

Absent:

**AGENDA  
CITY OF BRIGANTINE  
COUNCIL MEETING  
APRIL 21, 2021  
5:00 P.M. – Public Portion**

1. Flag Salute
  2. Opening Prayer
  3. Open Public Meetings Act Announcement
  4. Resolution 2021-69 Re: Executive Session \_\_\_\_ P.M.
- Topics to be Discussed:

M:                      S:                      RC:                      MC:

5. Return from Executive Session \_\_\_\_\_ P.M.

M:                      S:                      RC:                      MC:

- #### 6. Approval of Payroll, Requisition List and Operating Expenses

M:                      S:                      RC:                      MC:

7. Approval of Council Meeting Minutes for 4/7/21

M:                      S:                      RC:                      MC:

8. Public Comment on Agenda Items Only
9. Ordinance No. 5 of 2021 – Public Hearing and Adoption  
Providing for Stormwater Management

M:                      S:                      RC:                      MC:

10. Ordinance No. 6 of 2021 – Introduction  
Amending Chapter 257 to Prohibit the Smoking of Marijuana in Public Areas

M:                      S:                      RC:                      MC:

11. Ordinance No. 7 of 2021 – Introduction  
Prohibiting the Operation of any Class of Cannabis Businesses within its  
Geographical Boundaries and Amending Section 198-62 of the Municipal Code

M:                      S:                      RC:                      MC:

12. Resolution 2021-70 Re: Authorizing Award of Contract for Design and Construction Management Services

M: S: RC: MC:

13. Resolution 2021-71 Re: Improvement and Repairs for Various Projects

M: S: RC: MC:

14. Resolution 2021-72 Re: Authorizing Purchase of One Ford F-250 4WD 4DR Pickup for Fire Department

M: S: RC: MC:

15. Resolution 2021-73 Re: Authorizing Award of Contract for Design and Construction Management Services

M: S: RC: MC:

16. Resolution 2021-74 Re: Award of Contract for Tax Assessment Services and Appeals

M: S: RC: MC:

17. Resolution 2021-75 Re: Authorizing Renewal of Agreement with Southern Coastal Regional Employee Benefits Fund

M: S: RC: MC:

18. Resolution 2021-76 Re: Cancellation of Outstanding Checks

M: S: RC: MC:

19. Resolution 2021-77 Re: Authorize Memorandum of Understanding with Brigantine Marine and Paddle Club

M: S: RC: MC:

20. Resolution 2021-78 Re: Revocable License with Yacht Harbor

M: S: RC: MC:

21. Resolution 2021-79 Re: Designate Redevelopment Area for Bayside Marina

M: S: RC: MC:

22. Resolution 2021-80 Re: Hazard Waste-2018 Recycling Tonnage Grant

M: S: RC: MC:

23. Resolution 2021-81 Re: Rejecting Proposals Received in Response to R.F.P. for Management and Full-Service Maintenance Program for Water Vessels and Authorizing Use of a Competitive Contracting Process to Secure Proposals for Operation Maintenance and Management of Portion of City's Potable Water System Including Three Water Towers

M: S: RC: MC:

24. Consent Agenda

- A. Marine Mammal Stranding Center Run
- B. Food Truck Festival
- C. Elk's Raffle License #292

M: S: RC: MC:

25. Brigantine Marina and Paddle Club Presentation

26. Council Manager/Committee Discussion:

27. Public Comments

28. Council Comments

29. Adjourn \_\_\_\_\_ P.M.

The City Council of the City of Brigantine reserves the right to consider, discuss and/or take any formal action upon resolutions or ordinances not appearing on the printed agenda.

**CITY OF BRIGANTINE  
ORDINANCE NO. 5 OF 2021**

**AN ORDINANCE PROVIDING FOR STORMWATER MANAGEMENT**

**NOW THEREFORE BE IT ORDANCED AND ENACTED** by the City Council of the City of Brigantine, County of Atlantic and State of New Jersey, as follows:

**Section One:** All ordinances or portions of ordinances including, without limitation, Ordinance 20-2007, adopted 10-3-2007, as amended, that have been codified in Chapter 258, Stormwater Control, of the Code of the City of Brigantine, be and they hereby are repealed and are replaced with the following:

**§258-1. Scope and Purpose.**

**A. Policy Statement**

Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.

