



Professional Services Agreement

THIS AGREEMENT is entered into this ____ day of April, 2026, by and between the Borough of Pennington (Borough) at 30 North Main St, Pennington, New Jersey 08534, United States and COLLIERS ENGINEERING & DESIGN, INC. ("Consultant") of 101 Crawfords Corner Road, Ste. 3400, Holmdel, NJ 07733.

WITNESSETH:

WHEREAS, by Borough Council Resolution 4.17 adopted on April 6, 2026, Consultant's Brandon Fetzer, PE, CME, has been appointed Borough Engineer for the Borough of Pennington

~~WHEREAS the Borough desires to engage Consultant to provide Professional services pursuant to N.J.S.A 40A:11-5 for the position of Borough Engineer in connection with Mr. Fetzer's service to the Borough (Mr. Fetzer and Consultant being hereafter referred to collectively as "Consultant")~~

WHEREAS this Consultant desires to undertake to render such services; and

~~WHEREAS, the Borough authorizes by Resolution, Colliers Engineering & Design, Inc. for the position of Borough Engineer; and~~

~~WHEREAS Consultant accepts such position; and~~

~~WHEREAS Borough Council the Governing Body of the Borough of Pennington has authorized by Resolution adopted at a regularly scheduled meeting on June 1, 2026 authorized the Borough to enter into this written agreement at a regularly scheduled meeting of the Governing Body on _____, 2026.;~~

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. The Borough agrees to engage this Consultant and the Consultant agrees to perform the professional services during 2026 in accordance with scopes of services for specific projects outlined in project specific scopes of work.
2. The Consultant shall perform all services to be performed hereunder with the ordinary skill and care of other reputable consultants performing similar services in the same time and location (the "Standard of Care") ~~or, in the event Consultant is unable to be present, by a Consultant competent in the field and duly licensed to practice in the State of New Jersey.~~
3. The Consultant shall prepare a proposed project list and scope of work for specific projects to be approved by Borough Council. There is no guarantee by the Borough that all of these projects will be undertaken in any given year. The undertaking of any particular project must be separately authorized by Borough Council before Consultant's work begins. and be paid a fee for the professional services. All services will be compensated at the Consultant's most current hourly rates or by a negotiated fee. A copy of the 2026 Rate Schedule is attached hereto and known as Exhibit A and made a part of this Agreement. In addition, the cost of contracted services, including suppliers or sub-professionals, plus direct charges including disbursements at cost and miscellaneous internal charges shall be billed in accordance with the Rate Schedule in Exhibit A. Capital projects aside, the cost of Consultant's services, including but not limited to the cost of Brandon Fetzer's services as Borough Engineer, shall not exceed \$45,000 from the Current Fund and \$40,000 from the Water/Sewer Operating Funds unless specifically approved in advance by Borough Council.

Vouchers or invoices may be rendered monthly for services performed. Such billings shall be due ~~when rendered~~ upon approval by Borough Council.

Direct charges may include disbursements which are actual expenses incurred by the Consultant and/or associated firm in connection with specific projects, and include, but are not limited to:

- a. Payment of permit fees, application fees, review fees and similar charges.
- b. Computer expenses including time and proprietary program charges.
- c. Outside printing, reproduction, binding, collating and other graphic services.
- d. Messenger service, postage and handling of drawings and specifications, reports, contracts, and other bulky items.

If the Borough fails to make any payment due to the Consultant for services or expenses within sixty (60) days after receipt of a properly rendered statement, the amounts due the Consultant shall include a charge at the rate of 1-1/2 percent per month from said sixtieth day.

4. The Consultant shall secure and maintain Workersmen's Compensation Insurance as required by Law and Liability Insurance as required to protect the Borough, the Consultant and/or Consultant's associated firm and their employees and agents from claims for employer liability, bodily injury, death or property damage which may arise from the performance of Consultant's services pursuant to this proposal. The limits of said Liability Insurance shall not be less than \$1,000,000 with \$1,000,000 excess liability coverage. Automotive liability coverage shall not be less than \$1,000,000 combined single limit and \$1,000,000 excess liability coverage. ~~If requested, the~~ Consultant shall provide Certificates of Insurance to the Borough. Such certificates shall provide that the Borough shall receive (10) days written notice prior to any cancellation or material alteration of the policy limits.

The Consultant shall provide and maintain Professional Liability (Errors and Omissions) Insurance to protect the Consultant and/or Consultant's associated firm for claims which arise from the negligent performance of the Consultant pursuant to this Proposal. Unless higher limits are requested, the limits of said insurance shall be at least \$1,000,000 per claim/aggregate.

