

**AGENDA  
REGULAR MEETING  
BOROUGH OF SEA BRIGHT**

**JUNE 20, 2023**

**SEA BRIGHT, NEW JERSEY**

**TO ATTEND THIS MEETING REMOTELY PLEASE USE THE FOLLOWING:**

<https://meet.goto.com/441992149>

OR DIAL: (408) 650-3123

Access Code: 441-992-149

**CALL MEETING TO ORDER: 7:00pm**

**PLEDGE OF ALLEGIANCE**

**COMPLIANCE STATEMENT (N.J.S.A. 10:4-18)**

**Good Evening Ladies and Gentlemen. This Meeting Is Now Called To Order: In Line with The Borough of Sea Bright's Longstanding Policy of Open Government, and in Compliance with the "Open Public Meetings Act" I Wish to Advise You That Adequate Notice of This Regularly Scheduled Meeting Was Sent to the Asbury Park Press and other local newspapers on January 10, 2023. In each instance, the Date, Time, And Location of This Meeting Were Provided in The Notice. This Meeting Is Open To The Public."**

**ROLL CALL:**

<b>Councilmember(s)</b>	BIEBER ____	BOOKER ____	CATALANO ____
	GORMAN ____	KEELER ____	LAMIA ____
<b>Mayor</b>	KELLY ____		

**MOMENT OF SILENCE FOR THE FOLLOWING MEMBER OF THE SEA BRIGHT COMMUNITY  
WHO RECENTLY PASSED AWAY: Thomas F.X. Foley**

**PRESENTATION**

**Recognition of the recipient of the Annual Maria D. Fernandes Memorial Award to:**

- **Cindy Zheng (also Valedictorian)**

**In recognition of the two other Sea Bright graduates from Shore Regional High School, the following also received awards for their accomplishments:**

- **Ryan McGarry**
- **Ryan Zalinski**

**REMARKS FROM THE AUDIENCE (limited to 3 minutes)**

The Public Comment portion of this meeting allows members of the audience to bring their concerns or comments to the Mayor and Council's attention. Pursuant to Borough Ordinance 3-2011, a member of the public who wishes to speak shall give his/her name and address for the record and may have up to three minutes to state his/her comments to the Mayor and Council as a Body. If additional time or information is requested, an appointment can be made with the Administrator's office during regular business hours.

**CONSENT AGENDA**

Councilmember \_\_\_\_\_ offered a motion to approve the items that are considered routine in nature under the consent agenda; seconded by Councilmember \_\_\_\_\_

**Minutes**

05-11-2023	Workshop Meeting
05-11-2023	Executive Session
05-16-2023	Regular Meeting
05-16-2023	Executive Session
05-18-2023	Special Regionalization Meeting

**Resolutions:**

- No. 105-2023** Authorizing the Public Display of Fireworks June 30, 2023 in the Borough of Sea Bright
- No. 106-2023** Memorializing Participation in the Sourcewell Cooperative Purchasing Program
- No. 107-2023** Grace Period Extension for Payment of 3<sup>rd</sup> Quarter 2023 Taxes
- No. 108-2023** Donation of 2023 Beach Badges
- No. 109-2023** In Support of Assembly Bill No. A-4789 Supporting an Increase in Municipal Energy Tax Receipts Property Tax Relief Aid to Offset the Increase in Local Government Costs for Employee Health Care and Prescription Benefits Coverage
- No. 110-2023** Consideration of Award Lease Agreement for Evening Yoga Classes
- No. 111-2023** Authorizing Hiring of Police Officers Designation of Special Law Enforcement Officer - Class II
- No. 112-2023** Chapter 159 Budget Amendment State of New Jersey FY2023 Clean Communities Grant
- No. 113-2023** Renewal of the 2023-2024 Liquor Licenses for Those Licensees Who Have Met All Borough and State Requirements and Paid All Applicable Fees
- No. 114-2023** Renewal of The Alcoholic Beverage License of Sea Horse LLC, T/A Driftwood Beach Club for the 2023-2024 License Term
- No. 115-2023** Renewal of The Alcoholic Beverage License of D. Lobi Enterprises, Inc., T/A Surfrider Beach Club for the 2023-2024 License Term
- No. 116-2023** Renewal of The Alcoholic Beverage License of Woody's Ocean Grille LLC For The 2023-2024 License Term
- No. 117-2023** Renewal of The Alcoholic Beverage License Of 1030 Liquor Partners LLC, T/A Tommy's Tavern and Tap for the 2023-2024 License Term
- No. 118-2023** Renewal of The Alcoholic Beverage License of Watersedge Inc., T/A Edgewater Beach & Cabana Club for the 2023-2024 License Term
- No. 119-2023** Renewal of the Alcoholic Beverage License of 1124 Ocean Ave Liquor LLC, T/A Rory's Pub for the 2023-2024 License Term

**Roll Call:** Bieber\_\_\_\_ Booker\_\_\_\_ Catalano\_\_\_\_ Gorman\_\_\_\_ Keeler\_\_\_\_ Lamia\_\_\_\_

**ORDINANCE(s):**

**Public Hearing:** Mayor Kelly to read the ordinance by title:

**CAPITAL ORDINANCE NO. 08-2023**  
**BOROUGH OF SEA BRIGHT**  
**AN ORDINANCE PROVIDING FUNDING FOR VARIOUS CAPITAL ACQUISITIONS AND IMPROVEMENTS FOR THE BOROUGH OF SEA BRIGHT AND APPROPRIATING \$180,000 FOR SUCH PURPOSE.**

Councilmember \_\_\_\_\_ offered a motion to open the public hearing on Ordinance No. 08-2023; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**Public Hearing (Ord. No. 08-2023)**

Councilmember \_\_\_\_\_ offered a motion to close the public hearing on Ordinance No. 08-2023; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

Councilmember \_\_\_\_\_ offered a motion to adopt Ordinance No. 08-2023 and advertise according to law; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**Introduction:** Mayor Kelly to read the ordinance by title:

**ORDINANCE NO. 07-2023**  
**AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING IN FULL, CHAPTER 175 "SMALL CELL WIRELESS FACILITIES" OF THE CODE OF THE BOROUGH OF SEA BRIGHT AND ESTABLISHING PROCEDURES AND STANDARDS REGARDING DEPLOYMENT OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY IN THE BOROUGH OF SEA BRIGHT**

Councilmember \_\_\_\_\_ offered a motion to introduce Ordinance No. 07-2023 for a public hearing to be held on July 18, 2023 and advertise according to law; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**Introduction:** Mayor Kelly to read the ordinance by title:

**CAPITAL ORDINANCE NO. 09-2023**  
**BOROUGH OF SEA BRIGHT**  
**AN ORDINANCE PROVIDING FUNDING FOR PRELIMINARY DESIGN EXPENSES FOR THE BULKHEAD IMPROVEMENT PROJECT FOR THE BOROUGH OF SEA BRIGHT AND APPROPRIATING \$100,000 FOR SUCH PURPOSE.**

Councilmember \_\_\_\_\_ offered a motion to introduce Ordinance No. 09-2023 for a public hearing to be held on July 18, 2023 and advertise according to law; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**Introduction:** Mayor Kelly to read the ordinance by title:

**CAPITAL ORDINANCE NO. 10-2023**  
**AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, AMENDING AND  
SUPPLEMENTING CHAPTER 161 OF THE CODE OF THE BOROUGH OF  
SEA BRIGHT REGARDING THE REQUIREMENT FOR INSPECTION OF  
LEAD-BASED PAINT IN CERTAIN RESIDENTIAL DWELLINGS**

Councilmember \_\_\_\_\_ offered a motion to introduce Ordinance No. 10-2023 for a public hearing to be held on July 18, 2023 and advertise according to law; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**INDIVIDUAL ACTION/New Business:**

**Vouchers: \$903,465.47**

Councilmember \_\_\_\_\_ offered a motion to approve the Voucher List dated June 20, 2023 as submitted by the Finance Manager; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**MAYOR AND COUNCIL COMMENTS**

**EXECUTIVE SESSION**

Councilmember \_\_\_\_\_ offered a motion to enter in to Closed Session; seconded by Councilmember \_\_\_\_\_

**Resolution to discuss: Real Estate**

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**ADJOURNMENT**

Councilmember \_\_\_\_\_ offered a motion to adjourn the meeting; seconded by Councilmember \_\_\_\_\_

**Roll Call:** Bieber\_\_\_ Booker\_\_\_ Catalano\_\_\_ Gorman\_\_\_ Keeler\_\_\_ Lamia\_\_\_

**RESOLUTION NO. 105-2023**  
**AUTHORIZING THE PUBLIC DISPLAY OF FIREWORKS**  
**JUNE 30, 2023 IN THE BOROUGH OF SEA BRIGHT**

Councilmember                    Introduced and offered for adoption the following Resolution; seconded by  
Councilmember                    :

**WHEREAS**, N.J.S.A. 21:3-3 permits the governing body of a municipality, by resolution, to "grant a permit" for the public display of fireworks when such display is to be handled by a competent operator, to be approved by the chiefs of the police and fire departments of the municipality; and

**WHEREAS**, such displays shall be of such a character, and so located, discharged, or fired, as in the opinion of the chiefs of the police and fire departments, after proper inspection, shall not be hazardous to property or endanger any person or persons.

**WHEREAS**, such displays in the Borough of Sea Bright must be approved by the US Fish and Wildlife Service and the NJ Division of Fish and Wildlife so as not to endanger any form of wildlife nesting on the beaches; and

**WHEREAS**, the Borough of Sea Bright is desirous of presenting a fireworks display on June 30, 2023 on the municipal beach in front of the Sea Bright Beach Pavilion; and

**WHEREAS**, the Police Chief will coordinate the effort on behalf of the Borough in all aspects of public safety and work closely with the Borough's Fire Marshall and the Beach Manager to ensure compliance with all fire safety regulations; and

**WHEREAS**, the Police Chief advised that the cost to the Borough for the fireworks display will not exceed \$18,000.00; and

**CERTIFICATION OF FUNDS**

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright, do hereby certify that funds in the amount of \$18,000.00 will be available in the 2023 Budget – Line Item #3-01-28-372-201 for the purposes stated herein.

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Michael J. Bascom, CFO

**NOW, THEREFORE, BE IT RESOLVED**, by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that a display of fireworks is hereby authorized to be held on June 30, 2023, on the Municipal Beach pending the approval of the above-mentioned officials, the US Fish and Wildlife Service and the NJ Division of Fish and Wildlife; and

**BE IT FURTHER RESOLVED** that the Police Chief, Fire Official and Borough Clerk shall ensure that all applicable regulations are enforced, all required permits are obtained and all necessary insurance documents are filed; and

**BE IT FURTHER RESOLVED** that the fireworks display will be paid for by Chapel Beach Club; and

**BE IT FURTHER RESOLVED** that the Borough's Type 3 Fireworks Display Permit Fee in the sum of \$427.00 shall be waived; and

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution be forwarded to the following:

1. S. Mulheren, Chapel Beach Club
2. B. Friedman, Police Chief
3. Tom Haege, Fire Marshall
4. U.S. Fish and Wildlife Services

**Roll Call:**     Bieber,   Booker,   Catalano,   Gorman,   Keeler;   Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 20, 2023.

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Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 106-2023**  
**MEMORIALIZING PARTICIPATION IN THE**  
**SOURCEWELL COOPERATIVE PURCHASING PROGRAM**

Councilmember introduced and offered for adoption the following Resolution; seconded by Councilmember :

**WHEREAS**, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration; and

**WHEREAS**, Sourcewell, hereinafter referred to as the "Lead Agency" offers voluntary participation in a Cooperative Pricing System for eligible entities to perform governmental functions and services, including the purchase of goods and services; and

**WHEREAS**, the Governing Body of the Borough of Sea Bright wishes to memorialize its enrollment established in March of 2010 in the Sourcewell Interlocal Purchasing System (Membership ID# 29820).

**NOW, THEREFORE BE IT RESOLVED** as follows:

**TITLE:** This Resolution shall be known and may be cited as the Cooperative Pricing Resolution of the Borough of Sea Bright.

**AUTHORITY:** Pursuant to the provisions of *N.J.S.A. 40A:11-11(5)*, the Mayor and the Borough Administrator are hereby authorized to enter into a Cooperative Pricing Agreement with the Lead Agency.

**CONTRACTING UNIT:** The Lead Agency shall be responsible for complying with the provisions of the *Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.)* and all other provisions of the revised statutes of the State of New Jersey.

**EFFECTIVE DATE:** This resolution shall take effect immediately upon passage.

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 107-2023**  
**GRACE PERIOD EXTENSION FOR PAYMENT OF**  
**3<sup>RD</sup> QUARTER 2023 TAXES**

Councilmember        introduced and offered for adoption the following Resolution;  
seconded by Councilmember        :

**WHEREAS**, the Tax Collector has informed the Mayor and Borough Council that the Monmouth County Board of Taxation is delayed in forwarding necessary information for the preparation and mailing of final tax bills to the real estate taxpayers of the Borough of Sea Bright for the year 2023/2024; and

**WHEREAS**, the Borough Council has agreed that it would be unfair and unreasonable to impose a penalty for a delinquent payment when the amount of the payment is unknown.

**WHEREAS**, the present statute requires the imposition of a late charge if 3<sup>rd</sup> quarter 2023 taxes are not paid by the 10<sup>th</sup> of August; and

**NOW, THEREFORE BE IT RESOLVED** the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey authorizes:

1. That the Tax Collector is hereby ordered and directed in accordance with Public Law 1994, Chapter 72, signed July 14, 1994, that if tax bills are not delivered or mailed at least 25 (twenty-five) calendar days prior to the standard due date, then the delinquency date for 3<sup>rd</sup> quarter 2023 taxes shall be established as the twenty-fifth (25) calendar days after the date the tax bill was delivered or mailed. The tax bills will contain the date on which interest shall start accruing.

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to the following:

1. Patricia Spahr, Tax Collector

**Roll Call:**        Bieber,    Booker,    Catalano,    Gorman,    Keeler,    Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk, do hereby certify  
That the foregoing is a Resolution adopted by the Borough  
Council of the Borough of Sea Bright, County of Monmouth,  
State of New Jersey, at a Council Meeting held on  
June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 108-2023**  
**DONATION OF 2023 BEACH BADGES**  
**BOROUGH OF SEA BRIGHT**

Councilmember            offered the following resolution and moved for its adoption; seconded by  
Councilmember            :

**WHEREAS**, the Governing Body of the Borough of Sea Bright wish to support the fundraising efforts for the local organization listed below by donating four (4) 2023 beach badges as requested:

1.     JoJo's Cause            **2 Badges**  
       Fundraising Event – June 2023
  
2.     Pocket's of Light       2 Badges  
       Golf Outing/Live Auction – July 17, 2023

**WHEREAS**, the Borough Auditor has been informed and advised that a resolution should be considered in order to donate 2023 Season Beach Badges.

