

RESOLUTION NO. 75 of 2014

WHEREAS, the Board of Commissioners of the City of Margate has determined it has a need for an attorney to handle issues brought forward on behalf of Marketplace Realty regarding Beach Shack advertising; and

WHEREAS, Michael Barker, Esquire , 210 New Road, Linwood Greene, Suite 12, Linwood, NJ 08221 has demonstrated that he has the necessary experience and qualifications to perform same; and

WHEREAS, this contract is awarded without competitive bidding because it is a Professional Services Contract and is as an exception to the Local Public Contracts Law *N.J.S.A. 40:11A-5 (1) (a) (i)*.

NOW, THEREFORE BE IT RESOLVED by the Commissioners of the City of Margate City, County of Atlantic and State of New Jersey as follows:

1. The Mayor is hereby authorized to execute and the City Clerk to attest to a contract in an amount not to exceed \$10,000.00 between the City of Margate and Michael Barker, Esquire, 210 New Road, Linwood Greene, Suite 12, Linwood, NJ 08221 for the performance of the above noted matter.
2. This contract is awarded without competitive bidding because it is a Professional Services Contract and is as an exception to the Local Public Contracts Law *N.J.S.A. 40:11A-5 (1) (a) (i)*.
3. The contract shall not exceed twelve consecutive months in accordance with *N.J.S.A. 40A:11-5*.

DATE: March 20, 2014

I, Thomas D. Hiltner, Clerk of Margate City, Atlantic County, do hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Commissioners of the City of Margate City at a meeting of said Commission held on 3/20/14 and said resolution was adopted by not less than a two-thirds vote of the members of the Commission.

Thomas D. Hiltner, City Clerk

ATTORNEY CLIENT FEE AGREEMENT

THIS AGREEMENT dated the day of , 2014,
is made between the Client/s, The City of Margate,
(hereinafter sometimes referred to as “you” or “client/s”) and
Barker, Gelfand & James, A Professional Corporation,
whose address is **210 New Road, Suite 12, Linwood**
Greene, Linwood, New Jersey 08221, referred to as the
“Law Firm” of “Firm”.

1. Legal Services to be Provided. You agree that the
Law Firm will represent you in **connection with The City of**
Margate Advertising, in accord with Resolution No. 75.

The extent that associate lawyers or legal assistant
personnel time is utilized is to be determined by the Law
Firm attorney primarily responsible for the file. Since the
paralegal’s billable rate is substantially less than that of any
attorney, we have found that utilization of such services will
result in cost savings for the client. The primary goal of the
Firm is to complete the information gathering and case

preparation as quickly as possible so that the case is ready for settlement negotiations or trial. This may require the combined effort of a number of Firm personnel.

Other Legal Services. You and the Law Firm may make additional agreements to provide for legal services not covered by this Agreement.

(3) **Legal Fees and Rates.** The Law Firm cannot predict or guarantee what your final bill will be. This will depend on the time spent on your case and the amount of other expenses.

<u>Attorney</u>	<u>Rate</u>
Attorney	\$175.00/hr
Investigator	\$ 95.00/hr
Paralegal	\$ 85.00/hr

(4) **All Services Will Be Billed.** You will be billed at the hourly rates set forth for all services rendered. This includes telephone calls, dictating and reviewing letters, travel time to and from all meetings, legal research, negotiations and any other services relating to this matter. All services will be billed at a minimum of .10.

5. **Costs and Expenses.** In addition to legal fees, you must pay the following costs and expenses: expert fees; court costs; accountants fees; appraisers fees; service fees; investigator fees; transcript costs; messenger service; photocopying charges; telephone toll calls; postage; facsimile charges and other necessary expenses in this matter.

The Law firm may require that expert(s) be retained directly by you. You would then be solely responsible to pay the expert(s).

6. **Bills.** The Law Firm will send you itemized bills from time to time and unless arrangements are specifically made between the Firm and you to the contrary, those bills will be sent on a monthly basis. The Law Firm may require that costs and expenses be paid in advance. The Law Firm has specifically reserved the right to withdraw as counsel in this matter in the event an outstanding bill remains unsatisfied for a period in excess of thirty (30) days.

