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188a-2022

**TOWNSHIP OF BERKELEY HEIGHTS
UNION COUNTY, NEW JERSEY**

RESOLUTION

WHEREAS, N.J.S.A. 40A:9-140.10 requires that "in every municipality, there shall be a chief financial officer appointed by the governing body of the municipality"; and

WHEREAS, N.J.S.A. 40A:9-140.10 further provides that the term of office of the chief financial officer "shall be four years, which shall run from January 1 in the year in which the chief financial officer is appointed"; and

WHEREAS, the exception to the four-year appointment is if a new CFO is appointed in the midst of a four-year term and the new CFO would be appointed for the unexpired portion of the prior CFO's term, pursuant to the Uniform Vacancy Provision, N.J.S.A. 40A:9-12.1, and

WHEREAS, there exists a need for Chief Financial Officer / Treasurer services for the Township of Berkeley Heights to fill the unexpired term through December 31, 2022; and

WHEREAS, the Local Public Contracts Law N.J.S.A. 40A:11-1 et seq., more specifically N.J.S.A. 40A:11-5 allows for the awarding of a contract for "professional services" without public advertising for bids; and

WHEREAS, Holman Frenia Allison, P.C. (HFA) is qualified to provide CMFO professional services to the Township; and

WHEREAS, this was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4, *et seq.*; and

WHEREAS, the Township of Berkeley Heights is governed pursuant to the Mayor-Council-Administrator form of government, N.J.S.A. 40:69A-149.1, et seq., of the Optional Municipal Charter Law, N.J.S.A. 40:69A-1, et seq. (the "Faulkner Act"); and

WHEREAS, pursuant to N.J.S.A. 40:69A-149.8 and N.J.S.A. 40A:9-140.10, the Mayor nominated Holman Frenia Allison, P.C. (HFA) to the position of Township Chief Financial Officer / Treasurer for a term to commence as of July 6, 2022 and ending December 31, 2022; and

WHEREAS, Homan Frenia Allsion, P.C. (HFA) meets the qualifications and requirements to serve as a municipal finance officer pursuant to N.J.S.A. 40A:9-140.1, et seq.; and

WHEREAS, pursuant to N.J.S.A. 40:69A-149.8, the Mayor's nomination of Holman Frenia Allison, P.C., is subject to the advice and consent of the Township Council; and

WHEREAS, the Township Council desires to consent to the Mayor's nomination; and

WHEREAS, N.J.A.C. 5:35-2.5(b)(3) requires the approval of the Director, Department of Community Affairs before such an appointment can become effective.

NOW, THEREFORE, BE IT RESOLVED by the Township Council of the Township of Berkeley Heights that the Township Council hereby consents to the Mayor's appointment of Holman Frenia Allison, P.C. (HFA) to the position of Township Chief Financial Officer / Treasurer for a term to commence as of the date that the Township receives approval from the Department of Community Affairs and ending December 31, 2022.

WHEREAS, the Township Council finds it to be in the best interest of the Township to enter into a Professional Services Agreement with Holman Frenia Allison, P.C. (HFA) for the professional Certified Municipal Finance Officer (CMFO) services for the Township.

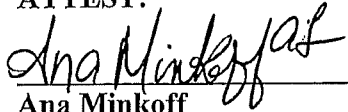
NOW, THEREFORE, BE IT RESOLVED that the Mayor and Township Council of the Township of Berkeley Heights, County of Union, State of New Jersey, as follows:

1. The Mayor and Township Clerk are hereby authorized and directed to execute the attached Professional Services Agreement with HFA for the professional accounting services for the Township for a fee not to exceed \$96,000.00. The Professional Services Agreement shall be contingent upon receipt of DCA approval.
2. This Contract is awarded without competitive bidding as a "professional service" under the provisions of the Local Public Contracts Law, more specifically N.J.S.A. 40A:11-5.
3. A certificate showing the availability of funds for the Contract authorized hereby has been provided and is made a part hereof indicating that the appropriation for the within expenditure is charged to the applicable account.
4. The Business Disclosure Entity Certification shall be placed on file with this Resolution.
5. A notice of this action shall be printed in the official newspapers required by law within ten (10) days of its passage.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

APPROVED this 5th day of July 2022.