**NOW, THEREFORE, BE IT RESOLVED**, that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey authorize the donation of four (4) 2023 Season Beach Badges to the aforementioned charitable organization; and

**BE IT FURTHER RESOLVED** that a copy of this resolution be forwarded to the following:

1.     Borough Administrator
2.     Borough Auditor
3.     Individual Requestors

**Roll Call:**     Bieber,    Booker,    Catalano,    Gorman,    Keeler,    Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk



**RESOLUTION NO. 109-2023**

**IN SUPPORT OF ASSEMBLY BILL NO. A-4789 SUPPORTING AN INCREASE IN MUNICIPAL ENERGY TAX RECEIPTS PROPERTY TAX RELIEF AID TO OFFSET THE INCREASE IN LOCAL GOVERNMENT COSTS FOR EMPLOYEE HEALTH CARE AND PRESCRIPTION BENEFITS COVERAGE**

Councilmember introduced and offered for adoption the following Resolution;  
seconded by Councilmember :

**WHEREAS**, Assembly Bill No. A-4789 supporting an increase in local government costs for employee health care and prescription benefits be offset by equivalent increase in municipal energy tax receipts property tax relief aid is being considered for adoption by the New Jersey State Assembly; and

**WHEREAS**, this bill provides that, in the event that a municipality, due to an annual rate increase, is required to increase the amount it expends from the prior year to provide health care and prescription benefits coverage to its officers and employees, the State will increase the amount of annual aid distributed to the municipality under the "Energy Tax Receipts Property Tax Relief Act," P.L. 1997, c.167 (C.52:27D-438 et seq.) by the equivalent amount to offset the increase in the employee health care and prescription benefits coverage expenditures; and

**WHEREAS**, the provisions of the bill apply when the health care and prescription benefits are provided through self-insurance, the purchase of commercial insurance or reinsurance, an insurance fund or joint insurance fund, the "New Jersey State Health Benefits Program Act," P.L. 1961, c.49 (C.52:14-17.25 et seq.), or in any other manner or any combination thereof; and

**WHEREAS**, under the bill, the governing body of a municipality that is required to increase its expenditures to provide employee health care and prescription benefits coverage would submit the information concerning the amount of the annual increase to the Director of the Division of Local Government Services in the Department of Community Affairs in a manner and on such forms as determined by the director. Prior to submission, the information is required to be certified by a business administrator or the chief financial officer; and

**WHEREAS**, the bill also provides that the exclusion of certain health care costs from the property tax levy calculation would not apply to a municipality which receives an increase in energy tax receipts property tax relief aid pursuant to the bill;

**NOW THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, hereby support Assembly Bill A-4789 and urges the Legislature to approve and pass the bill for the reasons expressed herein; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the members of the NJ State Assembly, the members of the NJ Senate, the Governor of the State of NJ, the NJ State League of Municipalities and all Monmouth County Municipalities.

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk, do hereby certify  
That the foregoing is a Resolution adopted by the Borough  
Council of the Borough of Sea Bright, County of Monmouth,  
State of New Jersey, at a Council Meeting held on  
June 20, 2023.

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Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 110-2023**  
**CONSIDERATION OF AWARD**  
**LEASE AGREEMENT FOR EVENING YOGA CLASSES**

Councilmember introduced and offered the following resolution for approval; seconded by  
Councilmember :

**WHEREAS**, the Borough Council authorized by resolution for the Borough Clerk to duly advertise for vendors to conduct evening yoga classes with the option of a one or five-year lease agreement for the use of a portion of property on the Sea Bright Municipal Beach during the summer season; and

**WHEREAS**, the Borough Clerk did duly advertise on May 25, 2023 to receive bids for vendors to conduct evening yoga classes on the Sea Bright Municipal Beach for a minimum bid amount of \$100.00 for the first year; and

**WHEREAS**, in connection therewith one (1) bid was received by the Borough Clerk from Jamie Coppa, Middletown, NJ, for a five-year lease in the amount of \$125.00; and

**WHEREAS**, after reviewing the bid documents, the Borough Administrator recommends a five-year lease agreement be awarded to Jamie Coppa as per the bid proposal.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey does hereby authorize the Mayor and Borough Clerk to execute a five-year lease agreement with Jamie Coppa, Middletown, NJ in the amount of \$125.00 for the year 2023 to operate evening yoga classes on a portion of the Sea Bright Municipal Beach to be determined by the Beach Manager, commencing in the 2023 summer season according to the terms and conditions outlined in the bid proposal which is on file in the office of the Borough Clerk; and

**BE IT RESOLVED**, that a certified copy of this resolution be forwarded to the following:

1. Finance Manager
2. Police Department
3. Beach Manager
4. Borough Attorney
5. Jamie Coppa

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 111-2023**  
**AUTHORIZING HIRING OF POLICE OFFICERS**  
**DESIGNATION OF SPECIAL LAW ENFORCEMENT OFFICER - CLASS II**

Councilmember introduced and offered for adoption the following Resolution; seconded by  
Councilmember :

**WHEREAS**, there exists a need for Class II Special Officers in the Police Department in the Borough of Sea Bright; and

**WHEREAS**, Chief Brett Friedman requested that the following be appointed as a Class II Special Police Officers after fulfilling the required training at the Monmouth County Police Academy.

**CLASS I SPECIAL POLICE OFFICERS**

Peter A. McGovern  
Kory J. Pool

**CERTIFICATION OF FUNDS**

I, Michael J. Bascom, Chief Financial Officer of the Borough of Sea Bright, do hereby certify that funds are available in Police S/W for the purpose stated herein:

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**MICHAEL J. BASCOM, CFO**

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, does hereby approve the appointment of Class II Special Officers Peter A. McGovern and Kory J. Pool at an hourly rate of pay as specified in Ordinance No. 04-2021; and

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution be forwarded to the following:

1. Khristi Jacobs, Finance Manager
2. Brett Friedman, Police Chief
3. Appointees

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 20, 2023.

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Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 112-2023**  
**CHAPTER 159 BUDGET AMENDMENT**  
**STATE OF NEW JERSEY**  
**FY2023 CLEAN COMMUNITIES GRANT**

Councilmember                    introduced and offered for adoption the following resolution;  
seconded by Councilmember                    :

**WHEREAS**, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount was not determined at the time of the adoption of the budget; and

**WHEREAS**, said Director may also approve the insertion of an item of appropriation for an equal amount.

**NOW, THEREFORE, BE IT RESOLVED** that the Borough Council of the Borough of Sea Bright in the County of Monmouth, State of New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2023 in the sum of \$5,016.13 which is now available as a revenue from the FY2023 **Clean Communities Grant** in the amount of \$5,016.13; and

**BE IT FURTHER RESOLVED** that the like sum of \$5,016.13 is hereby appropriated under the caption of **Clean Communities Grant**; and

**BE IT FURTHER RESOLVED** that the above is the result of funds awarded from the State of New Jersey Department of Treasury, Solid Waste Administration, Clean Communities Account FD in the amount of \$5,016.13.

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a resolution adopted by the Borough Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, at a Council Meeting held on June 20, 2023.

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Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 113-2023**  
**RENEWAL OF THE 2023-2024 LIQUOR LICENSES FOR THOSE  
LICENSEES WHO HAVE MET ALL BOROUGH AND STATE  
REQUIREMENTS AND PAID ALL APPLICABLE FEES**

Councilmember \_\_\_\_\_ introduced and offered for adoption the following Resolution;  
seconded by Councilmember \_\_\_\_\_ :

**WHEREAS**, as directed by the New Jersey Division of Alcoholic Beverage Control (ABC), 2023-2024 annual renewal applications are submitted via the ABC's web-based licensing portal called POSSE ABC; and

**WHEREAS**, the liquor license renewals listed below have been accepted by POSSE ABC, all State and Municipal renewal fees have been paid and Retail Tax Clearance Certificates, pursuant to Chapter 161, Laws of NJ 1995, have been granted by the Division of Taxation for the 2023-2024 license term; and

**RETAIL CONSUMPTION LICENSES:**

**RENEWAL FEE: \$2,500.00**

1343-33-001-003	Shrewsbury River Inc. t/a McLoone's Rum Runner 816 Ocean Avenue
1343-33-002-012	2 <sup>nd</sup> Jetty Holdings LLC t/a 2 <sup>nd</sup> Jetty 140 Ocean Avenue
1343-33-007-004	Donovan's Reef Inc t/a Donovan's Reef 1171 Ocean Avenue
1343-33-013-006	Shipmasters, Inc. t/a Even Tide Grille at Navesink Marina 1400 Ocean Avenue
1343-33-016-009	376 Ocean Ave, LLC t/a Ocean House Tap & Grill 1072 Ocean Avenue
1343-33-019-014	Sea Bright Caterers LLC t/a Sea Bright Caterers LLC 280 Ocean Avenue

**RETAIL DISTRIBUTION LICENSES:**

**RENEWAL FEE: \$2,000.00**

1343-44-006-014	K&R Holdings of Sea Bright, LLC t/a Sea Bright Wine & Spirits 1060 Ocean Avenue
1343-44-015-005	MS Retail Corp t/a Sea Bright Supermarket & Liquor 1160 Ocean Avenue

**HOTEL/MOTEL LICENSE:**  
**ISSUED AS A HOTEL/MOTEL EXCEPTION**

**RENEWAL FEE: \$2,500.00**

1343-36-010-009

Seabright Hospitality Group LLC  
t/a Beachwalk Resort  
344 Ocean Avenue

**CLUB LICENSE:**

**RENEWAL FEE: \$ 188.00**

1343-31-020-001

Sea Bright Beach Club  
t/a Sea Bright Beach Club  
999 Ocean Avenue

**NOW, THEREFORE, BE IT RESOLVED**, that the Governing Body of the Borough of Sea Bright, County of Monmouth, State of New Jersey does hereby authorize the renewals, effective July 1, 2023, of the aforesaid liquor licenses for the license term 2023-2024; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the following:

1. Chief of Police
2. Licensees
3. Division of Alcoholic Beverage Control

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

**CERTIFICATION**

I, Christine Pfeiffer, Borough Clerk, do hereby certify  
That the foregoing is a Resolution adopted by the Borough  
Council of the Borough of Sea Bright, County of Monmouth,  
State of New Jersey, at a Council Meeting held on  
June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 114-2023**  
**RENEWAL OF THE ALCOHOLIC BEVERAGE LICENSE OF**  
**SEA HORSE LLC, t/a DRIFTWOOD BEACH CLUB**  
**FOR THE 2023-2024 LICENSE TERM**

Councilmember        introduced and offered for adoption the following Resolution;  
seconded by Councilmember        :

**WHEREAS**, the Sea Horse LLC, t/a Driftwood Beach Club has submitted a complete application form for the renewal of alcoholic beverage license no. 1343-33-004-004 and has paid the annual fees to both the Borough of Sea Bright and the State of New Jersey, Division of ABC; and .

**WHEREAS**, the Borough Council has received and reviewed the recommendations of the Police Department pertaining to the aforesaid alcoholic beverage license; and

**WHEREAS**, the Borough Council finds that the aforesaid license should be renewed only upon a special condition necessary to ensure the public health, safety and welfare;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that license number 1343-33-004-004 held by Sea Horse LLC, t/a Driftwood Beach Club be and is hereby renewed for the annual license term commencing July 1, 2023 based upon the following special condition:

"No sale, service or consumption of any alcoholic beverage shall be permitted in the parking lot areas of the property. The parking lot areas of the property are not to be considered as part of the licensed premises."

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the following:

1. Chief of Police
2. Licensee
3. Division of Alcoholic Beverage Control

**Roll Call:**    Bieber,    Booker,    Catalano,    Gorman,    Keeler,    Lamia

June 20, 2023

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough of Sea Bright, County of Monmouth, State of New Jersey at a Council Meeting held June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 115-2023**  
**RENEWAL OF THE ALCOHOLIC BEVERAGE LICENSE OF**  
**D. LOBI ENTERPRISES, INC., t/a SURFRIDER BEACH CLUB**  
**FOR THE 2023-2024 LICENSE TERM**

Councilmember        introduced and offered for adoption the following Resolution;  
seconded by Councilmember        :

**WHEREAS**, the D. Lobi Enterprises, Inc. t/a Surfrider Beach Club has submitted a complete application form for the renewal of alcoholic beverage license no. 1343-33-003-004 and has paid the annual fees to both the Borough of Sea Bright and the State of New Jersey, Division of ABC; and

**WHEREAS**, the Borough Council has received and reviewed the recommendations of the Police Department pertaining to the aforesaid alcoholic beverage license; and

**WHEREAS**, the Borough Council finds that the aforesaid license should be renewed only upon a special condition necessary to ensure the public health, safety and welfare;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that license number 1343-33-003-004 held by D. Lobi Enterprises, Inc., t/a Surfrider Beach Club be and is hereby renewed for the annual license term commencing July 1, 2023 based upon the following special condition:

"No sale, service or consumption of any alcoholic beverage shall be permitted in the parking lot areas of the property. The parking lot areas of the property are not to be considered as part of the licensed premises."

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the following:

1. Chief of Police
2. Licensee
3. Division of Alcoholic Beverage Control

**Roll Call:**    Bieber,    Booker,    Catalano,    Gorman,    Keeler,    Lamia

June 20, 2023

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough of Sea Bright, County of Monmouth, State of New Jersey at a Council Meeting held June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk



**RESOLUTION NO. 116-2023**  
**RENEWAL OF THE ALCOHOLIC BEVERAGE LICENSE OF**  
**WOODY'S OCEAN GRILLE LLC**  
**FOR THE 2023-2024 LICENSE TERM**

Councilmember        introduced and offered for adoption the following Resolution;  
seconded by Councilmember        :

**WHEREAS**, Woody's Ocean Grille LLC has submitted a complete application form for the renewal of alcoholic beverage license no. 1343-33-012-009 and has paid the annual fees to both the Borough of Sea Bright and the State of New Jersey, Division of ABC; and

**WHEREAS**, the Borough Council has received and reviewed the recommendations of the Police Department pertaining to the aforesaid alcoholic beverage license; and

**WHEREAS**, the Borough Council finds that the aforesaid license should be renewed only upon a special condition necessary to ensure the public health, safety and welfare;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that license number 1343-33-012-009 held by Woody's Ocean Grille LLC be and is hereby renewed for the annual license term commencing July 1, 2023 based upon the following special condition:

"No amplified live or recorded music shall be played in the outdoor portion of the licensed premises after 10:00 pm daily."

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the following:

1. Chief of Police
2. Licensee
3. Division of Alcoholic Beverage Control

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough of Sea Bright, County of Monmouth, State of New Jersey at a Council Meeting held June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 117-2023**  
**RENEWAL OF THE ALCOHOLIC BEVERAGE LICENSE OF**  
**1030 LIQUOR PARTNERS LLC, t/a TOMMY'S TAVERN AND TAP**  
**FOR THE 2023-2024 LICENSE TERM**

Councilmember        introduced and offered for adoption the following Resolution  
seconded by Councilmember        :

**WHEREAS**, the 1030 Liquor Partners LLC, t/a Tommy's Tavern and Tap has submitted a complete application form for the renewal of alcoholic beverage license no. 1343-33-017-008 and has paid the annual fees to both the Borough of Sea Bright and the State of New Jersey, Division of ABC; and

**WHEREAS**, the Borough Council has received and reviewed the recommendations of the Police Department pertaining to the aforesaid alcoholic beverage license; and

**WHEREAS**, the residents who live in close proximity to the licensed premises have expressed concerns to the Borough Council pertaining to the noise which emanates from the licensed premises; and

**WHEREAS**, the Borough Council finds that the aforesaid license should be renewed only upon special conditions necessary to ensure the public health, safety and welfare; and

**WHEREAS**, the licensee made application to the Sea Bright Unified Planning Board for amended site plan and variance approval pertaining, in part, to the rear dining area and the rear yard area of the premises, which area has been the source of most of the residents expressed concerns; and

**WHEREAS**, during the course of the Planning Board hearing on the aforesaid application, the licensee stipulated to the imposition of certain conditions upon the Planning Board's approval designed to minimize noise and disturbance to surrounding properties; and

**WHEREAS**, the Borough Council finds that those stipulations and conditions are reasonably designed to address the expressed concerns of the residents who live in close proximity to the licensed premises; and

**WHEREAS**, the Borough Council finds that compliance with those conditions will help to ensure the proper operation of the licensed premises in accordance with applicable local ordinances, alcoholic beverage laws and regulations.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that license number 1343-33-017-008 held by 1030 Liquor Partners LLC, t/a Tommy's Tavern and Tap be and is hereby renewed for the annual license term commencing July 1, 2023 subject to the following special conditions:

1. The rear outdoor patio dining area, as such area was depicted on the exhibit presented to and approved by the planning board, will remain separated from the rear yard gathering space.
2. The gates between the rear yard area and patio dining area will be closed at 10:00 p.m. and all patrons will be directed to vacate the rear yard at that time. There will be no access to the rear yard area after 10:00 p.m.
3. There will be no wait service to the rear yard area—no food or drinks will be served in this area but consumption of food and drinks in the rear yard area shall be permitted.
4. No person will be served food unless they are seated at a dining table or bar in the permitted dining areas.
5. The drop down curtain on the canopy over the rear dining area on the Northside ("Nautilus Side") will remain down at all times that the outdoor dining is in use.

