

CONTRACT FOR CONSULTING SERVICES

This Agreement made this day of , 2014, by and between:

THE BOROUGH OF MANTOLOKING, a body politic and corporate of the State of New Jersey in the County of Ocean, having its principal offices at 202 Downer Avenue, Mantoloking, New Jersey 08738, hereinafter designated as "Contracting Unit", and

THE RODGERS GROUP, LLC, a limited liability company of the State of New Jersey, having a principal place of business at PO Box 831, Island Heights, New Jersey 08732, hereinafter referred to as "Consultant".

WHEREAS, the Contracting Unit requires specialized consultation services relative to the management of the Mantoloking Police Department and the processes associated with Borough's selection of its future Police Chief ; and

WHEREAS, the Contracting Unit desires that the Consultant undertake said Specialized Consulting services; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Contracting Unit and the Consultant hereby agree as follows:

1. SCOPE OF EMPLOYMENT.

- a. The Consultant shall perform the work requested by the Contracting Unit relative to its request for assistance in reviewing the policies and business practices of its Police Department and consultation with the Public Safety Committee relevant to the selection of the agency's next Police Chief and management of the Department, generally.
- b.. The contact at the Consultant for the Contracting Unit shall be: Frank E. Rodgers, the President of the Consulting Company.
- c, The Public Safety Committee shall be the contact (representatives) of the Mayor and Council during the consulting services agreement.
- d. The Consultant shall assist the Committee in the development of the selection process and its implementation.
- e. Consultant shall provide such progress reports as may be requested by the Committee or the Mayor and Council.

1.1 Supplemental Services:

- (1) Upon request, the Consultant will review the Borough's Police Ordinance, Rules and Regulations and policies and will provide recommendations concerning suggested revisions.

(2) Upon request, the Consultant will provide its written recommendations concerning policy and practice in the management and administration of the Police Department.

(3) Upon request, the Consultant will provide a qualified police management consultant to evaluate current relevant police management and advise the Mayor and Council, Appropriate Authority, concerning recommended corrective action, to be implemented by the Appropriate Authority.

(4) The detailed scope and cost estimate for such supplemental services shall be the subject of a "not to exceed" proposal.

1.2 **Indemnification:** The Contracting Unit will indemnify, defend and hold harmless the Consultant from all claims, causes of action, demands, losses, judgments, including legal fees and costs, arising from or based upon Consultant's performance under this Contract.

2. **TERM:**

a. The Consultant is hereby retained by the Contracting Unit for a period of twelve months beginning July 23, 2014 through July 23, 2015.

b. The Contracting Unit may terminate this Agreement for any reason (without cause) on ten (10) days written notice.

c. The Consultant may terminate this agreement for cause with ten (10) days written notice. For purposes of this contract, the term for "cause" shall mean the failure of the Contracting Unit to comply with its obligations here under, after written notice and an opportunity to cure.

3. **PAYMENT.**

a. For the services set forth in Section 1 above, the consideration shall be in the amount of \$ 150.00 per hour in addition to reimbursement of customary expenses incurred.

4. **MISCELLANEOUS**

a. This is a non-exclusive Agreement between the Contracting Unit and the Consultant. The Contracting Unit, as it deems fit, and pursuant to applicable law, may enter into contracts with other professional consultants to provide consulting services to the Contracting Unit.

b. The Consultant is an independent contractor and as such it is not entitled to participate or receive benefits from any plans afforded by the Contracting Unit, including but not limited to health and disability. This contract is not intended to create an agency relationship between the Consultant and the Contracting Unit.

- c. The Consultant hereby specifically agrees to copy the Contracting Unit on any and all correspondence, records, reports and documents related to any and all work performed by the Consultant while acting on behalf of the Contracting Unit. The Contracting Unit hereby agrees to copy the Consultant on all correspondence, reports and other documents produced by the Contracting Unit that should be included in the Consultant's files.
- d. The Consultant hereby specifically agrees to turn over to the Contracting Unit all files, records and other documents or matters whatsoever developed or accumulated while in the employ of the Contracting Unit and pertaining to any and all work performed by it while acting on behalf of the Contracting Unit when its employment with the Contracting Unit is terminated. The Consultant may copy the said files at its expense.
- e. In the event the Consultant shall be unable to fulfill its duties as required hereunder because of illness, or any other valid reason, it may not designate another Consultant to serve temporarily or for any specific purpose hereunder.
- f. Upon termination of this contract or any extension or renewal thereof, the Consultant shall turn over to the Contracting Unit all records which the Consultant developed and/or accumulated while employed by the Contracting Unit and while working on This matter. The Consultant may, at his, her or its own expense, retain copies of the aforesaid records.
- g. The Contracting Unit agrees that it will regularly make available to the Consultant the necessary subject matter experts and executive level staff to ensure that the work being done by the Consultant for the Contracting Unit reflects the business requirements of the Mantoloking Police Department.

5. AFFIRMATIVE ACTION

- a. 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 action 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.
- b. 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.

- c. The 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.
- d. 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. 1975, c. 127, as amended and supplemented from time to time.
- e. Consultant where applicable, 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 or indirect discriminatory practices.
- f. 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:
- g. 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, and applicable Federal law and applicable Federal court decisions.
- h. 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).

6. EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITIES.

- a. The Consultant and the Contracting Unit do hereby agree that the provisions of Title II of the Americans with Disabilities Act of 1990 (the "Act") (42 U.S.C.

s1210I et seq.), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant thereto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the Contracting Unit pursuant to this contract, the Consultant agrees that the performance shall be in strict compliance with the Act. In the event that the Consultant, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the Consultant shall defend the Contracting Unit in any action or administrative proceeding commenced pursuant to this Act. The Consultant shall indemnify, protect, and save harmless the Contracting Unit, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of or claimed to arise out of the alleged violation.

- b. The Contracting Unit shall, as soon as practicable after a claim has been made against it, give written notice thereof to the Consultant along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the Contracting Unit or any of its agents, servants, and employees, the Contracting Unit shall expeditiously forward or have forwarded to the Consultant every demand, complaint, notice, summons, pleading, or other process received by the Contracting Unit or its representatives.
- c. It is expressly agreed and understood that any approval by the Contracting Unit of the services provided by the Consultant pursuant to this contract will not relieve the Consultant of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the Contracting Unit pursuant to this paragraph.

7. **ACCEPTANCE OF EMPLOYMENT**

The Consultant hereby accepts the contract and agrees to utilize its best efforts in a timely fashion to provide the services requested. Consultant further represents that it has the education, training and experience to render the services requested in a quality manner.

8. **NEW JERSEY BUSINESS REGISTRATION**

Pursuant to the requirements of P.L. 2004, C. 57, the Consultant agrees to provide a copy of its New Jersey Business Registration Certificate, or documentation indicating Professional Consultant's compliance with the New Jersey Business Registration Act, to the Contracting Unit prior to requesting payment of any fees.

N.J.S.A. 52:32-44 imposes the following requirements on the Consultant and all subcontractors that knowingly provide goods or perform services for the Consultant in fulfilling this Agreement:

- a. The Consultant shall provide written notice to its subcontractors to submit proof of business registration to the Professional Consultant;
- b. Prior to receipt of final payment from the Contracting Unit, the Consultant must submit to the Contracting Unit an accurate list of all subcontractors or attest that none was used;

9. CONFIDENTIALITY

- a. The Consultant represents and acknowledges that all information, strategies, positions, etc., which it gains knowledge of by virtue of this employment is confidential in nature and will not be disseminated to any third party.
- b. The Contracting Unit represents and acknowledges that all information, strategies, positions, policies, etc., which it gains knowledge of by virtue of the work performed by the Consultant is the intellectual property of the Contracting Unit and the Consultant and will not be disseminated to any third party, which pursuant to N.J.S.A. 47:1A1.1, if disclosed, would give an advantage to competitors, other than to comply with the rules of the court or for other legal purpose related to the official business of the Contracting Unit.

10. LEGAL REPRESENTATIONS

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

11. WAIVER

A waiver by any party of a breach or default by the other party of any provision of this Agreement shall not be deemed a waiver of future compliance therewith, and such provisions shall remain in full force and effect.

12. CAPTIONS

All heading preceding the text of the several sections and paragraphs hereof are inserted solely for the convenience and referenced of the parties and shall not constitute a part of this Agreement, nor shall they affect their meaning or interpretation thereof.

13. NO THIRD PARTY BENEFICIARY

This Agreement is not intended to confer any benefits to any third party.

14. CONTRACTOR REPRESENTATIONS AND RESPONSIBILITIES

Consultant further represents and warrants:

- a. That it is financially solvent and that it is experienced in and competent to perform the type of work and to furnish the materials, supplies and equipment to be performed or furnished by it;
- b. That it is familiar with all Federal, State, County and municipal laws, ordinances and regulations which may in any way affect the work or those employed therein;
- c. That the work required hereunder and in the Specifications to be done by it can be safely done and used for the purposes for which it is intended, and that such work will not injure any person or damage any property.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, or caused these presents to be signed by their proper corporate officers and their corporate seal to be hereto affixed this ____ day of _____, 2014.

ATTEST/WITNESS

BOROUGH OF MANTOLOKING

By: _____
Borough of Mantoloking

ATTEST/WITNESS

THE RODGERS GROUP, LLC

By: _____
Frank E. Rodgers, President

APPENDIX A
AMERICANS WITH DISABILITIES ACT OF 1990
Equal Opportunity for Individuals with Disability

The contractor and the Borough of Mantoloking, (hereafter "owner") do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (*42 U.S.C. S121 01 et seq.*), which prohibits discrimination on the basis of disability by public entities in all services, programs, and activities provided or made available by public entities, and the rules and regulations promulgated pursuant there unto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the owner pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event that the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the owner in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the owner, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages, of whatever kind or nature arising out of or claimed to arise out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the owner's grievance procedure, the contractor agrees to abide by any decision of the owner which is rendered pursuant to said grievance procedure. If any action or administrative proceeding results in an award of damages against the owner, or if the owner incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure, the contractor shall satisfy and discharge the same at its own expense.

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

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

It is further agreed and understood that the owner assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the owner from taking any other actions available to it under any other provisions of the Agreement or otherwise at law.

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127) N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

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

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

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

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

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

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

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

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

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO 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 Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**