**B. Purpose**

(1) It is hereby determined that:

- (a) Land development projects and associated disturbance of vegetation and soil and changes in land cover, including increases in impervious cover, alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes. If inadequately or improperly managed, this stormwater runoff can deplete groundwater resources and increase flooding, stream channel erosion, and sediment transport and deposition.
- (b) This stormwater runoff contributes to increased quantities of waterborne pollutants.
- (c) Increases of stormwater runoff, soil erosion and nonpoint source pollutants have occurred in the past as a result of land development, and contribute to the degradation of the water resources of the City of Brigantine.
- (d) Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

- (e) It is in the public interest to regulate the discharge of stormwater runoff from major development projects, as defined in § ~~258-2~~ of this chapter, as provided in this chapter, in order to control and minimize increases in stormwater runoff rates and volumes, to maintain groundwater recharge, and to control and minimize soil erosion, stream channel erosion and nonpoint source pollution associated with stormwater runoff.
- (2) Therefore, it is the purpose of this chapter to establish minimum stormwater management requirements and controls for major development, and the provisions of the adopted master plan and land use ordinances of the City of Brigantine.

C. Goals and techniques.

- (1) Through this chapter, the City of Brigantine has established the following goals for stormwater control:
  - (a) To reduce flood damage, including damage to life and property;
  - (b) To minimize any increase in stormwater runoff from new development;
  - (c) To reduce soil erosion from any development or construction project;
  - (d) To assure the adequacy of existing and proposed culverts and bridges, and other in-stream structures;
  - (e) To maintain groundwater recharge;
  - (f) To minimize any increase in nonpoint pollution;
  - (g) To maintain the integrity of stream channels for their biological functions, as well as for drainage;
  - (h) To restore, protect, maintain and enhance the quality of the streams and water resources of the City of Brigantine;
  - (i) To minimize pollutants in stormwater runoff from new and existing development in order to restore, protect, enhance and maintain the chemical, physical and biological integrity of the surface and groundwaters of the City of Brigantine, to protect public health and to enhance the domestic, municipal, recreational, industrial and other uses of water; and
  - (j) To protect public safety through the proper design and operation of stormwater management basins.
- (2) In order to achieve the goals for stormwater control set forth in this chapter, the City of Brigantine has identified the following management techniques:
  - (a) Implementation of multiple stormwater management best management practices (BMPs) may be necessary to achieve the performance standards for stormwater runoff quantity and rate, groundwater recharge, erosion control, and stormwater runoff quality established through this chapter.

- (b) Compliance with the stormwater runoff quantity and rate, groundwater recharge, erosion control, and stormwater runoff quality standards established through N.J.A.C. 7:8-1.1 et seq., and this chapter, shall be accomplished to the maximum extent practicable through the use of nonstructural BMPs, before relying on structural BMPs. Nonstructural BMPs are also known as low impact development (LID) techniques.
- (c) Nonstructural BMPs shall include both environmentally sensitive site design and source controls that prevent pollutants from being placed on the site or from being exposed to stormwater.
- (d) Source control plans shall be developed based upon physical site conditions and the origin, nature and the anticipated quantity or amount of potential pollutants.
- (e) Structural BMPs, where necessary, shall be integrated with nonstructural stormwater management strategies and proper maintenance plans.
- (f) When using structural BMPs, multiple stormwater management measures, smaller in size and distributed spatially throughout the land development site, shall be used wherever possible to achieve the performance standards for water quality, quantity and groundwater recharge established through this chapter before relying on a single, larger stormwater management measure to achieve these performance standards.

#### D. Applicability

- (1) This ordinance shall be applicable to the following major developments:
  - (a) Non-residential major developments; and
  - (b) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
- (2) This ordinance shall also be applicable to all major developments undertaken by the City of Brigantine.

