the process of preparation and prosecution of all of them, as set forth in an attachment hereto titled "Exhibit A", anticipated in the near future; and

WHEREAS, the purpose of the ABC regulatory scheme is to protect the health, safety and welfare of the people of the State of New Jersey, and the fostering of moderate and responsible use and consumption of alcoholic beverages, and the proposed special conditions being logically related to the regulatory scheme and being reasonable efforts to promote the purposes of that scheme;

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF WEST ORANGE, serving as the Township's Board of Alcoholic Beverage Control, does hereby approve the renewal of the Plenary Retail Consumption License heretofore issued to the Licensee bearing License #0722-33-045-005, for the 2020 - 2021 Licensing term, said renewal being subject to the following Special Conditions pursuant to N.J.S.A. 33:1-32, all of which Special Conditions having been found by the Board to be necessary and proper to accomplish the objects of Title 33 and secure compliance with its

provisions, and submitted promptly for approval by the Director of the Division of Alcoholic Beverage Control in accordance with law:

1. The Licensee shall hire one off-duty WOPD Officer or private security guard at prevailing rates to provide for exterior security at the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to 1:30 a.m.;
2. The Licensee shall hire a licensed security company to provide security for the interior of the Licensed Premises on Friday, Saturday and Sunday nights from 9:30 p.m., to closing at 1:00 a.m.;
3. The Licensee shall install and maintain a video surveillance system to cover the interior of the Licensed Premises, including the bar area, the front and back entrances and exits and the front sidewalk area on Valley Road, which surveillance system shall be maintained in good working order and operating during all hours when the Licensed Premises is open for business, and recordings shall be kept and made available to the West Orange Police Department upon request for at least thirty (30) days following the date of recording, and the Licensee shall cooperate with the West Orange Police Department in the implementation and maintenance of this video surveillance system; and that
4. The Licensee, every day it is open, shall close its doors to new customers at 12:00 a.m., shall cease the sale of alcoholic beverages at 12:15 a.m., and all customers shall be off the premises by 1:00 a.m.; and

AND BE IT FURTHER RESOLVED, that a copy of this Resolution shall be provided to the Director of the Division of Alcoholic Beverage Control of the State of New Jersey for the Director's approval before implementation and for that Division's records, and shall be maintained in the Township's permanent Alcoholic Beverage Control records.

The above Resolution was passed by the Township Council of the Township of West Orange serving as the West Orange Board of Alcoholic Beverage Control at the Board's regular meeting held on **June 14, 2022**.

**Susan McCartney, Council President/
ABC Board Chairman**

**Karen J. Carnevale, Municipal Clerk/
Secretary to the ABC Board**

**Adopted: June 14, 2022
Effective: June 14, 2022**

EXHIBIT "A"

Las Palmeras, Inc. t/a La Dolce Vita Bar Restaurante (formerly Las Palmeras)

Las Palmeras currently has eight (8) matters, with a total of sixty-two (62) violations, pending resolution. Additionally, there are five (5) matters, with a total of eleven (11) charges, under consideration. They are listed below. However, it should be noticed that the charges listed in Notice #4 were committed on November 18, 2018, and not on February 7, 2019, as stated in the notice. An Amended Notice of Charges will be served upon the licensee reflecting same.

NOTICE #1

Violation #1: On April 22, 2018, you allowed, permitted or suffered on or about the licensed premises, a brawl, act or violence and/or disturbance in violation of N.J.A.C. 13:2-23.6(a)(2); Recommended Penalty: 1st Offense= 30-day suspension;

Violation #2: On April 22, 2018, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension; and

Violation #3: On April 22, 2018, you refused to make available the video surveillance footage of the licensed premises to the West Orange Police Department upon request as set forth in the Township of West Orange's Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 1st Offense= 10-day suspension.