5. To the fullest extent permitted by law, Borough and Consultant shall indemnify, defend and hold harmless each other ~~Consultant and their respective~~ agents, officers, directors and employees, subcontracts or consultants (~~herein for the remainder of this section collectively referred to as Consultant~~ from and against all claims, damages, losses and expenses, whether direct, indirect or consequential ~~or punitive~~, including but not limited to fees and charges of attorneys and court and arbitration costs, to the extent arising out of or resulting from that party's negligence or willful misconduct or the negligence or willful misconduct of its agents, officers, directors and employees, subcontractors or consultants, in connection with the work that is the subject of this agreement ~~the services of Consultant or any claims against Consultant arising from the acts, omissions or work of others, unless it is proven in a court of competent jurisdiction that Consultant is guilty of negligence, gross negligence, or willful misconduct in connection with the services and such negligence, gross negligence, or willful misconduct was the sole cause of the damages, claims, and liabilities.~~

~~Borough agrees to defend, indemnify and hold harmless Consultant from and against all claims, damages, losses and expenses, direct or indirect, and consequential damages, including but not limited to fees and charges of attorneys and court, and arbitration costs, brought by any person or entity, or claims against Consultant which arise out of, are related to, or are based upon, the actual or threatened dispersal, discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemical, radioactive materials, liquids, gases, or any other material, upon it or into the surface or subsurface soil, water or watercourse, objects, or any tangible or intangible matter.~~

~~To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence breach of warranty or contract, or strict liability of Consultant. This indemnification shall not apply to claims, damages, losses, or expenses which are determined by a court of competent jurisdiction to be the sole result of negligence or willful misconduct by Consultant of obligations under this Agreement.~~

6. The services called for in the Agreement shall be provided commencing on April 1, 2026. Either the Borough or Consultant can terminate this Agreement within thirty (30) days of written notice served upon the Municipal Clerk, the Borough Attorney and Consultant of the firm of Colliers Engineering & Design, Inc. Any portion or clause of this Agreement that is deemed unenforceable shall be severed from this agreement with the surviving portion remaining in full force and effect.

7. The Consultant agrees all plans, specifications, reports, and other documents ordered by the Borough and submitted to the Borough shall remain the property of the Borough for use by the Borough in current or future programs. Unless the

Borough directs otherwise, the **Consultant** shall provide one (1) reproducible record set of all project drawings and signed and sealed prints to the **Borough**. All work and direct charges shall be billed as herein provided. At the completion of work or in the event of termination, all work sheets and internal office communications of the **Consultant**, including drawings, sketches, calculations, field notes and memoranda are and shall remain the property of the **Consultant**, as instruments of **Consultant's** service. The **Borough**, at its expense, may obtain reproducible record prints of any sketches or drawings and copies of any and all documents. The **Consultant** will provide the **Borough**, or its representatives, access to **Consultant's** files during normal working hours for the purpose of determining the extent of necessary duplication.

8. All documents including drawings and specifications prepared by the **Consultant** pursuant to this Agreement are instruments of service with respect of the project. They are not intended or represented to be suitable for reuse by **Borough** or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by **Consultant** for the specific purpose intended will be at **Borough's** sole risk, with no liability or legal exposure to **Consultant**; and **Borough** shall indemnify and hold harmless **Consultant** from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting therefrom. Any such verification or adaptation will entitle **Consultant** to further compensation at rates to be agreed upon by **Borough** and **Consultant**. The [Municipality Type] grants the **Consultant** a perpetual, irrevocable, royalty free, non-transferable, nonexclusive license to use the documents, specifications, reports, or other material without restriction.

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

Consultant where applicable, will in all solicitations or advertisements for employees placed by or on behalf of it state that all qualified applicants will receive consideration for employment without regard to their age, race, creed, color, national origin, ancestry, marital status, or sex.

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

Consultant, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

Consultant agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1075, c. 127, as amended and supplemented from time to time.

Consultant agrees to inform in writing all recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, or sex, and that it will discontinue the use of any recruitment agency which engages in direct discriminatory practices.

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

Consultant agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, or sex, and conforms with



the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, Federal law and applicable Federal court decisions.

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Consultant shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the Office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

Consultant shall comply with the requirements of the annexed Schedule A.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and year first above written.

[Signatures to follow]



Borough of Pennington

COLLIERS ENGINEERING & DESIGN, INC.

EXHIBIT A



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2026 Rate Schedule