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the following:

1. Chief of Police
2. Licensee
3. Division of Alcoholic Beverage Control

**Roll Call:** Bieber, Booker, Catalano, Gorman, Keeler, Lamia

June 20, 2023

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough of Sea Bright, County of Monmouth, State of New Jersey at a Council Meeting held June 20, 2023.

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Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 118-2023**  
**RENEWAL OF THE ALCOHOLIC BEVERAGE LICENSE OF**  
**WATERSEDGE INC., t/a EDGEWATER BEACH & CABANA CLUB**  
**FOR THE 2023-2024 LICENSE TERM**

Councilmember        introduced and offered for adoption the following Resolution;  
seconded by Councilmember        :

**WHEREAS**, the Watersedge Inc., t/a Edgewater Beach & Cabana Club has submitted a complete application for the renewal of alcoholic beverage license no. 1343-33-018-008 and has paid the annual fees to both the Borough of Sea Bright and the State of New Jersey, Division of ABC; and

**WHEREAS**, the Borough Council has received and reviewed the recommendations of the Police Department pertaining to the aforesaid alcoholic beverage license; and

**WHEREAS**, the Borough Council finds that the aforesaid license should be renewed only upon a special condition necessary to ensure the public health, safety and welfare;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that license number 1343-33-018-008 held by Watersedge Inc., t/a Edgewater Beach & Cabana Club be and is hereby renewed for the annual license term commencing July 1, 2023 based upon the following special condition:

"No sale, service or consumption of any alcoholic beverage shall be permitted in the parking lot areas of the property. The parking lot areas of the property are not to be considered as part of the licensed premises."

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the following:

1. Chief of Police
2. Licensee
3. Division of Alcoholic Beverage Control

**Roll Call:**    Bieber,    Booker,    Catalano,    Gorman,    Keeler,    Lamia

June 20, 2023

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough of Sea Bright, County of Monmouth, State of New Jersey at a Council Meeting held June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**RESOLUTION NO. 119-2023**  
**RENEWAL OF THE ALCOHOLIC BEVERAGE LICENSE OF**  
**1124 OCEAN AVE LIQUOR LLC, t/a RORY'S PUB**  
**FOR THE 2023-2024 LICENSE TERM**

Councilmember        introduced and offered for adoption the following Resolution;  
seconded by Councilmember        :

**WHEREAS**, the 1124 Ocean Ave Liquor LLC, t/a Rory's Pub has submitted a complete application form for the renewal of alcoholic beverage license no. 1343-33-005-004 and has paid the annual fees to both the Borough of Sea Bright and the State of New Jersey, Division of ABC; and

**WHEREAS**, the Borough Council has received and reviewed the recommendations of the Police Department pertaining to the aforesaid alcoholic beverage license; and

**WHEREAS**, the Borough Council finds that the aforesaid license should be renewed only upon a special condition necessary to ensure the public health, safety and welfare;

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, that license number 1343-33-005-004 held by 1124 Ocean Ave Liquor LLC, t/a Rory's Pub be and is hereby renewed for the annual license term commencing July 1, 2023 based upon the following special condition:

"No amplified live or recorded music shall be played in the courtyard of the licensed premises after 10:00 pm daily."

**BE IT FURTHER RESOLVED** that certified copies of this Resolution shall be forwarded to the following:

1. Chief of Police
2. Licensee
3. Division of Alcoholic Beverage Control

**Roll Call:**    Bieber,    Booker,    Catalano,    Gorman,    Keeler,    Lamia

June 20, 2023

CERTIFICATION

I, Christine Pfeiffer, Borough Clerk, do hereby certify that the foregoing is a Resolution adopted by the Borough of Sea Bright, County of Monmouth, State of New Jersey at a Council Meeting held June 20, 2023.

\_\_\_\_\_  
Christine Pfeiffer, Borough Clerk

**CAPITAL ORDINANCE NO. 08-2023**  
**BOROUGH OF SEA BRIGHT**  
**AN ORDINANCE PROVIDING FUNDING FOR VARIOUS CAPITAL**  
**ACQUISITIONS AND IMPROVEMENTS FOR THE BOROUGH OF SEA**  
**BRIGHT AND APPROPRIATING \$180,000 FOR SUCH PURPOSE.**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SEA BRIGHT, IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. The Borough of Sea Bright, in the County of Monmouth, New Jersey, authorizes for various capital acquisitions and improvements, including the acquisition of an automated patient stretcher system for the First Aid Squad, refurbishment of a fire engine for the Fire Department and to construct curbing in the Peninsula Parking Lot for the Borough of Sea Bright, to be funded from the sources specified in Section 2 of the Ordinance.

Section 2. The amount of \$180,000 is hereby appropriated for the purposes stated in Section 1 of the Ordinance and which amount was funded from the Borough's General Capital Fund Balance (surplus) in the amount of \$180,000.

Section 3. In connection with the purpose and the amount authorized in Sections 1 and 2 hereof, the Borough determines the purpose described in Section 1 hereof is not a Current Expense and is an improvement which the Borough of Sea Bright may lawfully make as a general improvement.

Section 4. All ordinances or parts of ordinances which are inconsistent with the terms of this Ordinance be and the same are hereby repealed to the extent of their inconsistency.

Section 5. This Ordinance shall take effect immediately upon due passage and publication according to law.

INTRODUCED: May 16, 2023

PUBLIC HEARING: June 20, 2023

ADOPTED:

Witness

BOROUGH OF SEA BRIGHT,

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CHRISTINE PFEIFFER, CLERK

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BRIAN P. KELLY, MAYOR

**ORDINANCE NO. 07-2023**

**AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, COUNTY OF MONMOUTH, STATE OF NEW JERSEY AMENDING AND SUPPLEMENTING THE CODE OF THE BOROUGH OF SEA BRIGHT TO ADD CHAPTER 175 "SMALL CELL WIRELESS FACILITIES" AND ESTABLISHING PROCEDURES AND STANDARDS REGARDING DEPLOYMENT OF SMALL WIRELESS FACILITIES IN PUBLIC RIGHTS-OF-WAY IN THE BOROUGH OF SEA BRIGHT**

**WHEREAS**, the wireless telecommunications industry has expressed interest in submitting applications to utilize space in public rights-of-way within THE BOROUGH OF SEA BRIGHT ("Sea Bright" or the "Borough") for the installation of small cell wireless telecommunications facilities (hereinafter "Small Wireless Facilities") in connection with the industry's efforts to expand and/or upgrade existing 4G services and as part of the construction of a nation-wide 5G network; and

**WHEREAS**, the BOROUGH OF SEA BRIGHT encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of Small Wireless Facilities while preserving the Borough's ability to manage public rights-of-way in the overall interests of the public health, safety and welfare; and

**WHEREAS**, the BOROUGH recognizes that as usage of wireless technologies continues to rapidly increase, Small Wireless Facilities will be critical to delivering wireless access to advanced technologies, broadband services and 911 services to residences, businesses, schools and individuals within the Borough; and

**WHEREAS**, the BOROUGH recognizes that Small Wireless Facilities often are most effectively deployed in public rights-of-way; and

**WHEREAS**, multiple installations of Small Wireless Facilities within the public right-of-way can impact property values, create traffic and pedestrian safety hazards, impact shade trees where proximity conflicts may require trimming of branches or require removal of roots and create visual and aesthetic blights all of which can negatively impact the quality and character of life within the Borough; and

**WHEREAS**, the BOROUGH wishes to preserve the aesthetics of the community by encouraging the location of 5G equipment on existing or previously approved infrastructure; and

**WHEREAS**, a September 2018 Ruling and Order of the Federal Communications Commission ("FCC") provides that all local jurisdictions must comply with various restrictions on the exercise of local aesthetic, zoning, public works and fees when dealing with Small Wireless Facility installation siting applications by the effective date of the Order which was January 14, 2019. The FCC Order further provided that all local agencies should be capable of fully implementing its provisions within 180 days of its adoption which was on September 26, 2018. The Order also includes modifications to "shot clocks" which require local governments to approve or deny applications within certain expedited periods of time; and

**WHEREAS**, the BOROUGH needs to amend its ordinances to address the legal and practical issues that arise in connection with multiple Small Wireless Facility installations deployed in the public rights-of-way; and

**WHEREAS**, in light of the foregoing, this governing body is of the opinion that the adoption of this Ordinance and its immediate implementation are in the best interest of the BOROUGH and the health, safety and welfare of its residents and visitors.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the BOROUGH OF SEA BRIGHT, County of Monmouth, State of New Jersey, as follows:

**SECTION ONE.** The Code of the Borough of Sea Bright, Part II, "General Legislation", be and as hereby amended and supplemented to add Chapter 175 "Small Cell Wireless Facilities," to read in full as follows:

**175-1. Definitions.**

- A. All definitions of words, terms and phrases that are set forth in the Communications Act of 1934, P.L. 73-416, as amended by various statutory enactments including, but not limited to, the Telecommunications Act of 1996 P.L. 104-104, are incorporated herein and are made apart hereof.
- B. All definitions of the words, terms and phrases that are set forth in the portion of the Middle-Class Tax Relief and Job Creation Act of 2012, P.L. 112-96, as codified in 47 U.S.C. § 455, are incorporated herein and are made a part hereof.
- C. All definitions of words, terms and phrases that are set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1, *et. seq.*, are incorporated herein and are made apart hereof.
- D. All of the definitions of words, terms and phrases that are set forth in the Code of Federal Regulations at 47 C.F.R. § 1.6002, as amended, are incorporated herein and are made a part hereof.
- E. In addition to the foregoing, the following words, terms and phrases shall have the meanings indicated unless an alternate meaning clearly is discernable from the context in which the word, term or phrase is used:

***Personal Wireless Services***

"Personal Wireless Services," as defined in 47 U.S.C. § 332(c)(7)(C), as supplemented and/or as amended to mean commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

***Public Right-of-Way***

The surface, the airspace above the surface and the area below the surface of any street, road, highway, lane, alley, boulevard or drive, including the sidewalk, shoulder and area for utilities owned by the Borough of Sea Bright within an easement to the public or other easement owned by the Borough of Sea Bright

***Replacement Pole***

A pole which replaces an Existing Pole shall be considered a new pole. A New Pole shall be a concealment pole.



***Small Wireless Facility***

“Small Wireless Facility,” as defined in the Code of Federal Regulations at 47 C.F.R § 1.6002(1), as supplemented and/or as amended.

***Concealment-Pole***

A decorative concealment pole that conceals, three Small Wireless Facility installation(s) and may include other features such as street lighting, 911 call service access, public access Wi-Fi and surveillance cameras. The pole should be of an inherently rust-resistant material (i.e. aluminum alloys or stainless steel). A Concealment Pole must allow for multiple occupants and allow space for municipal use for other services and/or equipment. Concealment Poles shall be built with the capability to house three carriers within the base of the pole. Concealment Poles should be a maximum of 55 feet. Concealment Poles shall neither have external latches, external hinges, external cabling, nor external antennas. All 5G equipment shall be housed internally within the pole. Use of wooden poles is not permitted.

- F. In the event that a term, word or phrase is not defined in any of the aforementioned statutes and is not otherwise defined herein then that term, word or phrase shall have its common, ordinary meaning.

**175-2. Small Wireless Facility Siting Permit Required; Consent to Use Rights-of-Way Required.**

- A. No person shall place a Small Wireless Facility in any right-of-way without first filing a Small Wireless Facility siting permit application, in the form specified herein and in accordance with the procedures specified herein, with the Borough Clerk and obtaining a siting permit therefore, except as otherwise may be provided in this ordinance. Upon approval of a siting permit application, the siting permit authorizing placement of a Small Wireless Facility in a public right-of-way shall not be issued by the Borough Clerk to any Applicant unless:
  - 1. All siting permit application fees and escrow fees, as established herein, have been paid; and
  - 2. All other governmental permits or other governmental approvals that are required for the deployment(s) proposed by the Applicant’s siting permit application under Chapter 382, Article V, Street Openings, of the Code of the Borough of Sea Bright, and by any other applicable federal, state or municipal law have been issued by the appropriate issuing authority therefore to the Applicant and the Applicant has supplied copies of such other permits or approvals to the Borough Clerk for inclusion with the Applicant’s application documents; and
  - 3. The Applicant has entered into a “Right-of-Way Use Agreement,” the approved form of which is set forth in Appendix “A” to this ordinance, with the Borough. The approved form of “Right-of-Way Use Agreement” may from time-to-time be revised, supplemented or otherwise amended or replaced. All such revisions, supplements, amendments or replacements shall be approved by Resolution of the Borough Council. The Borough Clerk shall maintain on file the currently

approved Right-of-Way Use Agreement version and shall provide a copy to all siting permit applicants. Minor deviations to the terms and conditions that are set forth in the approved form of Right-of-Way Use Agreement may be approved by Borough Council at the time that it grants consent to use a right-of-way to a siting permit Applicant.

- B. No siting permit authorizing placement of a Small Wireless Facility in a public right-of-way shall be issued to any Applicant unless Borough Council, in the manner prescribed by applicable laws of the State of New Jersey, has granted to the siting permit Applicant its consent to use public rights-of-way within the Borough. No siting of a Small Wireless Facility shall be permitted within five hundred (500) feet of another Small Wireless Facility unless it can be established by clear and convincing evidence that co-location on an existing or previously approved Small Wireless Facility is not feasible. Any claims of carriers of technical incompatibility or inability to collocate need to be proven by the carrier, not disproven by the municipality. Responsibility for judging proof of said claims lies solely with the municipality and/or its chosen representative(s).

**175-3. Installation of New Structures; Installation on Existing Structures.**

- A. No application for a Small Wireless Facility siting permit shall be approved if the application proposes the deployment of a Small Wireless Facility upon an existing structure in a right-of-way unless the structure is one of the types of Concealment Poles that are set forth in Section One: Definitions to this ordinance and such Concealment Pole specifically is designed to accommodate the reasonable and customary equipment necessary for a Small Wireless Facility installation which will accommodate at least three carriers per Small Wireless Facility deployment.
- B. No Small Wireless Facility shall be installed upon any new structure within any right-of-way unless the new structure is one of the pre-approved types of Concealment Poles that are identified in Section One: Definitions to this ordinance. A replacement pole is a new structure and must be a metal concealment pole capable of housing three carriers within the internal housing unit.

No application for a Small Wireless Facility siting permit shall be approved if the application proposes the deployment of a Small Wireless Facility in an area other than those specific locations set forth within the Borough's Wireless Siting Plan, which can be found on file with the Office of the Borough Clerk. All Small Wireless Facilities must be placed within a 50 ft. radius of those specific locations set forth on the Borough's Wireless Siting Plan unless a waiver is granted pursuant to Section 175-5G. No more than one (1) Concealment Pole shall be permitted per intersection or block if the Siting Plan calls for the deployment of a Small Wireless Facility at any location other than an intersection, unless otherwise specified within the Wireless Siting Plan or a waiver is granted pursuant to Section 175-5G. No Concealment Poles shall be located within 500 ft. of another unless a waiver is granted pursuant to Section 175-5G.