NOTICE #2

Violation #1: On July 15, 2018, you failed to conspicuously display on the licensed premises in such plain view as to be easily read by all persons visiting such premises, the current license certificate in violation of N.J.A.C. 13:2-23.13(a)(1); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #2: On July 15, 2018, you failed to provide a copy of the most recent full application and/or current renewal application in violation of N.J.A.C. 13:2-23.13(a)(2); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #3: On July 15, 2018, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #4: On July 15, 2018, you allowed, permitted or suffered on or about the licensed premises, a brawl, act or violence and/or disturbance in violation of N.J.A.C. 13:2-23.6(a)(2); Recommended Penalty: 1st Offense= 30-day suspension;

Violation #5: On July 15, 2018, you allowed, permitted or suffered in or upon the licensed premises a nuisance requiring police intervention, or adversely effecting public safety or rights of the public in violation of N.J.A.C. 13:2-23.6(b); Recommended Penalty: 1st Offense= 30-day suspension;

Violation #6: On July 15, 2018, you allowed, permitted the lease of the licensed premises in violation of N.J.S.A. 33:1-26; Recommended Penalty: 1st Offense= 45-day suspension;

Violation #7: On July 15, 2018, your employee(s) hindered or attempted to hinder an ABC

investigation in violation of N.J.S.A. 33:1-35/N.J.A.C. 13:2-23.30 in violation of N.J.A.C. 13:2-23.20; Recommended Penalty: 1st Offense= 30-day suspension;

Violation #8: On July 15, 2018, you hindered or attempted to hinder an ABC investigation in violation of N.J.S.A. 33:1-35/N.J.A.C. 13:2-23.30; Recommended Penalty: 1st Offense= 45-day suspension;

Violation #9: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, directly or indirectly, to an actually or apparently intoxicated person (Person observed on camera 8 actually or apparently intoxicated then later consuming beer) in violation of N.J.A.C. 13:2-23.1(b); Recommended Penalty: 1st Offense= 15-day suspension;

Violation #10: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, directly or indirectly, to an actually or apparently intoxicated person (Person observed wearing a blue shirt passing out on table who is actually or apparently intoxicated then later consumes beer on patio) in violation of N.J.A.C. 13:2-23.1(b); Recommended Penalty: 1st Offense= 15-day suspension;

Violation #11: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, directly or indirectly, to an actually or apparently intoxicated person (Person observed wearing a red shirt passing out on table who is actually or apparently intoxicated then later consumes beer on patio) in violation of N.J.A.C. 13:2-23.1(b); Recommended Penalty: 1st Offense = 15-day suspension;

Violation #12: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Male in black shirt and shorts consuming beer from bar on back patio) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #13: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Owner brining bucket of beer outside for patrons to consume) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #14: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Male in white shirt brining beer outside and consuming same) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #15: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Male with beard and hat brining beer outside and consuming same) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #16: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Female employee brining more beer to patrons outside) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #17: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Male in white plaid shirt outside on patio with beer) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #18: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Female in white dress outside on patio with beer) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #19: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Male in black polo shirt with white stripes outside on patio with beer) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #20: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Male in white polo shirt outside on patio with beer) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension; and

Violation #21: On July 15, 2018, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Male in yellow shirt outside on patio with beer) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension.

NOTICE #3

Violation #1: On August 21, 2018, you allowed, permitted or suffered on or about the licensed premises, a brawl, act or violence and/or disturbance in violation of N.J.A.C. 13:2-23.6(a)(2); Recommended Penalty: 1st Offense= 30-day suspension; and

Violation #2: On August 21, 2018, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension.

NOTICE #4

Violation #1: On February 7, 2019, you allowed, permitted or suffered on or about the licensed premises, a brawl, act or violence and/or disturbance in violation of N.J.A.C. 13:2-23.6(a)(2); Recommended Penalty: 1st Offense= 30-day suspension;

Violation #2: On February 7, 2019, you allowed, permitted or suffered you licensed place of business to be conducted in such a manner as to become a nuisance requiring police intervention or adversely affecting public safety or rights of the public in violation of N.J.A.C. 13:2-23.6(b); Recommended Penalty: 1st Offense= 30-day suspension;