#### E. Procedures.

- (1) In addition to other development review procedures set forth in the Code of the City of Brigantine, major developments located within the City shall comply with the stormwater management requirements and specifications set forth in this chapter. New agricultural development that meets the definition of major development in § **258-2** of this chapter shall be submitted to the appropriate Soil Conservation District for review and approval in accordance with the requirements of N.J.A.C. 5.4(b)7:8.

#### F. Compatibility with other permit and ordinance requirements.

- (1) Development approvals issued pursuant to this chapter are to be considered an integral part of development approvals under the subdivision and site plan review process and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable ordinance, code, rule, regulation, statute, act or other provision of law.

- (2) In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This chapter is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive or stringent provisions or higher standards shall control.
- (3) In the event that a regional stormwater management plan(s) is prepared and formally adopted pursuant to N.J.A.C. 7:8-1.1 et seq. for any drainage area(s) or watershed(s) of which the City of Brigantine is a part, the stormwater provisions of such a plan(s) shall be adopted by the City of Brigantine within one year of the adoption of a regional stormwater management plan (RSWMP) as an amendment to an areawide water quality management plan. Local ordinances proposed to implement the RSWMP shall be submitted to the NJDEP for certification within six months of the adoption of the RSWMP per N.J.A.C. 7:8.

## **§258-2. Definitions.**

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on the corresponding definitions in the Stormwater Management Rules at N.J.A.C. 7:8-1.2.

### **AQUACULTURE**

The propagation, rearing and subsequent harvesting of aquatic organisms in controlled or selected environments, and their subsequent processing, packaging and marketing, including but not limited to activities to intervene in the rearing process to increase production such as stocking, feeding, transplanting and providing for protection from predators.

### **CAFRA CENTERS. CORES OR NODES**

Those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.13.

### **CAFRA PLANNING MAP**

The map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

### **CERTIFICATION**

Either a written statement signed and sealed by a licensed New Jersey professional engineer attesting that a BMP design or stormwater management system conforms to or meets a particular set of standards or to action taken by the Commission pursuant to N.J.A.C. 7:50-3, Part II or Part IV. Depending upon the context in which the term is used, the terms "certify" and "certified" shall be construed accordingly.

**CITY OF BRIGANTINE**

The Planning Board, Zoning Board of Adjustment or other board, agency or official of the City of Brigantine with authority to approve or disapprove subdivisions, site plans, construction permits, building permits or other applications for development approval. For the purposes of reviewing development applications and ensuring compliance with the requirements of this chapter, the City of Brigantine may designate the municipal engineer or other qualified designee to act on behalf of the City of Brigantine.

**COMMUNITY BASIN**

An infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this chapter.

**COMPACTION**

The increase in soil bulk density caused by subjecting soil to greater-than-normal loading. Compaction can also decrease soil infiltration and permeability rates.

**CONSTRUCTION**

The construction, erection, reconstruction, alteration, conversion, demolition, removal or equipping of buildings, structures or components of a stormwater management system, including but not limited to collection inlets, stormwater piping, swales and all other conveyance systems, and stormwater BMPs.

**CONTRIBUTORY DRAINAGE AREA**

The area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

**CORE**

A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

**COUNTY REVIEW AGENCY**

The Atlantic County Department of Regional Planning and Development.

**DEPARTMENT**

Department of Environmental Protection.

**DESIGNATED CENTER**

A State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

**DESIGN ENGINEER**

A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.



### **DESIGN PERMEABILITY**

The tested permeability rate with a factor of safety of two applied to it (e.g., if the tested permeability rate of the soils is four inches per hour, the design rate would be two inches per hour).

### **DEVELOPMENT**

The division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlarge-enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 *et seq.* and the creation or termination of rights of access or riparian rights, including but not limited to:

- A. A change in type of use of a structure or land;
- B. A reconstruction, alteration of the size, or material change in the external appearance of a structure or land;
- C. A material increase in the intensity of use of land, such as an increase in the number of businesses, manufacturing establishments, offices or dwelling units in a structure or on land;
- D. Commencement of resource extraction or drilling or excavation on a parcel of land;
- E. Demolition of a structure or removal of trees;
- F. Commencement of forestry activities;
- G. Deposit of refuse, solid or liquid waste or fill on a parcel of land;
- H. In connection with the use of land, the making of any material change in noise levels, thermal conditions, or emissions of waste material; and
- I. Alteration, either physically or chemically, of a shore, bank, or floodplain, seacoast, river, stream, lake, pond, wetlands or artificial body of water.