7. **Insurance.** CONTRACTOR shall not commence work until it has obtained the insurance required under this

section. All coverage shall be with insurance carriers and admitted to do business in New Jersey and acceptable to the City of Margate. In addition CONTRACTOR shall be solely responsible for all deductibles and/or "Self Insured Retentions".

COMMERCIAL AND GENERAL LIABILITY INSURANCE.

During the life of this contract the CONTRACTOR shall procure and maintain Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than \$1,000,000.00 per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following: Contractor Liability; Products and Completed Operations; Independent Contractor's Coverage; Broad Form General Liability Extensions or equivalent; Deletion of all Explosion, Collapse, and Underground (XCU) Exclusions; er contract aggregate.

PROFESSIONAL LIABILITY INSURANCE

During the life of this contract the CONTRACTOR shall procure and maintain Professional Liability Insurance and/or Errors and Omissions Insurance and/or Malpractice Insurance with limits of liability not less than \$1,000,000.00 per wrongful act \$2,000,000.00 aggregate combined single limit.

MOTOR VEHICLE LIABILITY INSURANCE

During the life of this contract the CONTRACTOR shall procure and maintain motor Vehicle Liability Insurance, including applicable No-Fault coverage, with limits of liability not less than \$500,000.00 per accident combined single limit Bodily Injury and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.

WORKERS COMPENSATION

During the life of this contract CONTRACTOR shall procure and maintain Worker's Compensation Insurance, including Employer's Liability Coverage in accordance with the statutes of the State of New Jersey.

ADDITIONAL INSURED

The following shall be Additional Insureds: The City of Margate, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers.

This coverage shall be primary to the Additional Insureds, and shall not be contributing with any other insurance or similar protection available to the Additional Insureds, whether other available insurance may be primary, contributing or excess.

PROOF OF INSURANCE

The CONTRACTOR shall provide the City of Margate at the time the contracts are returned for execution, two (2) copies of Certificate of Insurance for Commercial General Liability, Errors and Omissions/Professional Liability, Motor Vehicle Liability and Worker's Compensation.

CONTINUATION OF COVERAGE

If any of the above coverages expire during the term of this contract, the CONTRACTOR shall deliver renewal Certificates and/or policies to the City of Margate at least ten (10) days prior to the expiration date.

8. **Indemnification and Hold Harmless.** To the fullest extent permitted by law, CONTRACTOR agrees to defend, pay on behalf of, indemnify and hold harmless, the City of Margate, its elected and appointed officials, its agents, employees and volunteers and others working on behalf of the City of Margate against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed or recovered against the City of Margate, its elected and appointed officials, its agents, employees and volunteers and others working on behalf of the City of Margate by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises

out of or is in any way connected or associated with this contract.

9. **Certification of Compliance.** COUNSEL represents that it is in compliance with all the laws of the United States, the State of New Jersey, and all ordinances of the City of Margate. Counsel acknowledges that this contract must be carried out in accordance with the Affirmative Action requirements of the State of New Jersey and the Americans with Disabilities Act. Accordingly, during the term of this contract and during the performance of all duties under this contract, Counsel will comply with all of the Affirmative Action and Americans with Disabilities Act requirements of the State of New Jersey.

10. **Law Governing Contract.** This Agreement shall be governed by and enforced in accordance with the laws of the State of New Jersey. Any dispute that arises under this Agreement shall be initiated in courts in Atlantic County, New Jersey.

11. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties. Any prior understanding or representation shall be binding only if in writing and signed by both parties.