ATTEST:



Ana Minkoff
Township Clerk

CERTIFICATE OF AVAILABILITY OF FUNDS

I certify that there are sufficient legally appropriated funds for the amount of this contract, \$96,000.00, in Account # 2-01-20-705-011, and that these funds have not been certified as available for any other pending contract.

Liza Viana, Acting Chief Financial Officer

ROLL CALL	AYE	NAY	ABSTAIN	ABSENT
BRAHIMAJ				✓
COUTO	✓			
DONNELLY				✓
FOSTER	✓			
KINGSLEY	✓			
VARNERIN	✓			
TIE:				
MAYOR DEVANNEY				

Township of Berkeley Heights

Proposal to Provide Professional Advisory Services

To Perform the Role of CMFO

Service for the Township of Berkeley Heights

Prepared by: Matt Holman

Lead Consultant:

Matt Holman, CPA, PSA

Partner

HolmanFreniaAllison, P.C.

mholman@hfacpas.com

June 12, 2022

ACCEPTANCE COPY

Ms. Liza Viana
Business Administrator - Township of Berkeley Heights
29 Park Ave
Berkeley Heights, NJ 07922

Dear Ms. Viana:

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide to the Township of Berkeley Heights.

Holman Frenia Allison, P.C. (hereinafter "HFA") appreciates the opportunity to assume the statutory and regulatory responsibilities of Certified Municipal Finance Officer, and professional consulting services for funds received via the American Relief Plan.

- Assuming all Municipal Finance Officer duties as agreed to with the Mayor, Council and Administrator of the Township.
- Maintenance of the general ledger and all subsidiary ledgers;
- Providing monthly financial reporting packages to all key decision makers;
- Providing value-added training to support staff on the finance team
- Development and maintenance of a sound financial internal control environment;
- Documentation and training of key internal control functions;
- Providing monthly reconciliations of all Township bank accounts;
- Preparation of the annual budget;
- Preparation of the annual and any supplemental debt statements
- Preparation of the financial statements to be audited by an Independent Auditor
- Continue to work on the plan for both the use of and compliance with the requirements and responsibilities of the "American Rescue Plan" (ARP) Act of 2021

The activities we perform and the deliverables we produce as a result of our engagement work are intended solely for the use of the Township of Berkeley Heights leadership, the HFA engagement team, and any other party deemed appropriate by the Township of Berkeley Heights leadership team. These deliverables should not be used by anyone other than said parties.

Matthew Holman, CPA, PSA is the Senior Partner overseeing the engagement. Anthony Mannino, CMFO, CCFO is the Director executing the engagement. Christopher Schweitzer is the Supervisor staffed to the engagement team in support of Matthew Holman and Anthony Mannino. Ad hoc HFA Advisory department personnel will be staffed to the engagement as directed by Anthony Mannino.

All Services and deliverables hereunder shall be solely for your use and benefit pursuant to our client relationship. This engagement does not create privity between HFA and any person or party other than the Township of Berkeley Heights and is not intended for the express or implied benefit of any third party. No third party is entitled to rely, in any manner or for any purpose, on the Services or deliverables of HFA hereunder.

HFA may subcontract, either wholly or partially, any work under this agreement to its Affiliates or any other third party. HFA Remains Responsible. HFA will be deemed to have performed any work actually performed by a subcontractor and remain responsible and liable for any work performed by a subcontractor as if HFA had provided the work itself.

The sufficiency of the consulting work is solely the responsibility of those parties specified in the agreement. Consequently, we make no representation regarding the sufficiency of the consulting work either for the purpose for which this consulting work has been requested or for any other purpose. If, for any reason, we are unable to complete the consulting work, we will describe any restrictions on the performance of the procedures in our final reporting or will not issue a report as a result of this engagement.

HFA's Services will not constitute an audit, review, compilation, examination or other form of attest engagement. HFA shall have no responsibility to address any legal matters or questions of law. After completion of the Services, HFA will have no responsibility to update its advice, recommendations or work product for changes or modifications to the law and regulations or for subsequent events or transactions, unless The Township separately engages HFA in writing to do so.