Violation #3: On February 7, 2019, you allowed, permitted the lease of the licensed premises in violation of N.J.S.A. 33:1-26; Recommended Penalty: 1st Offense= 45-day suspension;

Violation #4: On February 7, 2019, you allowed, permitted or suffered person(s) on the licensed premises to solicit any beverage, alcoholic or otherwise, at the expense of or as a gift from any customer or patron in violation of N.J.A.C. 13:2-23.18. Please be advised that this violation will be multiplied by each female observed asking or having patrons buy them drinks whereby such females and the bar profited from same. Recommended Penalty: 1st Offense= 10-day suspension;

Violation #5: On February 7, 2019, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages beyond the scope of your license, i.e. in an area which was not designated or described in the license application as a place to be licensed for said sale, service or delivery (Female walking out of bar with beer) in violation of N.J.S.A. 33:1-12; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #6: On February 7, 2019, you failed to comply with the special condition of ceasing the sale of alcoholic beverages at 1:00 a.m. as set forth in the Township of West Orange's Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #7: On February 7, 2019, you failed to comply with the special condition of having all patrons off the premises before 1:30 a.m. as set forth in the Township of West Orange's Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #8: On February 7, 2019, you allowed, permitted or suffered the sale and/or use of hookahs and/or tobacco pipes on the licensed premises contrary to Section 12-10 of the Township of West Orange Municipal Code in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #9: On February 7, 2019, you allowed, permitted or suffered on the licensed premises, illegal activity to be carried on, i.e. sale of single cigarettes less than packs of 20 in violation of N.J.S.A. 54:40A-4.2a/N.J.A.C. 13:2-23.5(c); Recommended Penalty: 1st Offense = 30-day suspension; and

Violation #10: On February 7, 2019, you allowed, permitted or suffered on the licensed premises lewdness and/or immoral activity in violation of N.J.A.C. 13:2-23.6(a)(1); Recommended Penalty: 1st Offense= 30-day suspension.

NOTICE #5

Violation #1: On May 8, 2019, you failed to conspicuously display on the licensed premises in such plain view as to be easily read by all persons visiting such premises, the current license certificate in violation of N.J.A.C. 13:2-23.13(a)(1); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #2: On May 8, 2019, you failed to provide a copy of the most recent full application and/or current renewal application in violation of N.J.A.C. 13:2-23.13(a)(2); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #3: On May 8, 2019, you failed to maintain true book or books of account available on the licensed premises and failed to produce same within seven (7) business days of demand in violation of N.J.A.C. 13:2-23.32; Recommended Penalty: 1st Offense= 30-day suspension;

Violation #4: On May 8, 2019, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #5: On May 8, 2019, you failed to maintain invoices available at the licensed premises

and failed to produce same within seven (7) business days of demand in violation of N.J.A.C. 13:2-20.4(b)/ N.J.A.C. 13:2-23.32; Recommended Penalty: 1st Offense= 30-day suspension; and **Violation #6:** On May 8, 2019, you failed to post the Fetal Alcohol Syndrome Warning Notice in a service area as well as on a wall, towel dispenser or other appropriate location in any public rest room for women patrons on the licensed premises in violation of N.J.S.A. 33:1-12a; Recommended Penalty: 1st Offense= 1-day suspension.

NOTICE #6

Violation #1: On July 17, 2019, you failed to provide a copy of the most recent full application and/or current renewal application in violation of N.J.A.C. 13:2-23.13(a)(2); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #2: On July 17, 2019, you failed to maintain true book or books of account available on the licensed premises and failed to produce same within seven (7) business days of demand in violation of N.J.A.C. 13:2-23.32; Recommended Penalty: 1st Offense= 30-day suspension;

Violation #3: On July 17, 2019, you failed to maintain invoices available at the licensed premises and failed to produce same within seven (7) business days of demand in violation of N.J.A.C. 13:2-20.4(b)/ N.J.A.C. 13:2-23.32; Recommended Penalty: 1st Offense= 30-day suspension;