#### 175-4. Siting Permit Application Process.

- A. Application Filing. An application for a siting permit to place one or more Small Wireless Facility within a right-of-way shall be made on forms which shall be available from the Office of the Borough Clerk. The application, along with the required application fee and the required escrow fee, shall be filed with the Borough Clerk. Immediately upon receipt of an application, the Borough Clerk shall provide copies of the application and all supporting documents that were submitted by the Applicant with the application, to the Borough Engineer, the Construction Official and the Borough Attorneys.
- B. Application Form. The Small Wireless Facility siting permit application shall be made by a provider of personal wireless services, or its duly authorized representative as noted in a notarized statement from the provider of personal wireless services on whose behalf the representative is acting, and shall contain the following:
1. The Applicant's name, address, telephone number and e-mail address.
  2. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application.
  3. A description of the proposed Small Wireless Facility, existing structure and new structure work to be performed. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with particular emphasis on those matters, including, but not limited to, subservice utilities likely to be affected or impacted by the work proposed along with a description of such other governmental permits or approvals as may be required by applicable law with respect to the proposed installation(s) and a description of such other permits or approvals for which the Applicant has applied.
  4. Authorization for any consultant acting on behalf of the Applicant to speak with the Borough, or a designee of the Borough, for the Applicant even if the Applicant cannot be available.
  5. Verification from an appropriate professional that the Small Wireless Facility shall comply with all applicable federal, state and local laws, administrative regulations and codes.
  6. The Applicant shall certify that they shall market the availability of approved facilities to all major wireless carriers in the marketplace. The Applicant shall further certify that they will encourage, manage and coordinate the location and placement of any interested carrier's equipment on their structure.
  7. The Applicant shall certify that the poles are built to allow three (3) carriers to utilize the same pole. The Applicant shall certify that the poles

will not be taller than 55 feet. The Applicant shall also verify that the proposed pole being built can accommodate three total carrier without having to be replaced.

8. The Applicant shall certify that if the pole location is found to be in a high traffic and/or sensitive area as determined by the Borough, the Applicant will place a pole in another location.
9. The Applicant shall certify that it will take down and remove from any pole or other structure any equipment or wires that are deactivated and no longer working.
10. The Applicant shall certify that the location of all poles will be no closer than five-hundred (500) feet apart. Should a carrier successfully scientifically demonstrate that acceptable coverage cannot be achieved with 500 feet spacing, such carrier may make an application for a waiver.
11. The Applicant shall certify the location and number of internal housing units needed for their poles in the Borough of Sea Bright. All poles shall have the capability to house three (3) carriers within one pole at the time of installation.
12. The Applicant shall procure any and all necessary State and/or local permits required for placement of poles in the Borough of Sea Bright.
13. An Applicant seeking to deploy a network of Small Wireless Facilities, all of which are to be located in rights-of-way, may file a batched application for up to twenty-five (25) Small Wireless Facilities and receive a single siting permit for multiple Small Wireless Facilities.
14. A certification that the Applicant shall remove the Small Wireless Facility, including any equipment or wires, when it is no longer in use.

**175-5. Procedure on Permit Application; No Exclusive Rights.**

- A. The Borough shall review the application for a Small Wireless Facility siting permit in light of its conformity with the provisions of this Ordinance, and shall approve a siting permit on nondiscriminatory terms and conditions subject to the following requirements:
  1. Within thirty (30) days of receiving an Application, the Borough Clerk shall determine and notify the Applicant:
    - a. Whether the Application is complete;
    - b. If the Application is incomplete, what specific information is missing; and

- c. Whether the deployment of the Small Wireless Facilities as proposed requires the Applicant to apply for other permits, such as a street opening permit or construction permit, for which the Applicant has not yet applied. No Small Wireless Facility siting permit application shall be deemed complete until the Applicant has applied for all other permits and approvals required by all other laws and regulations that are applicable to the Applicant's proposed Small Wireless Facility deployment.
- B. The Borough shall make its final decision to approve or deny the Application within the following timeframes:
  - a. Sixty (60) days from the submission of a complete application to install a Small Wireless Facility upon one or more existing structures.
  - b. Ninety (90) days from the submission of a complete application to install a Small Wireless Facility upon one or more new structures.
  - c. Ninety (90) days from the submission of a complete batched application to install Small Wireless Facilities upon both existing and new structures.

The timeframes described above by which an application shall be either approved or denied may be extended by mutual consent of the Applicant and Borough. Such consent shall be set forth on a form for such purposes which shall be available from the Office of the Borough Clerk. Such consent on behalf of the Borough shall be exercised by the Mayor in his/her reasonable discretion.

- C. The Borough Clerk shall notify the Applicant in writing of the final decision, and if the Application is denied it shall specify the basis for denial; and Cite such specific provisions, as to why the Application was denied.
- D. Notwithstanding an initial denial, the Applicant may cure any deficiencies identified by the Borough within thirty (30) days of the denial without paying an additional application fee, provided the Borough Clerk shall approve or deny the revised application within thirty (30) days of receipt of the amended application. Any denial shall be limited to the deficiencies specified in the original notice of denial.
- E. If the Borough fails to act upon an application within the timeframes prescribed by this section, the Applicant may provide written notice to the Borough that the application review and decision period has lapsed. Upon receipt of such notice, Borough Council, by resolution adopted no later than its second regularly scheduled public meeting next following receipt of the notice, shall either deny the application or direct that the siting permit shall be approved and issued. Nothing in this paragraph is intended in any way to impact any other right or remedy that may be available to the Applicant under applicable federal or state law if the Borough fails to act upon an application within the timeframes prescribed by this section.

- F. A siting permit from the Borough authorizes an Applicant to undertake only certain activities in accordance with this ordinance. No approval or consent granted, or siting permit issued, pursuant to this ordinance shall confer any exclusive right, privilege, license or franchise to occupy or use any public right-of-way within the Borough of Sea Bright for the delivery of telecommunications services or for any other purpose.
- G. Waiver: The Borough Engineer may waive any siting standard set forth in this Chapter if the carrier can scientifically demonstrate strict enforcement will prohibit or have the effect of prohibiting any interstate or intrastate telecommunications service or personal wireless service. Claims of technical incompatibility or inability to collocate need to be proven by the carrier, not disproven by the Borough. Responsibility for judging proof of said claims lies solely with the municipality and/or its chosen representative(s).

**175-6. Duration.**

No siting permit issued under this ordinance shall be valid for a period longer than twelve (12) months unless construction has actually begun and continuously and diligently is pursued to completion. Upon written request from the Applicant, the Mayor, upon consultation with the Construction Official, may extend the siting permit for a period of up to twelve (12) months so long as construction has begun at the time that the Applicant's request for an extension is made.

**175-7. Routine Maintenance and Replacement.**

A Small Wireless Facility siting permit shall not be required for:

- A. Routine maintenance of a Small Wireless Facility.
- B. The replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight and height to the Small Wireless Facility that is being replaced.
- C. Provided, however, that on a location where the Borough and/or another provider has placed equipment or facilities, any routine maintenance or replacement that is done shall not occur until written authorization from the Borough and/or the other provider, as the case may be, to proceed is provided to the Borough, which authorization to proceed shall not unreasonably be withheld by the Borough and/or the other provider.
- D. Provided further that if the replacement of a Small Wireless Facility with another Small Wireless Facility includes replacement of the structure to which the Small Wireless Facility is attached then an application for a siting permit shall be required.

**175-8. Application Fees.**

- A. All applications for approval and issuance of a Small Wireless Facility siting permit pursuant to this ordinance shall be accompanied by a fee as follows:

1. For applications that do not include the installation of any new structures within a right-of-way the application fee shall be \$500.00 for up to five (5) Small Wireless Facilities with an additional \$100.00 for each Small Wireless Facility beyond five (5).
2. For applications that include the installation of a new structure within a right-of-way the application fee shall be \$1000.00 for up to five (5) Small Wireless Facilities with an additional \$100.00 for each Small Wireless Facility beyond five (5).

**175-9. Escrow Fee for Third-Party Professionals and Consultants.**

- A. In addition to the application fee, all applications for approval and issuance of a Small Wireless Facility siting permit shall be accompanied by an escrow fee as follows:
  1. For applications whose proposed Small Wireless Facility deployment(s) will not require a street opening permit pursuant to Chapter 182, of the Code of the Borough of Sea Bright: \$5,000.00.
  2. For applications whose proposed Small Wireless Facility deployment(s) will require a street opening permit pursuant to Chapter 182 of the Code of the Borough: \$7,500.00.
- B. The escrow account deposits are required to pay for the costs of professional services, including engineering, planning, legal and other third-party professional consulting expenses connected with the review of submitted materials, including any traffic engineering review or other special analyses related to the Borough's review of the materials submitted by the Applicant and the preparation of any reports or any necessary legal agreement regarding rights-of-way use. An Applicant is required to reimburse the Borough for all fees, costs and expenses of third-party professionals and consultants incurred and paid by the Borough for the review process of a Small Wireless Facility siting permit application, such as, but not limited to:
  1. Professional fees for reviews by third-party professionals or consultants of applications, plans and accompanying documents;
  2. Issuance of reports or analyses by third-party professionals or consultants to the Borough setting forth recommendations resulting from the review of any documents submitted by the Applicant;
  3. Charges for any telephone conference(s) or meeting(s), including travel expenses, requested or initiated by the Applicant, the Applicant's attorney or any of the Applicant's experts or representatives;
  4. Review of additional documents submitted by the Applicant and issuance of reports or analyses relating thereto;

5. Review or preparation of right-of-way use agreements, easements, deeds, right-of-way municipal consent ordinances or resolutions and any and all other like or similar documents; and
  6. Preparation for and attendance at all meetings by third-party professionals or consultants serving the Borough, such as the Borough Attorney, Borough Engineer and Borough Planner or other experts as required.
- C. The escrow account deposits shall be placed in a separate account by the Borough's Chief Financial Officer at the request of the Borough Clerk and an accounting shall be kept of each Applicant's deposit. Thereafter:
1. All third-party professional or consultant fees, costs, expenses and charges shall be paid from the escrow account and charged to the applicant;
  2. Upon either final denial of a Small Wireless Facility siting permit application or upon issuance of a Small Wireless Facility siting permit, any moneys not expended for third-party professional or consulting services shall be returned to the Applicant within 90 days upon written request by the Applicant and as authorized by the Borough Council;
  3. If at any time during the application review process 75% of the money originally posted shall have been expended, the Applicant shall be required to replenish the escrow deposit to 100% of the amount originally deposited by the Applicant;
  4. No Small Wireless Facility siting permit application shall be considered complete until such time as the required escrow fee has been posted to guarantee payment of third-party professional or consultant fees, costs, expenses and charges;
  5. All payments charged to the escrow deposit shall be pursuant to vouchers from the third-party professionals or consultants stating the hours spent, the hourly rate and the fees, costs, expenses and charges incurred;
  6. Third-party professionals and consultants submitting charges pursuant to this section shall be permitted to charge for such services at the same rates as they would charge their private clients for like or similar work provided that:
    - a. Professional fees are billed at rates that do not exceed such professional fees as are customarily charged by other like professionals and consultants performing similar work within Monmouth County; and
    - b. Out-of-pocket costs, expenses and charges are billed on a dollar-for-dollar basis with no mark-up being permitted;



7. The Borough shall render a written final accounting to the Applicant on the uses to which the escrow deposit was put. The written final accounting shall include copies of all vouchers that were submitted by third-party professionals and consultants and paid by the Borough.

**175-10. Municipal Access to New Structures.**

An Applicant whose siting permit includes the installation of any new Concealment Pole structure of any of the types that are defined in in Section One: Definitions to this ordinance shall provide the Borough with access to any of the technological features that are a component the new Smart Pole structure such as, for example, public access Wi-Fi, 911 call service or security cameras, before the Applicant offers such access to any other person or entity. Should the Borough decide to utilize any such technological features then the Borough, on an annual basis, shall reimburse the Applicant or the subsequent owner of the structure, the costs, on a dollar-for-dollar basis, of providing the Borough with such access. Such costs shall be limited to the costs of providing electricity to the components used by the Borough and the costs of any repairs required to be made to the components used by the Borough, unless the repair costs are necessitated by the acts of the Applicant or subsequent owner of the structure, without regard to whether such acts are negligent or intentional.

**SECTION TWO.** All Ordinances or parts of Ordinances inconsistent with this Ordinance, to the extent of such inconsistencies only, be and the same hereby are repealed.

**SECTION THREE.** Should any section, paragraph, clause or other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

**SECTION FOUR.** This Ordinance shall take effective immediately upon final passage and publication as provided by law.

**I HEREBY CERTIFY** this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on June 20, 2023 and will be further considered after a Public Hearing held on July 18, 2023.

**INTRODUCED:** June 20, 2023

**PUBLIC HEARING:** July 18, 2023

**ADOPTED:**

Witness

BOROUGH OF SEA BRIGHT

\_\_\_\_\_  
CHRISTINE PFEIFFER, CLERK

\_\_\_\_\_  
BRIAN KELLY, MAYOR

**APPENDIX A**  
**(Form of Approved Small Wireless Facility Right-of-Way Agreement)**

**SMALL WIRELESS FACILITY RIGHT-OF-WAY USE AGREEMENT**

This Right-of-Way Use Agreement (“Agreement”) is made and entered into on \_\_\_\_\_, 2023 by and between the Borough (“Borough”) a New Jersey Municipality, having its municipal offices at 1099 E Ocean Ave, Sea Bright, New Jersey 07760 and Applicant (\_\_\_\_\_) (“Licensee”), having a mailing address at (\_\_\_\_\_).

Throughout this Agreement Borough and Licensee each may be referred to as a “Party” and collectively may be referred to as the “Parties.”

**W I T N E S S E T H**

**WHEREAS**, the Borough of Sea Bright is a municipality duly formed, organized and existing in accordance with the laws of the State of New Jersey; and

**WHEREAS**, the Borough of Sea Bright possesses and exercises control over various permanent rights-of-way that are, or are planned to be, utilized for streets, roads and highways and those rights-of-way are depicted on the current Borough Tax Map and/or other maps and documents of public record; and

**WHEREAS**, N.J.S.A. 48:17-8 provides that any telegraph or telephone company organized under the laws of any state, or of the United States, may erect, construct and maintain the necessary poles, wires, conduits and other fixtures for its lines, in, upon, along, over and under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles and such consent previously has been provided to such companies for the erection of such poles; and

**WHEREAS**, various public utilities that are subject to the jurisdiction of the New Jersey Board of Public Utilities such as, by way of example and not by way of limitation, Jersey Central Power and Light have erected and maintain utility poles within the public rights-of-way in the Borough for use in connection with supplying and distributing electricity, telephone services, cable television, telecommunication services and/or other utilities pursuant to consent previously granted by the Borough; and

**WHEREAS**, Licensee does not presently have the right to maintain utility poles in any municipal right-of-way within the Borough or to otherwise use or occupy any municipal right-of-way within the Borough for any of its Small Wireless Facilities, as hereinafter defined; and

**WHEREAS**, in accordance with the provisions of N.J.S.A. 48:3-11, et. seq., Licensee has petitioned the Borough for its consent to locate, place, attach, install, operate, control, maintain, upgrade and enhance its Small Wireless Facilities in municipal rights-of-way as well as on utility

poles and/or other facilities that are owned by third parties which already are located in municipal rights-of-way pursuant to municipally granted franchises or otherwise; and

**WHEREAS**, N.J.S.A. 48:3-18 provides that any person may enter into a written agreement with any other person owning utility poles erected under municipal consent in any street, highway or other public place for use by the former person and N.J.S.A. 48:3-19 requires that the former person obtain the consent of the municipality for use by the former person of the poles of another if the former person does not have the lawful right to maintain poles in such street, highway or public place; and

**WHEREAS**, as to those utility poles or structures that are owned by third parties and which are located in municipal rights-of-way pursuant to municipally granted franchises or otherwise, Licensee has provided the Borough with evidence, consisting of written agreements, that it has obtained consent from those third parties to use the utility poles or structures that are owned by those third parties; and

**WHEREAS**, N.J.S.A. 48:3-15 provides that, upon satisfaction of the procedures that are set forth in N.J.S.A. 48:3-11 through N.J.S.A. 48:3-14, consent for use of any street, avenue, park, parkway, highway or other public place may be granted by ordinance and not otherwise; and

**WHEREAS**, the Borough Council adopted Ordinance No. \_\_\_\_\_-2023 which authorizes the making and execution of this Agreement.