In the case of development of agricultural land, development means: any activity that requires a State permit, any activity reviewed by the County Agricultural Board (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act , N.J.S.A 4:1C-1 *et seq.*

### **DRAINAGE AREA**

A geographic area within which stormwater, sediments, or dissolved materials drain to a BMP, a stormwater management system, a particular receiving water body or a particular point along a receiving water body.

### **DISTURBANCE**

The placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

### **DRAINAGE AREA**

A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody.

#### **ENVIRONMENTALLY CONSTRAINED AREA**

The following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program.

#### **ENVIRONMENTALLY CRITICAL AREA**

An area or feature which is of significant environmental value, including but not limited to stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and wellhead protection and groundwater recharge areas. Habitats of endangered or threatened species are identified using the Department's landscape project as approved by the Department's Endangered and Nongame Species Program.

#### **EMPOWERMENT NEIGHBORHOODS**

Neighborhoods designated by the Urban Coordinating Council "in consultation and conjunction with" the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69.

#### **EROSION**

The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

#### **EXCEPTION**

The approval by the approving authority of a variance or other material departure from strict compliance with any section, part, phrase or provision of this chapter. An exception may be granted only under certain specific, narrowly defined conditions described herein.

#### **EXTENDED DETENTION BASIN**

A facility constructed through filling and/or excavation that provides temporary storage of stormwater runoff. It has an outlet structure that detains and attenuates runoff inflows and promotes the settlement of pollutants. An extended detention basin is normally designed as a multistage facility that provides runoff storage and attenuation for both stormwater quality and quantity management. The term "stormwater detention basin" shall have the same meaning as "extended detention basin."

#### **FINISHED GRADE**

The elevation of the surface of the ground after completion of final grading, either via cutting, filling or a combination thereof.

#### **GRADING**

Modification of a land slope by cutting and filling with the native soil or redistribution of the native soil which is present at the site.

#### **GREEN INFRASTRUCTURE**

A stormwater management measure that manages stormwater close to its source by:

1. Treating stormwater runoff through infiltration into subsoil;
2. Treating stormwater runoff through filtration by vegetation or soil; or
3. Storing stormwater runoff for reuse.

### **GROUNDWATER**

Water below the land surface in a zone of saturation.

### **GROUNDWATER MOUNDING ANALYSIS**

A test performed to demonstrate that the groundwater below a stormwater infiltration basin will not "mound up," encroach on the unsaturated zone, break the surface of the ground at the infiltration area or downslope, and create an overland flow situation.

### **HEAVY EQUIPMENT**

Equipment, machinery, or vehicles that exert ground pressure in excess of eight pounds per square inch.

### **HIGH POLLUTANT LOADING AREA**

An area in an industrial or commercial development site where solvents and/or petroleum products are loaded/unloaded, stored, or applied; where pesticides are loaded/unloaded or stored; where hazardous materials are expected to be present in greater than reportable quantities as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; where recharge would be inconsistent with NJDEP-approved remedial action work plan or landfill closure plan; and/or where a high risk exists for spills of toxic materials, such as gas stations and vehicle maintenance facilities. The term "HPLA" shall have the same meaning as "high pollutant loading area."

### **HUC 14**

Hydrologic Unit Code 14 means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

### **IMPERVIOUS SURFACE**

A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.

### **INFILTRATION**

The process by which precipitation enters the soil through its surface.

### **IN LIEU CONTRIBUTION**

A monetary fee collected by the City of Brigantine in lieu of requiring strict on-site compliance with the groundwater recharge, stormwater runoff quantity and/or stormwater runoff quality standards established in this chapter.

### **INSTALL**

To assemble, construct, put in place or connect components of a stormwater management system.