Violation #4: On July 17, 2019, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #5: On July 16, 2019 and July 17, 2019, you violated the special condition that you shall hire one Off-Duty WOPD Officer or private security guard to provide security for the exterior of the Licensed Premises and a Licensed Security Company to provide security for the interior of the Licensed Premises from 9 p.m. until 1:30 a.m. on Fridays, Saturdays, and Sundays with any Security Company, Security Guard, or Officer being licensed under the "Security Officer Registration Act" ("SORA") as set forth in the Township of West Orange's Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #6: On July 16, 2019, you failed to comply with the special condition of having all patrons off the premises before 1 :30 a.m. as set forth in the Township of West Orange's Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 1st Offense= 10-day suspension;

Violation #7: On July 17, 2019, you allowed or permitted the raffling of sealed containers of alcoholic beverages without a permit in violation of N.J.A.C. 13:2-23.7; Recommended Penalty: 1st Offense= 5-day suspension;

Violation #8: On July 17, 2019, you provided free or complementary drinks in violation of N.J.A.C. 13:2-24.8; Recommended Penalty: 1st Offense= 15-day suspension;

Violation #9: On July 16, 2019, you allowed, permitted or suffered on or about the licensed premises, a brawl, act or violence and/or disturbance in violation of N.J.A.C. 13:2-23.6(a)(2); Recommended Penalty: 1st Offense= 30-day suspension;

Violation #10: On July 17, 2019, you knowingly failed to pay to pay excise taxes or other payment required by law to be paid to the State Tax Commissioner in violation of N.J.S.A. 33:1-31(c); Recommended Penalty: 1st Offense= 15-day suspension; and

Violation #11: On July 17, 2019, you allowed, permitted or suffered on the licensed premises,

illegal activity to be carried on, i.e. sale of single cigarettes less than packs of 20 in violation of N.J.S.A. 54:40A-4.2a/N.J.A.C. 13:2-23.5(c); Recommended Penalty: 1st Offense= 30-day suspension.

NOTICE #7

Violation #1: On October 7, 2019, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #2: On October 7, 2019, you allowed, permitted or suffered in or upon the licensed premises a nuisance requiring police intervention, or adversely effecting public safety or rights of the public in violation of N.J.A.C. 13:2-23.6(b); Recommended Penalty: 2nd Offense= 60-day suspension;

Violation #3: On October 7, 2019, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, directly or indirectly, to an actually or apparently intoxicated person in violation of N.J.A.C. 13:2-23.1(b); Recommended Penalty: 1st Offense= 15-day suspension;

Violation #4: On October 7, 2019, you sold, served, delivered, or suffered the sale, service, delivery or consumption of alcoholic beverages, directly or indirectly, to an actually or apparently intoxicated person; Recommended Penalty: 1st Offense= 15-day suspension;

Violation #5: On October 7, 2019, you violated the special condition that you shall hire one Off-Duty WOPD Officer or private security guard to provide security for the exterior of the Licensed Premises and a Licensed Security Company to provide security for the interior of the Licensed Premises from 9 p.m. until 1:30 a.m. on Fridays, Saturdays, and Sundays with any Security Company, Security Guard, or Officer being licensed under the “Security Officer Registration Act” (“SORA”) as set forth in the Township of West Orange’s Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 1st Offense= 10-day suspension; and

Violation #6: On October 7, 2019, you failed to comply with the special condition of having all patrons off the premises before 1:30 a.m. as set forth in the Township of West Orange’s Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 5th Offense= 50-day suspension.

NOTICE #8

Violation #1: On December 9, 2019, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension;

Violation #2: On December 9, 2019, you failed to maintain a complete employee list in violation of N.J.A.C. 13:2-23.13(a)(3); Recommended Penalty: 1st Offense= 1-day suspension; and

Violation #3: On October 7, 2019, you failed to comply with the special condition of having all patrons off the premises before 1:30 a.m. as set forth in the Township of West Orange’s Alcoholic Beverage and Control Board Resolution No.: 598-18 in violation of N.J.S.A. 33:1-31h; Recommended Penalty: 6th Offense= 60-day suspension.