**NOW, THEREFORE**, for and in consideration of the covenants and obligations contained herein and for other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the Parties hereby agree as follows:

1. Incorporation of Preamble. All of the statements of the Preamble are repeated and are incorporated herein and are made apart hereof by this reference thereto as if set forth at length.

2. Definitions. All definitions of words, terms and phrases that are set forth in the Communications Act of 1934, P.L. 73-416, as amended by various statutory enactments including, but not limited to, the Telecommunications Act of 1996 P.L. 104-104, are incorporated herein and are made apart hereof.

All definitions of the words, terms and phrases that are set forth in the portion of the Middle-Class Tax Relief and Job Creation Act of 2012, P.L. 112-96, as codified in 47 USC § 455, are incorporated herein and are made a part hereof.

All definitions of words, terms and phrases that are set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:550-1, *et. seq.*, are incorporated herein and are made apart hereof.

In the event that a term, word or phrase is not defined in any of the aforementioned statutes and is not otherwise defined by this Agreement then that term, word or phrase shall have its common, ordinary meaning.

“County” means the County of Monmouth in the State of New Jersey.

“Borough” means the Borough of Sea Bright in the County of Monmouth.

“Licensee” means ( \_\_\_\_\_ ) (NAME OF LICENSEE).

“Pole” means a Concealment/Smart pole erected as a new pole, or, a replacement pole in the same location as an already existing pole as defined herein.

“Public Right-of-Way” means the surface, the airspace above the surface and the area below the surface of any street, road, highway, lane, alley, boulevard or drive, including the sidewalk, shoulder and area for utilities owned by the Borough of Sea Bright within an easement to the public or other easement owned by the Borough.

3. Grant of Consent. In accordance with the provisions of N.J.S.A. 48:3-19, *et. seq.*, and Borough Ordinance No. \_\_\_\_\_-2023, and subject to obtaining the permission of the owner(s) of the affected Utility Poles, the Borough hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the Municipality for the purpose of owning, constructing, attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof, upon the Utility Poles that are particularly identified in Section One: Definitions all of which Utility Poles are located in Public Rights-of-Ways and all of which Utility Poles are owned by third parties. Licensee represents that it has obtained consent from the owners of the Utility Poles to utilize those Utility Poles for the aforementioned purposes. Upon request, Licensee shall furnish the Borough with evidence of its Utility Pole attachment agreement(s) made pursuant to N.J.S.A. 48:3-18 and/or N.J.S.A. 14:18-2.9, *et. seq.* Further, the Borough hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the Municipality for the purpose of constructing and owning, such new utility poles or new structures for the purposes attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof. Nothing in this Agreement shall be construed as authorizing Licensee to own, construct, attach, operate, maintain, remove, reattach, reinstall, relocate and/or replace any Small Wireless Facility, Utility Pole or any other structure unless the Licensee first has obtained all permits and other approvals therefore, as required by all applicable laws and regulations. Nothing in this Agreement shall be construed as granting Licensee consent to utilize any rights-of-way over which the Borough lacks authority to grant consent such as any right-of-way over which the County or the State of New Jersey have exclusive authority.

All poles will be no closer than five hundred (500) feet apart. In the event that the Licensee wishes to place poles closer than 500 feet, the Licensee shall why the Licensee’s system could not function at five hundred 500 feet apart and why the Licensee needs the poles closer subject to review and approval by the Borough of Sea Bright pursuant to Section 175-5G.

4. Term. The term of this Agreement shall be ten (10) years, commencing on \_\_\_\_\_, 2023 unless sooner terminated by either Party in accordance with the provisions of this Agreement. The term of this Agreement automatically shall be renewed for five (5) successive terms of five (5) years each on the same terms and conditions as are set forth herein, unless Licensee notifies the Borough of its intention not to renew not less than sixty (60) days prior to the end of the Term then in effect.

5. Non-Exclusive License. This Agreement is a non-exclusive license. It shall not be recorded. Any and all rights granted to Licensee under this Agreement shall be exercised at Licensee's sole cost and expense, shall be subject to the prior and continuing right of the Borough to use any and all parts of its Public Rights-of-Way exclusively or concurrently with any other person or entity and further shall be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title of record which may affect the Public Rights-of-Way. Nothing in this Agreement shall be deemed to grant, convey, create or vest in Licensee a real property interest in any land, including any fee, leasehold interest or easement.

6. Compliance with Laws; Required Permits; Utilities; Maintenance.

(a) *Compliance with Laws.* Licensee shall comply with all applicable federal, state and Borough laws, administrative regulations, codes, zoning ordinances, ordinances, standards, specifications and requirements relating to the construction, installation, operation, maintenance and control of Licensee's Small Wireless Facilities, appurtenant equipment, structures and utility poles defined in Section One: Definitions, in the designated locations within the Public Rights-of-Way. Licensee shall not attach, install, maintain or operate any Small Wireless Facility within any Public Right-of-Way without a permit therefore first having been issued by the Borough. Therefore, in the event that Licensee desires to construct, attach, install, maintain or operate any additional Small Wireless Facilities, Utility Poles or structures within a Public Right-of-Way that is not defined in Section One: Definitions then such construction, attachment, installation, maintenance or operation first shall be approved by a majority vote of the governing body and permit therefore issued by the Borough prior to the commencement of such construction, attachment, installation, maintenance or operation of the Small Wireless Facilities, Utility Poles or structures.

(b) *Required Permits.* If the attachment, installation, operation, maintenance or location of any Small Wireless facility by Licensee in any Public Right-of-Way requires any permit, including any Borough street opening permit, then Licensee, if required under applicable Borough ordinances, shall apply for the appropriate permit with the appropriate municipal official and shall pay the required fee therefore.

(c) *Utilities.* Licensee shall pay for all utilities used (and connections to said utilities) in connection with the installation, operation and maintenance of its Small Wireless Facilities. Licensee agrees to take utility access from the nearest possible connection in order to minimize utilization of the Public Rights-of-Way.

(d) *Maintenance.* In the performance and exercise of its rights and obligations under this Agreement, Licensee, at its sole cost and expense, shall maintain its Small Wireless Facilities,

it Utility Poles, its structures and any real property utilized to access any of the foregoing in a safe and satisfactory condition as directed by, and to the satisfaction of, the Borough including, but not limited to, removal of any debris generated by Licensee and replacement of any plants, trees or vegetation damaged or destroyed by Licensee. In the event that any of Licensee's Small Wireless Facilities, and appurtenances thereto, its Utility Poles or its structures causes damage to any Public Right-of-Way or interferes with the performance of any of the Borough's public duties or other uses of the Public Right-of-Way, Licensee agrees, upon notice from the Borough to promptly commence and complete all necessary repairs to cure any such damage at Licensee's sole cost and expense. If Licensee fails to repair the damage after receiving notice from the Borough or if an emergency necessitates immediate repair of the damage then the Borough, in its sole discretion, may perform the repair work itself in which case Licensee shall reimburse the Borough for the cost of the repair work within thirty (30) days after receiving a statement detailing such costs. The Licensee shall take down and remove from any pole or other structure any equipment or wires that are deactivated and no longer working.

7. Removal and Relocation. Within 30 days following written notice from the Borough, Licensee, at its own expense, shall temporarily or permanently remove, relocate, change or alter the position of any of its Small Wireless Facilities, Utility Poles or structures if the Borough determines that (a) such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any the Borough improvement in or upon, the Public Right-of-Way; or (b) because the Small Wireless Facilities, Utility Poles or structures are interfering with or adversely affecting proper operation of street lighting, traffic signaling or other poles; or (c) the widening of the Public Right-of-Way necessitates such removal, relocation, change or alteration. In such instance, the Borough shall cooperate with Licensee to find a replacement location for its Small Wireless Facilities that will provide similar radio frequency coverage as is provided by the Small Wireless facilities to be removed or relocated. Once the emergency condition no longer exists Licensee shall apply for any permit for the work that was performed during the emergency that it would have had to secure for said work prior to performing said work in the absence of the emergency.

If a pole location is found to be in a high traffic and/or sensitive area as determined by the Borough, the Licensee will place a pole in another location, or, place the equipment underground.

8. Emergent Conditions. Licensee shall maintain all of its Small Wireless facilities, Utility Poles and structures at Licensee's sole cost and expense. The noncompliance with normally required procedures for securing a required permit shall be excused when Licensee reasonably determines that an emergency exists. If an emergency creates a hazard on the traveled portion of the Public Right-of-Way, then Licensee shall take immediate steps to provide all necessary protection for traffic on the roadway including the use of signs, lights, barricades or flaggers. Licensee shall, as soon as practical, notify the Borough Engineer, Construction Official, or their designees, and the Borough Police Department of the emergency, informing them as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. On nights and weekends the Licensee shall notify the Borough Police Department of an emergency if the Borough Engineer and Construction Official are unavailable. If the nature of the emergency is such as to interfere with the free movement of traffic, the Borough Police Department shall be notified immediately, prior to any other action being taken. To the

extent that the Borough has actual knowledge of the displacement or damage to any of Licensee's Small Wireless Facilities, Utility Poles or structures, it shall inform Licensee upon learning of the same.

9. Personal Property Owned by Licensee. All Small Wireless Facilities, Utility Poles and structures covered under this Agreement shall be considered personal property and shall remain the property of and shall be under the dominion and control of the Licensee. Such personal property may not be utilized by any third party without the express prior written consent of Licensee, but Licensee, upon the request of the Borough and at no cost to Licensee, shall cooperate with any third party in collocating the third party's equipment upon any Utility Pole or structure upon which Licensee has installed any Small Wireless facility.

10. Insurance and Indemnity.

(a) Licensee shall secure and maintain commercial general liability insurance or self-insurance with limits of \$2,000,000 for injury or death on one or more persons in any one occurrence and in the aggregate and \$2,000,000 for damage or destruction in any one occurrence and in the aggregate insuring Licensee as named insured and listing the Borough as an included insured on the policies. The Borough's included insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of the Borough, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of the Borough, its employees, agents or independent contractors; and, (iii) not exceed Licensee's indemnification obligation under this Agreement, if any. Notwithstanding the forgoing, Licensee may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. In the event Licensee elects to self-insure its obligation under this Agreement to include the Borough as an additional insured, the following conditions apply: (i) the Borough shall promptly and no later than thirty (30) days after notice thereof provide Licensee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) the Borough shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee; and (iii) the Borough shall fully cooperate with Licensee in the defense of the claim, demand, lawsuit, or the like. If Licensee elects to self-insure then it or its affiliated parent shall maintain a financial net worth of at least \$100,000,000 and it or its affiliated parent shall provide the Borough with a certificate of self-insurance along with a copy of its or its affiliated parent's latest financial statement (or a link to an internet web site from which the Borough may print a copy of the financial statement) showing a net worth of not less than \$100,000,000 as sufficient evidence to demonstrate its or its affiliated parent's financial ability to self-insure the insurance coverage and limits that are specified in this paragraph 10(a).

(b) Certificates of the insurance required by this paragraph 10, along with the evidence of financial ability to self-insure as described in paragraph (a) above, if applicable, shall be provided to the Borough within ten (10) days following the effective date of this Agreement and prior to obtaining any permits required under paragraph 6(b). Thereafter, and so long as this

Agreement remains executory, Licensee shall provide certificates of insurance or of self-insurance reflecting the requirements of this paragraph to the Borough within ten (10) days following receipt of a written request from the Borough. Production of a certificate of self-insurance always shall be accompanied by the evidence of ability to self-insure that is described in paragraph 10(a) above. Should any policy of insurance on which the Borough is an included insured be cancelled before the expiration date thereof then Notice of the cancellation shall be provided to the Borough in accordance with the policy provisions by Licensee or by its affiliated parent or by the insurer.

(c) Licensee agrees to indemnify and hold harmless the Borough against any claim of liability or loss from personal injury or property damage to the extent directly resulting from or arising out of the negligence or willful misconduct of the Licensee, its employees, contractors or agents, except to the extent such claims or damage may be due to or caused by the negligence or willful misconduct of the Borough, or its employees, contractors or agents. The Borough will provide the Licensee with prompt, written notice of any claim covered by this indemnification and hold harmless provision; provided that any failure of the Borough to provide any such notice, or to provide it promptly, shall not relieve the Licensee from its indemnification and hold harmless obligation in respect of such claim, except to the extent the Licensee can establish actual prejudice and direct damages as a result thereof. The Borough shall cooperate with the Licensee in connection with the Licensee's defense of such claim. The Licensee shall defend the Borough at the Borough's request, against any claim with counsel of the Borough's choosing that is reasonably satisfactory to the Licensee.

(d) The legal liability of the Licensee to the Borough and any person for any of the matters that are the subject of the insurance policies required by this paragraph shall not be limited by such insurance policies or by the recovery of any amounts thereunder, however neither the Borough nor the Licensee shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this Agreement.

11. No Waiver of Breach of Remedies. No waiver by a Party of any breach of this Agreement or of any representation hereunder by the other Party shall be deemed to be a waiver of any other breach by the other Party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation hereunder by the other Party whether or not the first Party knows of such breach at the time it accepts such performance. No failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be so in default. Any remedy that either Party may have by reason of a breach of any provision of this Agreement by the other Party at all times shall be preserved and may not be waived.

12. Mediation of Disputes. In the event of any dispute concerning the interpretation of the terms of this Agreement or of the obligations of either Party under this Agreement, the Parties shall attempt in good faith to resolve such dispute via consultation between their designated representatives. If such consultation fails to resolve the dispute, then the Parties agree to submit the dispute to mediation. The mediation shall be initiated by one Party serving the other Party



with a written demand to mediate. The mediation demand shall include the initiating Party's designation of a mediator. Within fourteen (14) days of receipt of the mediation demand the Party receiving the mediation demand shall either agree to the mediator designated by the other Party or shall provide the other Party with its written designation of a mediator. Thereafter, the designated mediators immediately shall jointly designate a third mediator who shall be either a New Jersey licensed attorney-at-law or a retired judge of the Superior Court of New Jersey. Payment of mediation fees, costs and expenses shall be split evenly amongst the Parties. The mediated resolution of the dispute may include a provision that provides for something other than an even split of the mediation fees, costs and expenses.

13. Severability. If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

14. Governing Law. This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of New Jersey without reference to conflict of law principles, except in such instances when the laws of the United States preempt the laws of the State of New Jersey and all actions, suits and litigation arising under the terms of this Agreement shall be litigated in the Superior Court of New Jersey, Monmouth County, or in the United States District Court for the District of New Jersey, but no such litigation shall be initiated by a Party until there has been compliance with the mediation provisions of this Agreement that are set forth above. In the event of litigation arising out of this Agreement, the prevailing party shall not be entitled to recover its costs of suit and attorney's fees from the non-prevailing party unless such recovery is specifically and expressly provided for by a statute of the United States or a statute of the State of New Jersey.

15. Entire Agreement. This Agreement contains the entire understanding between the parties, and such understanding may not be modified or terminated except in writing and signed by all parties to this Agreement.