HFA will provide on-site service for this engagement. The on-site minimum will be one day per week. Each week of the contracted service will vary based on duties to be performed. Both parties have the ability to terminate this contract within a (30) day period of execution.

The successful execution of the project is based upon the following assumptions and dependencies:

- The Township supplies HFA with all requested documentation and supporting materials necessary to execute project activities in a timely fashion.
- The documentation and supporting materials provided by the Township are accurate.
- The Township provides access to the internal resources (people, processes, technology, and facilities) necessary to execute project activities in a timely fashion.
- All resources staffed to this project, both at the Township and HFA, are available to perform their required functions.
- In the event of an unplanned change in staffing, the change will be reconciled within a reasonable timeframe.
- Any unanticipated delay in resource and material availability may delay the project timeline.

Our fee for this engagement will be a total of **\$96,000.00** (not-to-exceed) based on our hourly rates as follows for a period ending December 31, 2022:

Partner	\$	200.00
Director		175.00
Supervisor		150.00
Senior		120.00
Advisor		105.00

The fee estimate is based on the dependencies stated herein and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will keep you informed of any problems we encounter, and our fees will be adjusted accordingly.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes sixty (60) or more overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenditures through the date of termination.

Each party agrees that it will not at any time during or after the termination of this Agreement reveal, divulge or make known to any person, firm or corporation any secret or confidential information concerning the other party's business or operations, which information became known or available to the receiving party during the term of this Agreement ("Confidential Information"). "Confidential Information" means all information relating to the business, business plans, customers, suppliers, operations, methodologies, technologies, systems, hardware, software or procedures of a party that is not generally known to the public and which information is either identified as "Confidential" and/or "Proprietary," or which, under all of the circumstances, ought reasonably to be treated as confidential and/or proprietary. Confidential Information shall not include information that (1) is, at the time of disclosure, or thereafter becomes, part of the public domain through a source other than through a breach by the receiving party of the provisions of this Agreement or any other non-disclosure agreement between the parties then in effect; (2) was known to the receiving party at the time of disclosure without any obligation of confidentiality to the disclosing party with respect to such information; (3) is independently developed by the receiving party without the use or assistance of information that otherwise would be independently deemed Confidential Information; or (4) is subsequently learned from a third party not known by the receiving party to be subject to an obligation of confidentiality with respect to the information disclosed.

Each party will, at all times, hold all Confidential Information in confidence. Without express written authorization from the disclosing party, the receiving party will not use Confidential Information for its own benefit or for the benefit of any party other than the disclosing party and will not duplicate or disclose the Confidential Information in any manner to any other party other than such of its employees who have a need to know such information in connection with their performance of the services described in this engagement letter.

HFA incurs great expense in hiring and training its personnel. Accordingly, during the period beginning with the Effective Date of this Agreement and ending twelve (12) months after the date of the last invoice from HFA to the Township, neither the Township nor its respective affiliates will offer employment to or hire any current or recent HFA employee or HFA affiliate or subsidiary employee who had contact with the Township either leading up to or during the provision of Services to the Township under this Agreement, without the prior written consent of HFA. "Recent Employee" shall include any individual employed by HFA during the preceding twelve months. "Employment" shall include any form of employment, consulting, independent contractor relationship, or other arrangement in which an individual will directly or indirectly perform services or work for, or on behalf of, the Township of Berkeley Heights. In the event that the Township breaches this clause, Township of Berkeley Heights shall pay HFA an amount equal to one hundred percent (100%) of the hired employee's prior twelve (12) month compensation with HFA or with the HFA affiliate or subsidiary, not as a penalty but as liquidated damages and compensation.

We appreciate the opportunity to assist you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter.

Very truly yours,

HOLMAN FRENIA ALLISON, P.C.

Matthew Holman

Matthew Holman, CPA, PSA
Partner

MH/ss
Encl.

RESPONSE: This letter correctly sets for the understanding of the Township of Berkeley Heights.

Signature: _____

Title: _____

Date: _____