**LEAD PLANNING AGENCY**

One or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

**MAJOR DEVELOPMENT**

An individual "development," as well as multiple developments that individually or collectively result in the disturbance of one or more acres of land since February 2, 2004.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually result in the disturbance of one or more acres of land since February 2, 2004. Projects undertaken by any government agency that otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

**MINOR DEVELOPMENT**

All development other than major development.

**MITIGATION**

Acts necessary to prevent, limit, remedy or compensate for conditions that may result from those cases where an applicant has demonstrated the inability or impracticality of strict compliance with the stormwater management requirements set forth in N.J.A.C. 7:8, in an adopted regional stormwater management plan, or in a local ordinance which is as protective as N.J.A.C. 7:8, and an exception from strict compliance is granted by the City of Brigantine.

**MOTOR VEHICLE SURFACE**

Land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

**MUNICIPALITY**

The City of Brigantine.

**NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES MANUAL**

Guidance developed by the New Jersey Department of Environmental Protection, in coordination with the New Jersey Department of Agriculture, the New Jersey Department of Community Affairs, the New Jersey Department of Transportation, municipal engineers, county engineers, consulting firms, contractors, and environmental organizations to address the standards in the New Jersey Stormwater Management Rules, N.J.A.C. 7:8. The BMP manual provides examples of ways to meet the standards contained in the rule. An applicant may demonstrate that other proposed management practices will also achieve the standards established in the rules. The manual, and notices regarding future versions of the manual, are available from the Division of Watershed Management, NJDEP, PO Box 418, Trenton, New Jersey 08625; and on the NJDEP's website, [www.njstormwater.org](http://www.njstormwater.org). The term "New Jersey BMP Manual" shall have the same meaning as "New Jersey Stormwater Best Management Practices Manual."

**NJDEP**

The New Jersey Department of Environmental Protection.

**NJPDES**

The New Jersey Pollutant Discharge Elimination System as set forth in N.J.S.A. 58:10A-1 et seq. and in N.J.A.C. 7:14A.

**NJPDES PERMIT**

A permit issued by the NJDEP pursuant to the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and N.J.A.C. 7:14A for a discharge of pollutants.

**NODE**

An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form.

**NONPOINT SOURCE**

- A. Any human-made or human-induced activity, factor, or condition, other than a point source, from which pollutants are or may be discharged;
- B. Any human-made or human-induced activity, factor, or condition, other than a point source, that may temporarily or permanently change any chemical, physical, biological, or radiological characteristic of waters of the state from what was or is the natural, pristine condition of such waters, or that may increase the degree of such change; or
- C. Any activity, factor, or condition, other than a point source, that contributes or may contribute to water pollution.
- D. The term "NPS" shall have the same meaning as "nonpoint source."

**NONSTRUCTURAL BMP**

A stormwater management measure, strategy or combination of strategies that reduces adverse stormwater runoff impacts through sound site planning and design. Nonstructural BMPs include such practices as minimizing site disturbance, preserving important site features, reducing and disconnecting impervious cover, flattening slopes, utilizing native vegetation, minimizing turf grass lawns, maintaining natural drainage features and characteristics and controlling stormwater runoff and pollutants closer to the source. The term "Low Impact Development technique" shall have the same meaning as "nonstructural BMP."

**NUTRIENT**

A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms.

**PERMEABILITY**

The rate at which water moves through a saturated unit area of soil or rock material at hydraulic gradient of one, determined as prescribed in N.J.A.C. 7:9A-6.2 (tube permeameter test), N.J.A.C. 6.5 (pit bailing test) or N.J.A.C. 6.6 (piezometer test). Alternative permeability test procedures may be accepted by the approving authority provided the test procedure attains saturation of surrounding soils, accounts for hydraulic head effects on infiltration rates, provides a permeability rate with units expressed in inches per hour and is accompanied by a published source reference. Examples of suitable sources include hydrogeology, geotechnical, or engineering text and design manuals, proceedings of American Society for

Testing and Materials (ASTM) symposia, or peer-review journals. Neither a soil permeability class rating test, as described in N.J.A.C. 7:9A-6.3, nor a percolation test, as described in N.J.A.C. 7:9A-6.4, are acceptable tests for establishing permeability values for the purpose of complying with this chapter.