12. **Political Contribution Prohibition.** This contract has been awarded to CONTRACTOR based on the merits and abilities of Contractor to provide the services described herein. It is not awarded pursuant to a “fair and open” process. Contractor does hereby attest that Contractor, its subsidiaries, assigns, employees or principals have not made any contributions to the Mayor or Commissioners of the City of Margate or to any candidate for the Office of Mayor or Commissioner of the City of Margate. Contractor further attests that it has not made any contribution in violation of Margate City Ordinance No. 36 of 2005 the “Pay to Play” Ordinance, and is in compliance with the State of New Jersey “Pay to Play” regulations set forth in P.L. 2004, c.19 and P.L. 2005, c.271. Contractor acknowledges that it has a continuing duty to report any

violations of the “Pay to Play” laws during the term of this contract.

13. **Your Rights and Responsibilities.** Attached hereto and made a part of this Agreement is a statement of Client’s Rights and Responsibilities.

14. **Discharge or Withdrawal.** A client has the right to discharge the Law Firm. In the event of discharge, the Firm will sign a Substitution of Attorney promptly. Alternatively, the Firm also has the right to withdraw from this matter for any reason. Such withdrawal shall be on reasonable notice. In the event of termination or withdrawal, the Firm shall furnish a final billing statement. The sum due shall be payable in accordance with the terms of this Agreement.

15. **No Guarantee.** The Law Firm agrees to provide conscientious, competent and diligent services and at all times will seek to achieve solutions which are just and reasonable for you. However, because of uncertainty of legal proceedings, the interpretation and changes in the law, and

many unknown factors, attorneys cannot and do not warrant, predict or guarantee results or the final outcome of any case.

16. **Signatures**. You and the Law Firm have read and agreed to this Agreement. The Law Firm has answered all of your questions and fully explained this Agreement to your complete satisfaction. You have been given a copy of this Agreement. The terms are understood and accepted.

BARKER, GELFAND & JAMES
A Professional Corporation

The City of Margate

By:_____

By:_____

Dated:_____

Dated:_____

STATEMENT OF CLIENT RIGHTS AND

RESPONSIBILITIES

A. CLIENT RIGHTS

1. Clients have the right to have their attorneys diligently advocate their interests within the bound of the law and legal ethics.

2. Clients have the right to have the fee arrangement fully and completely explained prior to entering into any agreement for services.

3. Clients have the right to have a written retainer agreement describing the financial terms of the relationship between the client and the attorney.

4. Clients have the right to refuse to enter into any unacceptable fee arrangements or modification of a fee arrangement.

5. Clients have the right to be provided information As to the attorney(s) who will be primarily responsible for their matter and all other legal staff who will be working on

the matter as well as information as to the costs for those individuals.

6. Clients have the right to be provided bills on a regular basis, itemized as to the charges and time spent on each activity.

7. Clients have the right to be informed of and be Present at any court proceedings involving their case unless otherwise directed by the court.

8. Clients have the right to be provided copies of all documents presented to the court by any party in their matter unless otherwise ordered by the court.

9. Clients have the right to be afforded reasonable access to their attorneys.

10. Clients have the right to make the final decision as to whether, when and how to settle their cases and as to economic and other positions to be taken with respect to issues in the case.

B. CLIENT RESPONSIBILITIES

1. Clients shall provide full and accurate information

to their attorneys regarding their matter.

2. Client shall be available to participate in a timely fashion regarding their matter and to respond reasonably to requests from their counsel.

3. Clients shall advise their attorneys promptly of any change in their lives that might reasonably be expected to affect the handling of their matter.

4. Client shall pay for the legal services rendered on their behalf within the same time period set forth in the Attorney Client Fee Agreement.

5. Clients shall be required to review diligently all bills submitted by their attorneys and within a reasonable time to raise any objections regarding billings.

6. Clients shall not take any position in their matter for any improper purpose, such as to delay the proceedings or intentionally to increase the cost to other litigants.

7. Clients shall seek to use their attorneys for improper means.

8. Clients must recognize and be responsible for the

costs associated with any action initiated or requested by the client.

9. Clients shall provide sufficient time for their attorneys to explain to them the financial costs and other ramifications or a potential action in their matter and reasonably to consider the advice of their attorneys.

CITY OF MARGATE

By:_____

Dated:_____