16. Notice. Any notice required or permitted under this Agreement or under state or federal law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested or by a nationally-recognized overnight delivery service. The Borough and Licensee may change the address required for service of any notice by providing the other party to this Agreement with a new address for sending and receiving of required notices under this Agreement. No notice required under this Agreement may be served validly by email. All notices to the Borough or Licensee shall be delivered to the following addresses:

Borough of Sea Bright  
Christine Pfeiffer, Borough Clerk  
1099 E Ocean Ave  
Sea Bright, NJ 07760

Licensee: (INSERT NAME AND ADDRESS)  
With a copy to: (INSERT NAME AND ADDRESS)

17. Emergency Contact Information for Licensee. The emergency telephone contact number to reach Licensee 24 hours per day, seven days per week, is: (INSERT PHONE NUMBER). Should that number be disabled or revised for any reason, Licensee shall give the Borough immediate notice of an alternate emergency contact telephone number. Additionally, Licensee may be reached during business hours as follows:

(INSERT ADDITIONAL CONTACT INFORMATION)

18. Assignment. Licensee may sell, assign or transfer this Agreement without the need for any approval or consent of the Borough to Licensee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Licensee's assets in the market defined by the Federal Communications Commission in which the Borough is located by reason of a merger, acquisition or other business reorganization. Except as provided in the previous sentence, Licensee may not assign this Agreement without the prior express written consent of the Borough, which consent shall not be unreasonably withheld, conditioned, or delayed after written notice to the Borough of the request. The terms and conditions herein contained shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto.

19. Miscellaneous.

a. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and all those who succeed to their rights and responsibilities, including their respective successors in interest.

b. The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement and shall not be deemed to explain, modify, amplify or otherwise alter the substance of this Agreement.

c. The Borough and Licensee each acknowledge that they have had adequate opportunity to review the contents of this Agreement with legal counsel and have executed this Agreement with full and complete understanding of its terms.

d. This Agreement (and all exhibits thereto) is deemed to have been jointly prepared by the Parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any Party, but shall be interpreted according to the application of the rules of interpretation for arm's-length agreements.

20. Execution. Each Party represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform its respective obligations under this Agreement. This Agreement may be executed in one or more counterparts, each of which should be deemed an original, but which together shall constitute one and the same instrument.

*[Signature Page to Follow]*

**IN WITNESS WHEREOF**, and in order to bind themselves to the terms and conditions of this Agreement, the Parties have caused this Agreement to be executed by their proper corporate officers and their corporate seals have been affixed hereto on the date first set forth above.

ATTEST:

BOROUGH OF SEA BRIGHT

\_\_\_\_\_  
CHRISTINE PFEIFFER, CLERK

\_\_\_\_\_  
BRIAN P. KELLY, MAYOR

ATTEST:

(INSERT LICENSEE NAME)

\_\_\_\_\_, Witness

\_\_\_\_\_

**APPENDIX A**  
**(Form of Approved Small Wireless Facility Right-of-Way Agreement)**

**SMALL WIRELESS FACILITY RIGHT-OF-WAY USE AGREEMENT**

This Right-of-Way Use Agreement (“Agreement”) is made and entered into on \_\_\_\_\_, 2023 by and between the Borough (“Borough”) a New Jersey Municipality, having its municipal offices at 1099 E Ocean Ave, Sea Bright, New Jersey 07760 and Applicant (\_\_\_\_\_) (“Licensee”), having a mailing address at (\_\_\_\_\_).

Throughout this Agreement Borough and Licensee each may be referred to as a “Party” and collectively may be referred to as the “Parties.”

**W I T N E S S E T H**

**WHEREAS**, the Borough of Sea Bright is a municipality duly formed, organized and existing in accordance with the laws of the State of New Jersey; and

**WHEREAS**, the Borough of Sea Bright possesses and exercises control over various permanent rights-of-way that are, or are planned to be, utilized for streets, roads and highways and those rights-of-way are depicted on the current Borough Tax Map and/or other maps and documents of public record; and

**WHEREAS**, N.J.S.A. 48:17-8 provides that any telegraph or telephone company organized under the laws of any state, or of the United States, may erect, construct and maintain the necessary poles, wires, conduits and other fixtures for its lines, in, upon, along, over and under any public street, road or highway, upon first obtaining the consent in writing of the owner of the soil to the erection of such poles and such consent previously has been provided to such companies for the erection of such poles; and

**WHEREAS**, various public utilities that are subject to the jurisdiction of the New Jersey Board of Public Utilities such as, by way of example and not by way of limitation, Jersey Central Power and Light have erected and maintain utility poles within the public rights-of-way in the Borough for use in connection with supplying and distributing electricity, telephone services, cable television, telecommunication services and/or other utilities pursuant to consent previously granted by the Borough; and

**WHEREAS**, Licensee does not presently have the right to maintain utility poles in any municipal right-of-way within the Borough or to otherwise use or occupy any municipal right-of-way within the Borough for any of its Small Wireless Facilities, as hereinafter defined; and

**WHEREAS**, in accordance with the provisions of N.J.S.A. 48:3-11, et. seq., Licensee has petitioned the Borough for its consent to locate, place, attach, install, operate, control, maintain, upgrade and enhance its Small Wireless Facilities in municipal rights-of-way as well as on utility

poles and/or other facilities that are owned by third parties which already are located in municipal rights-of-way pursuant to municipally granted franchises or otherwise; and

**WHEREAS**, N.J.S.A. 48:3-18 provides that any person may enter into a written agreement with any other person owning utility poles erected under municipal consent in any street, highway or other public place for use by the former person and N.J.S.A. 48:3-19 requires that the former person obtain the consent of the municipality for use by the former person of the poles of another if the former person does not have the lawful right to maintain poles in such street, highway or public place; and

**WHEREAS**, as to those utility poles or structures that are owned by third parties and which are located in municipal rights-of-way pursuant to municipally granted franchises or otherwise, Licensee has provided the Borough with evidence, consisting of written agreements, that it has obtained consent from those third parties to use the utility poles or structures that are owned by those third parties; and

**WHEREAS**, N.J.S.A. 48:3-15 provides that, upon satisfaction of the procedures that are set forth in N.J.S.A. 48:3-11 through N.J.S.A. 48:3-14, consent for use of any street, avenue, park, parkway, highway or other public place may be granted by ordinance and not otherwise; and

**WHEREAS**, the Borough Council adopted Ordinance No. \_\_\_\_\_-2023 which authorizes the making and execution of this Agreement.

**NOW, THEREFORE**, for and in consideration of the covenants and obligations contained herein and for other good and valuable consideration, the receipt and sufficiency of which hereby is acknowledged, the Parties hereby agree as follows:

1. Incorporation of Preamble. All of the statements of the Preamble are repeated and are incorporated herein and are made apart hereof by this reference thereto as if set forth at length.

2. Definitions. All definitions of words, terms and phrases that are set forth in the Communications Act of 1934, P.L. 73-416, as amended by various statutory enactments including, but not limited to, the Telecommunications Act of 1996 P.L. 104-104, are incorporated herein and are made apart hereof.

All definitions of the words, terms and phrases that are set forth in the portion of the Middle-Class Tax Relief and Job Creation Act of 2012, P.L. 112-96, as codified in 47 USC § 455, are incorporated herein and are made a part hereof.

All definitions of words, terms and phrases that are set forth in the New Jersey Municipal Land Use Law, N.J.S.A. 40:550-1, *et. seq.*, are incorporated herein and are made apart hereof.

In the event that a term, word or phrase is not defined in any of the aforementioned statutes and is not otherwise defined by this Agreement then that term, word or phrase shall have its common, ordinary meaning.

“County” means the County of Monmouth in the State of New Jersey.

“Borough” means the Borough of Sea Bright in the County of Monmouth.

“Licensee” means ( \_\_\_\_\_ ) (NAME OF LICENSEE).

“Pole” means a Concealment/Smart pole erected as a new pole, or, a replacement pole in the same location as an already existing pole as defined herein.

“Public Right-of-Way” means the surface, the airspace above the surface and the area below the surface of any street, road, highway, lane, alley, boulevard or drive, including the sidewalk, shoulder and area for utilities owned by the Borough of Sea Bright within an easement to the public or other easement owned by the Borough.

3. Grant of Consent. In accordance with the provisions of N.J.S.A. 48:3-19, *et. seq.*, and Borough Ordinance No. \_\_\_\_\_-2023, and subject to obtaining the permission of the owner(s) of the affected Utility Poles, the Borough hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the Municipality for the purpose of owning, constructing, attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof, upon the Utility Poles that are particularly identified in Section One: Definitions all of which Utility Poles are located in Public Rights-of-Ways and all of which Utility Poles are owned by third parties. Licensee represents that it has obtained consent from the owners of the Utility Poles to utilize those Utility Poles for the aforementioned purposes. Upon request, Licensee shall furnish the Borough with evidence of its Utility Pole attachment agreement(s) made pursuant to N.J.S.A. 48:3-18 and/or N.J.S.A. 14:18-2.9, *et. seq.* Further, the Borough hereby grants approval and consent to Licensee, its consultants, agents and contractors, to enter upon Public Rights-of-Way within the confines of the Municipality for the purpose of constructing and owning, such new utility poles or new structures for the purposes attaching, operating, maintaining, removing, reattaching, reinstalling, relocating and replacing its Small Wireless Facilities that more particularly are depicted and are described in Section One: Definitions, made a part hereof. Nothing in this Agreement shall be construed as authorizing Licensee to own, construct, attach, operate, maintain, remove, reattach, reinstall, relocate and/or replace any Small Wireless Facility, Utility Pole or any other structure unless the Licensee first has obtained all permits and other approvals therefore, as required by all applicable laws and regulations. Nothing in this Agreement shall be construed as granting Licensee consent to utilize any rights-of-way over which the Borough lacks authority to grant consent such as any right-of-way over which the County or the State of New Jersey have exclusive authority.

All poles will be no closer than five hundred (500) feet apart. In the event that the Licensee wishes to place poles closer than 500 feet, the Licensee shall why the Licensee’s system could not function at five hundred 500 feet apart and why the Licensee needs the poles closer subject to review and approval by the Borough of Sea Bright pursuant to Section 175-5G.

4. Term. The term of this Agreement shall be ten (10) years, commencing on \_\_\_\_\_, 2023 unless sooner terminated by either Party in accordance with the provisions of this Agreement. The term of this Agreement automatically shall be renewed for five (5) successive terms of five (5) years each on the same terms and conditions as are set forth herein, unless Licensee notifies the Borough of its intention not to renew not less than sixty (60) days prior to the end of the Term then in effect.

5. Non-Exclusive License. This Agreement is a non-exclusive license. It shall not be recorded. Any and all rights granted to Licensee under this Agreement shall be exercised at Licensee's sole cost and expense, shall be subject to the prior and continuing right of the Borough to use any and all parts of its Public Rights-of-Way exclusively or concurrently with any other person or entity and further shall be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title of record which may affect the Public Rights-of-Way. Nothing in this Agreement shall be deemed to grant, convey, create or vest in Licensee a real property interest in any land, including any fee, leasehold interest or easement.

6. Compliance with Laws; Required Permits; Utilities; Maintenance.

(a) *Compliance with Laws.* Licensee shall comply with all applicable federal, state and Borough laws, administrative regulations, codes, zoning ordinances, ordinances, standards, specifications and requirements relating to the construction, installation, operation, maintenance and control of Licensee's Small Wireless Facilities, appurtenant equipment, structures and utility poles defined in Section One: Definitions, in the designated locations within the Public Rights-of-Way. Licensee shall not attach, install, maintain or operate any Small Wireless Facility within any Public Right-of-Way without a permit therefore first having been issued by the Borough. Therefore, in the event that Licensee desires to construct, attach, install, maintain or operate any additional Small Wireless Facilities, Utility Poles or structures within a Public Right-of-Way that is not defined in Section One: Definitions then such construction, attachment, installation, maintenance or operation first shall be approved by a majority vote of the governing body and permit therefore issued by the Borough prior to the commencement of such construction, attachment, installation, maintenance or operation of the Small Wireless Facilities, Utility Poles or structures.

(b) *Required Permits.* If the attachment, installation, operation, maintenance or location of any Small Wireless facility by Licensee in any Public Right-of-Way requires any permit, including any Borough street opening permit, then Licensee, if required under applicable Borough ordinances, shall apply for the appropriate permit with the appropriate municipal official and shall pay the required fee therefore.

(c) *Utilities.* Licensee shall pay for all utilities used (and connections to said utilities) in connection with the installation, operation and maintenance of its Small Wireless Facilities. Licensee agrees to take utility access from the nearest possible connection in order to minimize utilization of the Public Rights-of-Way.

(d) *Maintenance.* In the performance and exercise of its rights and obligations under this Agreement, Licensee, at its sole cost and expense, shall maintain its Small Wireless Facilities,

it Utility Poles, its structures and any real property utilized to access any of the foregoing in a safe and satisfactory condition as directed by, and to the satisfaction of, the Borough including, but not limited to, removal of any debris generated by Licensee and replacement of any plants, trees or vegetation damaged or destroyed by Licensee. In the event that any of Licensee's Small Wireless Facilities, and appurtenances thereto, its Utility Poles or its structures causes damage to any Public Right-of-Way or interferes with the performance of any of the Borough's public duties or other uses of the Public Rights-of-Way, Licensee agrees, upon notice from the Borough to promptly commence and complete all necessary repairs to cure any such damage at Licensee's sole cost and expense. If Licensee fails to repair the damage after receiving notice from the Borough or if an emergency necessitates immediate repair of the damage then the Borough, in its sole discretion, may perform the repair work itself in which case Licensee shall reimburse the Borough for the cost of the repair work within thirty (30) days after receiving a statement detailing such costs. The Licensee shall take down and remove from any pole or other structure any equipment or wires that are deactivated and no longer working.

7. Removal and Relocation. Within 30 days following written notice from the Borough, Licensee, at its own expense, shall temporarily or permanently remove, relocate, change or alter the position of any of its Small Wireless Facilities, Utility Poles or structures if the Borough determines that (a) such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any the Borough improvement in or upon, the Public Right-of-Way; or (b) because the Small Wireless Facilities, Utility Poles or structures are interfering with or adversely affecting proper operation of street lighting, traffic signaling or other poles; or (c) the widening of the Public Right-of-Way necessitates such removal, relocation, change or alteration. In such instance, the Borough shall cooperate with Licensee to find a replacement location for its Small Wireless Facilities that will provide similar radio frequency coverage as is provided by the Small Wireless facilities to be removed or relocated. Once the emergency condition no longer exists Licensee shall apply for any permit for the work that was performed during the emergency that it would have had to secure for said work prior to performing said work in the absence of the emergency.

If a pole location is found to be in a high traffic and/or sensitive area as determined by the Borough, the Licensee will place a pole in another location, or, place the equipment underground.

8. Emergent Conditions. Licensee shall maintain all of its Small Wireless facilities, Utility Poles and structures at Licensee's sole cost and expense. The noncompliance with normally required procedures for securing a required permit shall be excused when Licensee reasonably determines that an emergency exists. If an emergency creates a hazard on the traveled portion of the Public Right-of-Way, then Licensee shall take immediate steps to provide all necessary protection for traffic on the roadway including the use of signs, lights, barricades or flaggers. Licensee shall, as soon as practical, notify the Borough Engineer, Construction Official, or their designees, and the Borough Police Department of the emergency, informing them as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. On nights and weekends the Licensee shall notify the Borough Police Department of an emergency if the Borough Engineer and Construction Official are unavailable. If the nature of the emergency is such as to interfere with the free movement of traffic, the Borough Police Department shall be notified immediately, prior to any other action being taken. To the



extent that the Borough has actual knowledge of the displacement or damage to any of Licensee's Small Wireless Facilities, Utility Poles or structures, it shall inform Licensee upon learning of the same.