**PERMEABLE**

Having a permeability of one inch per hour or faster. The terms "permeable soil," "permeable rock" and "permeable fill" shall be construed accordingly.

**PERSON**

Any individual, corporation, company, partnership, firm, association, municipality or political subdivision of this state subject to municipal jurisdiction pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

**POINT SOURCE**

Any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

**POLLUTANT**

Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. §§ 2011 *et seq.*)), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. "Pollutant" includes both hazardous and nonhazardous pollutants.

**PROFESSIONAL ENGINEER**

A person licensed to practice professional engineering in the State of New Jersey pursuant to N.J.S.A. 48:8-27 et seq.

**RECHARGE**

The amount of water from precipitation that infiltrates into the ground and is not evapotranspired.

**REGULATED IMPERVIOUS SURFACE**

Any of the following, alone or in combination:

- A. A net increase of impervious surface;
- B. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a "new stormwater conveyance system" is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);

- C. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
- D. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

**REGULATED MOTOR VEHICLE SURFACE**

Any of the following, alone or in combination:

- A. The total area of motor vehicle surface that is currently receiving water;
- B. A net increase in motor vehicle surface; and/or quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

**REPLICATE**

One of two or more soil samples or tests taken at the same location (within five feet of each other) and depth, within the same soil horizon or substratum. In the case of fill material, replicate tests are tests performed on subsamples of the same bulk sample packed to the same bulk density.

**SAND**

A particle size category consisting of mineral particles which are between 0.05 and 2.0 millimeters in equivalent spherical diameter. Also, a soil textural class having 85% or more of sand and a content of silt and clay such that the percentage of silt plus 1.5 times the percentage of clay does not exceed 15, as shown in § **258-10C(1)** (USDA Soil Textural Triangle).

**SEASONALLY HIGH WATER TABLE**

The upper limit of the shallowest zone of saturation which occurs in the soil, identified as prescribed in N.J.A.C. 7:9A-5.8.

**SEDIMENT**

Solid material, mineral or organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water or gravity as a product of erosion.

**SITE**

The lot or lots upon which a major development is to occur or has occurred.

**SOIL**

All unconsolidated mineral and organic material of any origin.

**SOURCE MATERIAL**

Any material(s) or machinery located at an industrial facility that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include but are not limited to raw materials; intermediate products; final products; waste materials; byproducts; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

## **STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA**

### **(PAI)**

An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the State's future redevelopment and revitalization efforts.

## **STATE PLAN POLICY MAP**

The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies.

## **STORMWATER**

Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment.

## **STORMWATER INFILTRATION BMP**

A basin or other facility constructed within permeable soils that provides temporary storage of stormwater runoff. An infiltration BMP does not normally have a structural outlet to discharge runoff from the stormwater quality design storm. Instead, outflow from an infiltration BMP is through the surrounding soil. The terms "infiltration measure" and "infiltration practice" shall have the same meaning as "stormwater infiltration basin."

## **STORMWATER MANAGEMENT BMP**

An excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

## **STORMWATER MANAGEMENT MEASURE**

Any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

## **STORMWATER RUNOFF**

Water flow on the surface of the ground or in storm sewers resulting from precipitation.

## **STORMWATER MANAGEMENT PLANNING AGENCY**

A public body authorized by legislation to prepare stormwater management plans.

## **STORMWATER MANAGEMENT PLANNING AREA**

The geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

## **SUITABLE SOIL**

Unsaturated soil above the seasonally high water table which contains less than 50% by volume of coarse fragments and which has a tested permeability rate of between one and 20 inches per hour.



**SURFACE WATER**

Any waters of the state which are not groundwater.