CHARGES RECEIVED BUT NOT SERVED

PROPOSED NOTICE #1

Violation #1: On October 7, 2019, you allowed, permitted or suffered on or about the licensed premises, a brawl, act or violence and/or disturbance in violation of N.J.A.C. 13:2-23.6(a)(2).

PROPOSED NOTICE #2

Violation #1: On October 13, 2019, you allowed, permitted or suffered on or about the licensed premises, a brawl, act or violence and/or disturbance in violation of N.J.A.C. 13:2-23.6(a)(2).

PROPOSED NOTICE #3

Violation #1: On January 7, 2021, you failed to comply with Governor Murphy's Executive Orders specifically but not limited to 183, 194, and 196 in violation of N.J.S.A. 33:1-31(h);

Violation #2: On January 7, 2021, you failed to comply with the special condition of stopping exterior dining service by 12:30 A.M. and all patrons off premises by 1:00 A.M. as set forth in the Licensee's COVID-19 Expansion of Premises Permit, Permit Number 82020 in violation of N.J.S.A. 33:1-31h, 7th Offense, 70-day suspension; and

Violation #3: On January 7, 2021, you sold alcoholic beverages to an intoxicated patron in violation of N.J.A.C. 13:2-23.1(b); 3rd Offense, 90-day suspension.

PROPOSED NOTICE #4

Violation #1: On January 9, 2021, you failed to comply with Governor Murphy's Executive Orders specifically but not limited to 183, 194, and 196 in violation of N.J.S.A. 33:1-31(h);

Violation #2: On January 9, 2021, you failed to comply with the special condition of stopping exterior dining service by 12:30 A.M. and all patrons off premises by 1:00 A.M. as set forth in the Licensee's COVID-19 Expansion of Premises Permit, Permit Number 82020 in violation of N.J.S.A. 33:1-31h; and

Violation #3: On January 9, 2021, you allowed, permitted or suffered in or upon the licensed premises a nuisance requiring police intervention, or adversely effecting public safety or rights of the public in violation of N.J.A.C. 13:2-23.6(b).

PROPOSED NOTICE #5

Violation #1: On February 24, 2021, you failed to comply with Governor Murphy's Executive Orders specifically but not limited to 183, 194, and 196 in violation of N.J.S.A. 33:1-31(h);

Violation #2: On February 24, 2021, you failed to comply with Governor Murphy's Temporary Order 11-5- View of Premises in violation of N.J.S.A. 33:1-31(h); and

Violation #3: On February 24, 2021, you allowed, permitted or suffered in or upon the licensed premises a nuisance requiring police intervention, or adversely effecting public safety or rights of the public in violation of N.J.A.C. 13:2-23.6(b).

RESOLUTION

WHEREAS, Panorama, LLC, is the holder of Plenary Retail Consumption License No. 0722-33-037-008; and

WHEREAS, Panorama, LLC. t/a Chit Chat Diner has made application for a place-to-place transfer and expansion of premises at their location, 410 Eagle Rock Avenue, West Orange; and

WHEREAS, the principal has been investigated by the Township Police Department with no impediments to an interest in an alcoholic beverage license; and

WHEREAS, due notice of the proposed transfer was published in the West Orange Chronicle on May 22, 2022 and June 2, 2022 and appropriate fees have been paid by the applicant; and

WHEREAS, a public hearing was conducted on June 14, 2022 and no one appeared in opposition thereto; and

NOW THEREFORE BE IT RESOLVED that the Township Council of the Township of West Orange hereby authorizes the place-to-place transfer and expansion of premises of Plenary Retail Distribution License No. 0722-33-037-008, Panorama, LLC. t/a Chit Chat Diner, 410 Eagle Rock Avenue, West Orange, and is hereby approved.

Karen J. Carnevale, R.M.C.
ABC Board Secretary/Municipal Clerk

Susan McCartney, ABC Board Chairperson
Council President

Adopted: June 14, 2022
Effective: June 14, 2022