9. Personal Property Owned by Licensee. All Small Wireless Facilities, Utility Poles and structures covered under this Agreement shall be considered personal property and shall remain the property of and shall be under the dominion and control of the Licensee. Such personal property may not be utilized by any third party without the express prior written consent of Licensee, but Licensee, upon the request of the Borough and at no cost to Licensee, shall cooperate with any third party in collocating the third party's equipment upon any Utility Pole or structure upon which Licensee has installed any Small Wireless facility.

10. Insurance and Indemnity.

(a) Licensee shall secure and maintain commercial general liability insurance or self-insurance with limits of \$2,000,000 for injury or death on one or more persons in any one occurrence and in the aggregate and \$2,000,000 for damage or destruction in any one occurrence and in the aggregate insuring Licensee as named insured and listing the Borough as an included insured on the policies. The Borough's included insured status shall (i) be limited to bodily injury, property damage or personal and advertising injury caused, in whole or in part, by Licensee, its employees, agents or independent contractors; (ii) not extend to claims for punitive or exemplary damages arising out of the acts or omissions of the Borough, its employees, agents or independent contractors or where such coverage is prohibited by law or to claims arising out of the gross negligence of the Borough, its employees, agents or independent contractors; and, (iii) not exceed Licensee's indemnification obligation under this Agreement, if any. Notwithstanding the forgoing, Licensee may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. In the event Licensee elects to self-insure its obligation under this Agreement to include the Borough as an additional insured, the following conditions apply: (i) the Borough shall promptly and no later than thirty (30) days after notice thereof provide Licensee with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide Licensee with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) the Borough shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of Licensee; and (iii) the Borough shall fully cooperate with Licensee in the defense of the claim, demand, lawsuit, or the like. If Licensee elects to self-insure then it or its affiliated parent shall maintain a financial net worth of at least \$100,000,000 and it or its affiliated parent shall provide the Borough with a certificate of self-insurance along with a copy of its or its affiliated parent's latest financial statement (or a link to an internet web site from which the Borough may print a copy of the financial statement) showing a net worth of not less than \$100,000,000 as sufficient evidence to demonstrate its or its affiliated parent's financial ability to self-insure the insurance coverage and limits that are specified in this paragraph 10(a).

(b) Certificates of the insurance required by this paragraph 10, along with the evidence of financial ability to self-insure as described in paragraph (a) above, if applicable, shall be provided to the Borough within ten (10) days following the effective date of this Agreement and prior to obtaining any permits required under paragraph 6(b). Thereafter, and so long as this

Agreement remains executory, Licensee shall provide certificates of insurance or of self-insurance reflecting the requirements of this paragraph to the Borough within ten (10) days following receipt of a written request from the Borough. Production of a certificate of self-insurance always shall be accompanied by the evidence of ability to self-insure that is described in paragraph 10(a) above. Should any policy of insurance on which the Borough is an included insured be cancelled before the expiration date thereof then Notice of the cancellation shall be provided to the Borough in accordance with the policy provisions by Licensee or by its affiliated parent or by the insurer.

(c) Licensee agrees to indemnify and hold harmless the Borough against any claim of liability or loss from personal injury or property damage to the extent directly resulting from or arising out of the negligence or willful misconduct of the Licensee, its employees, contractors or agents, except to the extent such claims or damage may be due to or caused by the negligence or willful misconduct of the Borough, or its employees, contractors or agents. The Borough will provide the Licensee with prompt, written notice of any claim covered by this indemnification and hold harmless provision; provided that any failure of the Borough to provide any such notice, or to provide it promptly, shall not relieve the Licensee from its indemnification and hold harmless obligation in respect of such claim, except to the extent the Licensee can establish actual prejudice and direct damages as a result thereof. The Borough shall cooperate with the Licensee in connection with the Licensee's defense of such claim. The Licensee shall defend the Borough at the Borough's request, against any claim with counsel of the Borough's choosing that is reasonably satisfactory to the Licensee.

(d) The legal liability of the Licensee to the Borough and any person for any of the matters that are the subject of the insurance policies required by this paragraph shall not be limited by such insurance policies or by the recovery of any amounts thereunder, however neither the Borough nor the Licensee shall be liable to the other for consequential, incidental, exemplary or punitive damages on account of any activity pursuant to this Agreement.

11. No Waiver of Breach of Remedies. No waiver by a Party of any breach of this Agreement or of any representation hereunder by the other Party shall be deemed to be a waiver of any other breach by the other Party (whether preceding or succeeding and whether or not of the same or similar nature), and no acceptance of performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation hereunder by the other Party whether or not the first Party knows of such breach at the time it accepts such performance. No failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right by the first Party while the other Party continues to be so in default. Any remedy that either Party may have by reason of a breach of any provision of this Agreement by the other Party at all times shall be preserved and may not be waived.

12. Mediation of Disputes. In the event of any dispute concerning the interpretation of the terms of this Agreement or of the obligations of either Party under this Agreement, the Parties shall attempt in good faith to resolve such dispute via consultation between their designated representatives. If such consultation fails to resolve the dispute, then the Parties agree to submit the dispute to mediation. The mediation shall be initiated by one Party serving the other Party

with a written demand to mediate. The mediation demand shall include the initiating Party's designation of a mediator. Within fourteen (14) days of receipt of the mediation demand the Party receiving the mediation demand shall either agree to the mediator designated by the other Party or shall provide the other Party with its written designation of a mediator. Thereafter, the designated mediators immediately shall jointly designate a third mediator who shall be either a New Jersey licensed attorney-at-law or a retired judge of the Superior Court of New Jersey. Payment of mediation fees, costs and expenses shall be split evenly amongst the Parties. The mediated resolution of the dispute may include a provision that provides for something other than an even split of the mediation fees, costs and expenses.

13. Severability. If any provision of this Agreement or the application thereof shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Agreement nor the application of the provision to other persons, entities or circumstances shall be affected thereby, but instead shall be enforced to the maximum extent permitted by law.

14. Governing Law. This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of New Jersey without reference to conflict of law principles, except in such instances when the laws of the United States preempt the laws of the State of New Jersey and all actions, suits and litigation arising under the terms of this Agreement shall be litigated in the Superior Court of New Jersey, Monmouth County, or in the United States District Court for the District of New Jersey, but no such litigation shall be initiated by a Party until there has been compliance with the mediation provisions of this Agreement that are set forth above. In the event of litigation arising out of this Agreement, the prevailing party shall not be entitled to recover its costs of suit and attorney's fees from the non-prevailing party unless such recovery is specifically and expressly provided for by a statute of the United States or a statute of the State of New Jersey.

15. Entire Agreement. This Agreement contains the entire understanding between the parties, and such understanding may not be modified or terminated except in writing and signed by all parties to this Agreement.

16. Notice. Any notice required or permitted under this Agreement or under state or federal law shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested or by a nationally-recognized overnight delivery service. The Borough and Licensee may change the address required for service of any notice by providing the other party to this Agreement with a new address for sending and receiving of required notices under this Agreement. No notice required under this Agreement may be served validly by email. All notices to the Borough or Licensee shall be delivered to the following addresses:

Borough of Sea Bright  
Christine Pfeiffer, Borough Clerk  
1099 E Ocean Ave  
Sea Bright, NJ 07760

Licensee: (INSERT NAME AND ADDRESS)  
With a copy to: (INSERT NAME AND ADDRESS)

17. Emergency Contact Information for Licensee. The emergency telephone contact number to reach Licensee 24 hours per day, seven days per week, is: (INSERT PHONE NUMBER). Should that number be disabled or revised for any reason, Licensee shall give the Borough immediate notice of an alternate emergency contact telephone number. Additionally, Licensee may be reached during business hours as follows:

(INSERT ADDITIONAL CONTACT INFORMATION)

18. Assignment. Licensee may sell, assign or transfer this Agreement without the need for any approval or consent of the Borough to Licensee's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of Licensee's assets in the market defined by the Federal Communications Commission in which the Borough is located by reason of a merger, acquisition or other business reorganization. Except as provided in the previous sentence, Licensee may not assign this Agreement without the prior express written consent of the Borough, which consent shall not be unreasonably withheld, conditioned, or delayed after written notice to the Borough of the request. The terms and conditions herein contained shall be binding upon and inure to the benefit of the permitted successors and assigns of the Parties hereto.

19. Miscellaneous.

a. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and all those who succeed to their rights and responsibilities, including their respective successors in interest.

b. The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement and shall not be deemed to explain, modify, amplify or otherwise alter the substance of this Agreement.

c. The Borough and Licensee each acknowledge that they have had adequate opportunity to review the contents of this Agreement with legal counsel and have executed this Agreement with full and complete understanding of its terms.

d. This Agreement (and all exhibits thereto) is deemed to have been jointly prepared by the Parties hereto, and any uncertainty or ambiguity existing herein, if any, shall not be interpreted against any Party, but shall be interpreted according to the application of the rules of interpretation for arm's-length agreements.

20. Execution. Each Party represents and warrants that it has the full right, power, legal capacity, and authority to enter into and perform its respective obligations under this Agreement. This Agreement may be executed in one or more counterparts, each of which should be deemed an original, but which together shall constitute one and the same instrument.

*[Signature Page to Follow]*

**IN WITNESS WHEREOF**, and in order to bind themselves to the terms and conditions of this Agreement, the Parties have caused this Agreement to be executed by their proper corporate officers and their corporate seals have been affixed hereto on the date first set forth above.

ATTEST:

BOROUGH OF SEA BRIGHT

\_\_\_\_\_  
CHRISTINE PFEIFFER, CLERK

\_\_\_\_\_  
BRIAN P. KELLY, MAYOR

ATTEST:

(INSERT LICENSEE NAME)

\_\_\_\_\_, Witness

\_\_\_\_\_

**CAPITAL ORDINANCE NO. 09-2023**

**BOROUGH OF SEA BRIGHT**

**AN ORDINANCE PROVIDING FUNDING FOR PRELIMINARY DESIGN EXPENSES FOR THE BULKHEAD IMPROVEMENT PROJECT FOR THE BOROUGH OF SEA BRIGHT AND APPROPRIATING \$100,000 FOR SUCH PURPOSE.**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SEA BRIGHT, IN THE COUNTY OF MONMOUTH AND STATE OF NEW JERSEY, AS FOLLOWS:

Section 1. The Borough of Sea Bright, in the County of Monmouth, New Jersey, authorizes for preliminary design expenses for the Bulkhead Improvement Project for the Borough of Sea Bright, to be funded from the sources specified in Section 2 of the Ordinance.

Section 2. The amount of \$100,000 is hereby appropriated for the purposes stated in Section 1 of the Ordinance and which amount was funded from the Borough's General Capital Fund Balance (surplus) in the amount of \$100,000.

Section 3. In connection with the purpose and the amount authorized in Sections 1 and 2 hereof, the Borough determines the purpose described in Section 1 hereof is not a Current Expense and is an improvement which the Borough of Sea Bright may lawfully make as a general improvement.

Section 4. All ordinances or parts of ordinances which are inconsistent with the terms of this Ordinance be and the same are hereby repealed to the extent of their inconsistency.

Section 5. This Ordinance shall take effect immediately upon due passage and publication according to law.

INTRODUCED: June 20, 2023

PUBLIC HEARING: July 18, 2023

ADOPTED:

Witness

BOROUGH OF SEA BRIGHT,

---

CHRISTINE PFEIFFER, CLERK

---

BRIAN P. KELLY, MAYOR

**ORDINANCE NO. 10-2023**

**AN ORDINANCE OF THE BOROUGH OF SEA BRIGHT, AMENDING AND SUPPLEMENTING CHAPTER 161 OF THE CODE OF THE BOROUGH OF SEA BRIGHT REGARDING THE REQUIREMENT FOR INSPECTION OF LEAD-BASED PAINT IN CERTAIN RESIDENTIAL DWELLINGS.**

**WHEREAS**, the Borough of Sea Bright (the “Borough”) maintains Chapter 161 entitled “Property Maintenance” of the Borough Code, specifically the Property Maintenance Code; and,

**WHEREAS**, pursuant to P.L. 2021, c.182, all municipalities are required to inspect every single-family, two-family, and multiple rental dwelling located within the municipality on a recurring basis and at tenant turnover for lead-based paint hazards; and,

**WHEREAS**, the Borough Council has determined that it is in the best interests of the Borough and its residents to amend the Code to require inspections for lead-based paint in certain residential rental dwellings in order to conform with the State law.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Council of the Borough of Sea Bright, County of Monmouth, State of New Jersey, as follows:

**SECTION ONE.** Chapter 161 of the Code of the Borough of Sea Bright be and the same is hereby amended and supplemented to add thereto Article II, “Lead Based Paint Inspections”, to read, in full, as follows:

“Article II. Lead-Based Paint Inspections.

§ 161-4. Required Initial Inspection. The owner, landlord and/or agent of every single-family, two-family, and/or multiple dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards within two years of the effective date of the law, July 2, 2022, or upon tenant turnover, whichever is earlier.

§ 161-5. Required Recurring Inspection. After the initial inspection required by Section 161-4, the owner, landlord and/or agent of such dwelling unit offered for rental shall be required to obtain an inspection of the unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification.

§ 161-6. Standards. Inspections for lead-based paint in rental dwelling units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq., and N.J.S.A. 55:13A-1 et seq., as may be amended from time to time.

§ 161-7. Exceptions. A dwelling unit in a single-family, two-family, or multiple rental dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards, or for the fees for such inspection or evaluation, if the unit:

- a. has been certified to be free of lead-based paint;
- b. was constructed during or after 1978; or

c. is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the “Hotel and Multiple Dwelling Law”, N.J.S.A. 55:13A-1, et seq.

d. is a single-family or two-family seasonal rental dwelling which is rented for less than six months’ duration each year by tenants that do not have consecutive lease renewals; or

e. has a valid lead-safe certification issued in accordance with N.J.S.A. 52:27D-437.16(d)(2).

§ 161-8. If lead-based paint hazards are identified, then the owner of the dwelling shall remediate the hazards through abatement or lead-based paint hazard control mechanisms in accordance with N.J.S.A. 52:27D-437.16(d). Upon the remediation of the lead-based paint hazard, the Code Enforcement Officer or designee, as may be applicable, or the owner’s private lead inspector, shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

§ 161-9. If no lead-based paint hazards are identified, then the Code Enforcement Officer or designee or the owner’s private lead inspector shall certify the dwelling as lead safe on a form prescribed by the Department of Community Affairs, which shall be valid for two years and shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall maintain up-to-date information on inspection schedules, inspection results, tenant turnover and a record of all lead-free certifications issued pursuant to N.J.A.C. 5:17.

§ 161-10. In accordance with N.J.S.A. 52:27D-437.16(e), property owners shall:

a. Provide evidence of a valid lead-safe certification and the most recent tenant turnover to the Borough at the time of the cyclical inspection.

b. Provide evidence of a valid lead-safe certification to new tenants of the property at the time of tenant turnover and shall affix a copy of such certification as an exhibit to the tenant’s or tenants’ lease.

c. Maintain a record of the lead-safe certification which shall include the name or names of the unit’s tenant or tenants if the inspection was conducted during a period of tenancy.

§ 161-11. Fees.

a. Notwithstanding any other fees due pursuant to this Chapter, a fee in the amount of \$50.00 shall be paid for each lead-based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used for any other purpose. Alternatively, a dwelling owner or landlord may directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of Section 6-4 in which case no additional Lead-Based Paint inspection fee shall be paid.



b. The fee for the filing of a lead-safe certification or lead-free certification shall be \$25.

c. In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

§ 161-12. Violations and Penalties. In accordance with N.J.S.A. 52:27D 437.19, the penalties for a violation of Article shall be as follows:

a. If a property owner has failed to conduct the required inspection or initiate any remediation efforts, the owner shall be given 30 days to cure the violation.

b. If the property owner has not cured the violation after 30 days, the property owner shall be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts have been initiated”.