**TIDAL FLOOD HAZARD AREA**

A flood hazard area in which the flood elevation resulting from the two-, 10-, or 100-year storm, as applicable, is governed by tidal flooding from the Atlantic Ocean. Flooding in a tidal flood hazard area may be contributed to, or influenced by, stormwater runoff from inland areas, but the depth of flooding generated by the tidal rise and fall of the Atlantic Ocean is greater than flooding from any fluvial sources. In some situations, depending upon the extent of the storm surge from a particular storm event, a flood hazard area may be tidal in the 100-year storm, but fluvial in more frequent storm events.

**TIME OF CONCENTRATION**

The time it takes for runoff to travel from the hydraulically most distant point of the drainage area to the point of interest within a watershed.

**TOTAL SUSPENDED SOLIDS**

The insoluble solid matter suspended in water and stormwater that is separable by laboratory filtration in accordance with the procedure contained in the Standard Methods for the Examination of Water and Wastewater Prepared and published jointly by the American Public Health Association, American Water Works Association and the Water Pollution Control Federation. The term "TSS" shall have the same meaning as "total suspended solids."

**URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD**

A neighborhood given priority access to State resources through the New Jersey Redevelopment Authority.

**URBAN ENTERPRISE ZONES**

A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et. seq.

**URBAN REDEVELOPMENT AREA**

Previously developed portions of areas:

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

**WATER CONTROL STRUCTURE**

A structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, 10-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

**WATERS OF THE STATE**

The ocean and its estuaries, all springs, streams and bodies of surface and groundwater, whether natural or artificial, within the boundaries of New Jersey or subject to its jurisdiction.

**WATER TABLE**

The upper surface of a zone of saturation.

**WELL**

A bored, drilled or driven shaft, or a dug hole, which extends below the seasonally high water table and which has a depth which is greater than its largest surface dimension.

**WETLANDS**

An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**WET POND**

A stormwater facility constructed through filling and/or excavation that provides both permanent and temporary storage of stormwater runoff. It has an outlet structure that creates a permanent pool and detains and attenuates runoff inflows and promotes the settling of pollutants. A stormwater retention basin can also be designed as a multistage, facility that also provides extended detention for enhanced stormwater quality design storm treatment and runoff storage and attenuation for stormwater quantity management. The term "stormwater retention basin" shall have the same meaning as "wet pond."

**§258-3. Design and Performance Standards for Stormwater Management Measures.**

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
- (1) The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
  - (2) The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- B. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

**§258-4. Stormwater Management Requirements for Major Development.**

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with 258-10.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlenbergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of 258-4.P, Q and R:
  - (1) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
  - (2) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
  - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.
- D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of 258-4.O, P, Q and R may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
  - (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
  - (2) The applicant demonstrates through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of 258-4.O, P, Q and R to the maximum extent practicable;
  - (3) The applicant demonstrates that, in order to meet the requirements of 258-4.O, P, Q and R, existing structures currently in use, such as homes and buildings, would need to be condemned; and
  - (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under 258-4.D.3 above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of 258-4.O, P, Q and R that were not achievable onsite.
- E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in 258-4.O, P, Q and R. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2 (f) Tables 5-1, 5-2 and 5-3 and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management

Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at:

[https://njstormwater.org/bmp\\_manual2.htm](https://njstormwater.org/bmp_manual2.htm).

- F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this ordinance the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

<b>Table 1</b> <b>Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity</b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Cistern	0	Yes	No	--
Dry Well <sup>(a)</sup>	0	No	Yes	2
Grass Swale	50 or less	No	No	2 <sup>(e)</sup> 1 <sup>(f)</sup>
Green Roof	0	Yes	No	--
Manufactured Treatment Device <sup>(a) (g)</sup>	50 or 80	No	No	Dependent upon the device
Pervious Paving System <sup>(a)</sup>	80	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Small-Scale Bioretention Basin <sup>(a)</sup>	80 or 90	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>

Small-Scale Infiltration Basin <sup>(a)</sup>	80	Yes	Yes	2
Small-Scale Sand Filter	80	Yes	Yes	2
Vegetative Filter Strip	60-80	No	No	--

(Notes corresponding to annotations <sup>(a)</sup> through <sup>(g)</sup> are found at the end of Table 3)