**SECTION TWO.** If any section, paragraph, clause, or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to die section, paragraph, clause or provision so adjudged and the remainder of the ordinance shall be deemed valid and effective.

**SECTION THREE.** All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to die extent of such inconsistency.

**SECTION FOUR.** This ordinance shall take effect after final passage and publication as provided by law.

**I HEREBY CERTIFY** this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Sea Bright, introduced on June 20, 2023 and will be further considered after a Public Hearing held on July 18, 2023, in the Mayor Dina Long Community Room, 1097 Ocean Avenue, 7:00 pm.

**INTRODUCED:** June 20, 2023  
**PUBLIC HEARING:** July 18, 2023  
**ADOPTED:**

Witness

BOROUGH OF SEA BRIGHT

\_\_\_\_\_  
CHRISTINE PFEIFFER, CLERK

\_\_\_\_\_  
BRIAN KELLY, MAYOR

**VOUCHER LIST  
JUNE 20, 2023  
BOROUGH OF SEA BRIGHT**

2790	ACB SERVICES, INC.		
23-00542	05/16/23 Buildings & Grounds	Open	3,888.73
23-00622	06/02/23 Buildings & Grounds	Open	3,888.73
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			7,777.46
00218	ALICE'S KITCHEN		
23-00663	06/14/23 RECREATION	Open	415.00
02113	AMERICAN WATER		
23-00568	05/23/23 SEWER	Open	328.86
02227	APOLLO SEWER & PLUMBING, INC.		
23-00540	05/16/23 Buildings & Grounds	Open	995.00
23-00541	05/16/23 Buildings & Grounds	Open	475.00
23-00543	05/16/23 Beach	Open	975.00
23-00545	05/16/23 Beach	Open	450.00
23-00546	05/16/23 Beach	Open	175.00
23-00553	05/16/23 BLDGS & GRDS	Open	175.00
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			3,245.00
2597	AT&T MOBILITY		
23-00604	06/01/23 RADIOS	Open	512.08
2885	ATLANTIC SECURITY & FIRE		
23-00597	05/26/23 LIBRARY	Open	971.80
02036	BAHRLE, DAVID		
23-00564	05/18/23 DPW	Open	64.20
01241	BAIN'S HARDWARE, INC.		
23-00694	06/15/23 HARDWARE	Open	915.72
2640	BATHGATE, WEGENER & WOLF		
23-00629	06/05/23 LEGAL	Open	467.12
2521	BELSON OUTDOORS		
23-00537	05/12/23 BEAUTIFICATION	Open	1,300.59
01957	BENEMAX BENEFIT MANAGEMENT CO.		
23-00696	06/15/23 HEALTH	Open	348.00
2717	BOROUGH OF ATLANTIC HIGHLANDS		
23-00641	06/07/23 LEAP GRANT	Open	27,439.10
23-00649	06/13/23 A&E	Open	162.00
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			27,601.10
2814	BOROUGH OF HIGHLANDS		
23-00640	06/07/23 LEAP GRANT	Open	15,824.66
01631	BOROUGH OF OCEANPORT		
23-00654	06/14/23 COURT	Open	6,500.00
01565	BOROUGH OF SEA BRIGHT		
23-00656	06/14/23 ADMIN FEES	Open	6,675.00
00530	BULLET LOCK & SAFE CO., INC.		
23-00571	05/23/23 Beach	Open	48.00
00230	CERTIFIED SPEEDOMETER		
23-00586	05/23/23	Open	220.00
2680	CINTAS		
23-00624	06/02/23 Buildings & Grounds	Open	160.51
2555	CJM ASSOC. OF SEA BRIGHT		
23-00652	06/14/23 LEASE	Open	500.00
00256	CLEARY, GIACOBBE, ALFIERI &		
23-00646	06/13/23 LEGAL	Open	973.50
23-00661	06/14/23 LEGAL	Open	115.50
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			1,089.00

01988	COMPTON, BARBARA		
23-00639	06/07/23 CLERK	Open	40.00
02231	COUSINS LANDSCAPING		
23-00491	05/04/23 LANDSCAPING	Open	5,925.00
B			
02253	DAVID HODER ASSOCIATES		
23-00684	06/14/23 ENGINEER	Open	2,170.00
2655	DE SESA ENGINEERING CO.		
23-00589	05/24/23 Buildings & Grounds	Open	1,565.45
23-00591	05/24/23 Buildings & Grounds	Open	427.00
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			1,992.45
2833	FEDERAL RENT A FENCE		
23-00664	06/14/23 PARKING	Open	201.00
01016	FTORE PAVING, INC.		
23-00463	04/27/23 ROAD PROGRAM	Open	240,378.71
01720	FIREFIGHTER ONE, LLC		
23-00549	05/16/23 SCBA Repairs	Open	215.10
2406	FP MAILING SOLUTIONS		
23-00569	05/23/23 CONTRACTUAL	Open	98.85
02101	GANNETT NJ NEWSPAPERS		
23-00594	05/24/23 CLERK	Open	40.92
23-00685	06/14/23 CLERK	Open	15.84
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			56.76
00097	GARDEN IRRIGATION CO., INC.		
23-00581	05/23/23 Buildings & Grounds	Open	790.00
01549	GENERAL CODE, LLC		
23-00636	06/07/23 A&E	Open	1,195.00
02219	GOODYEAR AUTO CENTER		
23-00513	05/10/23 Replacement Tires	Open	1,656.00
2381	HENDRICKS, ANDREW		
23-00560	05/18/23 POLICE	Open	175.00
2700	HIGHWAY EQUIPMENT OF NJ, INC.		
23-00555	05/17/23 PARKING	Open	902.00
23-00578	05/23/23 Streets & Roads	Open	1,974.69
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			2,876.69
01838	HOLMAN, FRENIA, ALLISON, P.C.		
23-00698	06/15/23 AUDIT	Open	17,500.00
2710	HOLMDEL TOWNSHIP		
23-00650	06/14/23 FISCAL OFFICER	Open	3,567.17
01285	HOME DEPOT CREDIT SERVICES		
23-00298	03/14/23 Beach	Open	132.22
23-00550	05/16/23 Buildings & Grounds	Open	305.19
23-00551	05/16/23 Beach	Open	187.07
23-00609	06/02/23 Streets & Roads	Open	192.95
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			817.43
2791	HUDSON ENERGY SERVICES		
23-00689	06/15/23 ELECTRIC	Open	162.07
2297	INTEGRATED TECHNICAL SYSTEMS		
23-00634	06/07/23 PARKING	Open	2,606.00
2561	INTRON TECHNOLOGY SOLUTIONS		
23-00561	05/18/23 LIBRARY	Open	10,260.00
2573	JCP & L		
23-00695	06/15/23 ELECTRIC	Open	10,141.62
2448	JERSEY MAIL SYSTEMS, LLC		
23-00559	05/17/23 POSTAGE SUPPLIES	Open	257.20

2488	JERSEY SHORE POWERSPORTS		
23-00556	05/17/23 BEACH	Open	21,645.00
23-00563	05/18/23 BEACH	Open	17,201.00
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			38,846.00
00297	JESSE A. HOWLAND & SONS, INC.		
23-00562	05/18/23 PARKING	Open	2,000.00
23-00651	06/14/23 DPW	Open	1,705.00
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			3,705.00
01762	JOHN GUIRE COMPANY		
23-00475	05/03/23 PARKING	Open	2,390.00
01784	JUNGLE LASERS, LLC		
23-00643	06/13/23 BLDG DEPT	Open	490.00
2475	KEMPTON FLAG		
23-00614	06/02/23 Buildings & Grounds	Open	416.26
2442	KINTECH, INC.		
23-00626	06/02/23 A&E	Open	643.04
02110	KLEIN, DON		
23-00642	06/13/23 BEACH & REC	Open	637.07
00015	LANIGAN ASSOCIATES, INC.		
23-00539	05/16/23	Open	554.00
23-00547	05/16/23	Open	400.00
23-00616	06/02/23	Open	287.75
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			1,241.75
2638	LAWES OUTDOOR POWER EQUIPMENT		
23-00453	04/26/23 Beach	Open	238.45
2265	LEE'S GARAGE		
23-00414	04/13/23	Open	3,814.43
2804	LEGAL SHRED		
23-00697	06/15/23 A&E	Open	95.00
00108	LEON S. AVAKIAN, INC.		
23-00683	06/14/23 ENGINEER	Open	640.00
23-00692	06/15/23 ENGINEER	Open	9,163.75
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			9,803.75
01603	M AND N VENTURES		
23-00625	06/02/23 Streets & Roads	Open	336.00
2278	MCLAUGHLIN, STAUFFER & SHAKLEE		
23-00644	06/13/23 LEGAL	Open	7,962.80
2878	MILLENNIUM STRATEGIES		
23-00693	06/15/23 ENGINEER	Open	650.00
2838	MOBILE PAYMENT PROCESSING SYS		
23-00631	06/05/23 PARKING	Open	589.25
00457	MONMOUTH COUNTY ASSESSORS ASSN		
23-00566	05/22/23 TAX ASSESSOR	Open	150.00
02229	MONMOUTH COUNTY PUBLIC WORKS		
23-00577	05/23/23 Beach	Open	1,955.16
02045	MONMOUTH COUNTY SPCA		
23-00655	06/14/23 ANIMAL	Open	325.00
2883	MONTENEGRO, THOMPSON, MONTENEGRO		
23-00635	06/07/23 PLAN. BRD	Open	1,208.00
00067	MOTOROLA SOLUTIONS, INC.		
21-01010	08/27/21 POLICE-TELECOMMUNICATIONS	Open	6,402.10
21-01428	12/08/21 POLICE: TELECOMMUNICATION/RAD	Open	6,402.10
22-00201	02/16/22	Open	52.25
22-00202	02/16/22	Open	52.25
22-00289	03/16/22	Open	169.62
22-00290	03/16/22	Open	169.62
23-00077	01/20/23 POLICE	Open	511.20
23-00579	05/23/23	Open	6,425.74
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			20,184.88
01399	NEW JERSEY AMERICAN WATER		
23-00647	06/13/23 WATER	Open	5,036.84

2366	NJ ADVANCE MEDIA		
23-00567	05/22/23 CLERK	Open	55.04
01810	NJ DEPT OF HEALTH		
23-00600	06/01/23 ANIMAL	Open	4.20
00113	NJ NATURAL GAS COMPANY		
23-00688	06/15/23 NTRL GAS	Open	1,372.64
00885	OCEAN TWP FIRE DISTRICT NO. 2		
23-00653	06/14/23 SHARED SRVC	Open	350.00
01309	OCEANPORT BOARD OF EDUCATION		
22-00760	06/28/22 SCHOOL TAX	Open	73,450.88
00046	ONE CALL CONCEPTS, INC.		
23-00686	06/14/23 SEWER	Open	44.33
2683	PAPER ROLL PRODUCTS		
23-00428	04/25/23 PARKING	Open	3,966.60
01207	PFEIFFER, CHRISTINE		
23-00638	06/07/23 CLERK	Open	37.32
2525	POOR JOHNS PORTABLE TOILETS		
23-00665	06/14/23 BEACH	Open	366.00
2290	PORZIO, BROMBERG & NEWMAN		
23-00632	06/05/23 LEGAL	Open	9,048.01
00164	RAIN, WILLIAM		
23-00627	06/05/23 HEALTH	Open	161.10
2728	READY REFRESH BY NESTLE		
23-00699	06/15/23 SPRING WATER	Open	625.07
2745	REMINGTON & VERNICK ENGINEERS		
22-00904	08/11/22 ENGINEER	Open	3,720.95
01846	RIVER STREET REALTY, LLC		
23-00645	06/13/23 LEASE	Open	6,000.00
01554	SEA BRIGHT SERVICE CENTER		
23-00502	05/10/23 BEACH	Open	764.45
23-00503	05/10/23 BEACH	Open	2,084.95
23-00509	05/10/23 Repairs 4385	Open	1,853.39
23-00617	06/02/23	Open	2,032.15
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			6,734.94
00985	SEABOARD FIRE/SAFETY EQUIP CO.		
23-00514	05/10/23 Buildings & Grounds	Open	559.00
23-00580	05/23/23 Buildings & Grounds	Open	136.00
			-----
			695.00
00027	SEABOARD WELDING SUPPLY, INC.		
23-00700	06/15/23 DPW	Open	18.50
01027	SHORE BUSINESS SOLUTIONS		
23-00595	05/24/23 COPIER	Open	680.55
00053	SHORE REGIONAL HIGH SCHOOL		
22-00758	06/28/22 SCHOOL TAX	Open	181,370.18
00260	SODON'S ELECTRIC, INC.		
23-00557	05/17/23 ELECTRICAL	Open	5,547.16
00125	SPAHR, PATRICIA		
23-00648	06/13/23 TAX COLLECTOR	Open	105.56
2855	STANLEY ACCESS TECHNOLOGIES		
23-00296	03/14/23 Buildings & Grounds	Open	270.00
02225	STAPLES ADVANTAGE		
23-00611	06/02/23 Printer Ink	Open	786.96
23-00618	06/02/23 Office Supplies	Open	343.56
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			1,130.52

2535	SUBURBAN DISPOSAL, INC.		
23-00658	06/14/23 TRASH	Open	22,845.83
23-00659	06/14/23 DUMPSTER	Open	730.66
23-00660	06/14/23 LANDFILL	Open	8,091.77
			-----
			31,668.26
2874	TAMKE TREE EXPERTS		
23-00505	05/10/23 Replacement saw - 4390	Open	1,265.00
2349	TAYLOR COMMUNICATIONS		
23-00427	04/24/23 COURT	Open	960.00
00973	THE TWO RIVER TIMES		
23-00628	06/05/23 CLERK	Open	18.28
23-00633	06/05/23 BLDGS & GRDS	Open	7.13
			-----
			25.41
2884	TRAP ROCK INDUSTRIES, LLC		
23-00593	05/24/23	Open	3,815.52
01243	TREASURER, STATE OF NEW JERSEY		
23-00687	06/14/23 BLDGS & GRDS	Open	339.00
02114	TWO RIVERS WATER RECLAMATION		
23-00657	06/14/23 SEWER	Open	64,787.68
01774	ULINE		
23-00596	05/24/23	Open	1,566.77
02061	VERIZON WIRELESS		
23-00601	06/01/23 FIRE	Open	268.07
23-00602	06/01/23 CELLS	Open	187.57
23-00603	06/01/23 CELLS	Open	3,380.84
23-00690	06/15/23 CELLS	Open	186.99
23-00691	06/15/23 FIRE	Open	268.09
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			4,291.56

**TOTAL: \$883,238.58**

**Manual Checks**

5/16/2023	BORO OF SEA BRIGHT EE' HEALTH	\$7,296.59
23-00554	REPLENISH HEALTH INSURANCE FUND	
6/7/2023	BORO OF SEA BRIGHT EE' HEALTH	\$3,711.03
23-00637	REPLENISH HEALTH INSURANCE FUND	
5/17/2023	C.M.R.S.-FP/U.S. POSTAL SERVICE	\$607.00
23-00558	REFILL POSTAGE METER	
6/1/2023	VERIZON	\$88.99
23-00605	BEACH/LIBRARY:FIOS SERVICE	
6/1/2023	VERIZON	\$68.91
23-00606	POLICE:FAX LINE	
6/1/2023	VERIZON	\$380.51
23-00607	SEWER:PHONE LINES-ALARMS	
6/14/2023	WEX BANK	\$8,073.86
23-00662	GASOLINE:MAY	

**TOTAL: \$20,226.89**

**GRAND TOTAL: \$903,465.47**