<b>Table 2</b> <b>Green Infrastructure BMPs for Stormwater Runoff Quantity</b> <b>(or for Groundwater Recharge and/or Stormwater Runoff Quality</b> <b>with a Waiver or Variance from N.J.A.C. 7:8-5.3)</b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Bioretention System	80 or 90	Yes	Yes <sup>(b)</sup> No <sup>(c)</sup>	2 <sup>(b)</sup> 1 <sup>(c)</sup>
Infiltration Basin	80	Yes	Yes	2
Sand Filter <sup>(b)</sup>	80	Yes	Yes	2
Standard Constructed Wetland	90	Yes	No	N/A
Wet Pond <sup>(d)</sup>	50-90	Yes	No	N/A

(Notes corresponding to annotations <sup>(b)</sup> through <sup>(d)</sup> are found at the end of Table 3)

<b>Table 3</b> <b>BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or</b> <b>Stormwater Runoff Quantity</b> <b>only with a Waiver or Variance from N.J.A.C. 7:8-5.3</b>				
<b>Best Management Practice</b>	<b>Stormwater Runoff Quality TSS Removal Rate (percent)</b>	<b>Stormwater Runoff Quantity</b>	<b>Groundwater Recharge</b>	<b>Minimum Separation from Seasonal High Water Table (feet)</b>
Blue Roof	0	Yes	No	N/A
Extended Detention Basin	40-60	Yes	No	1
Manufactured Treatment Device <sup>(h)</sup>	50 or 80	No	No	Dependent upon the device
Sand Filter <sup>(c)</sup>	80	Yes	No	1
Subsurface Gravel Wetland	90	No	No	1
Wet Pond	50-90	Yes	No	N/A

Notes to Tables 1, 2, and 3:

- (a) subject to the applicable contributory drainage area limitation specified at Section IV.O.2;
- (b) designed to infiltrate into the subsoil;
- (c) designed with underdrains;
- (d) designed to maintain at least a 10-foot wide area of native vegetation along at least 50 percent of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) designed with a slope of less than two percent;
- (f) designed with a slope of equal to or greater than two percent;
- (g) manufactured treatment devices that meet the definition of green infrastructure at Section II;
- (h) manufactured treatment devices that do not meet the definition of green infrastructure at Section II.

- G. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with 258-4.B. Alternative stormwater management measures may be used to satisfy the requirements at 258-4.O only if the measures meet the definition of green infrastructure at Section II. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section O.2 are subject to the contributory drainage area limitation specified at 258-4.O.2 for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at 258-4.O.2 shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with 258-4.D is granted from 258-4.O.
- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. Design standards for stormwater management measures are as follows:
- (1) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally critical areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);
  - (2) Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of 258-8.C;
  - (3) Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;



- (4) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at 258-8; and
- (5) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.
- J. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at Section II may be used only under the circumstances described at 258-4.O.4.
- K. Any application for a new agricultural development that meets the definition of major development at Section II shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at 258-4.O, P, Q and R and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.
- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at 258-4.P, Q and R shall be met in each drainage area, unless the runoff from the drainage areas converge onsite and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Atlantic County Clerk . A form of deed notice shall be submitted to the City of Brigantine.

A form of deed notice shall be submitted to the City of Brigantine for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at 258-4.O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to 258-10.B.5. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the City of Brigantine. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the County Clerk. However, if the initial proof provided to the City is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the City within 180 calendar days of the authorization granted by the Planning Board.

- N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to 258-4 of this ordinance and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the City for approval and subsequently recorded with the Atlantic County Clerk and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the City in accordance with M above.

O. Green Infrastructure Standards

- (1) This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
- (2) To satisfy the groundwater recharge and stormwater runoff quality standards at 258-4.P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at 258-4.F. and/or an alternative stormwater management measure approved in accordance with 258-4.G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

<b>Best Management Practice</b>	<b>Maximum Contributory Drainage Area</b>
Dry Well	1 acre
Manufactured Treatment Device	2.5 acres
Pervious Pavement Systems	Area of additional inflow cannot exceed three times the area occupied by the BMP
Small-scale Bioretention Systems	2.5 acres
Small-scale Infiltration Basin	2.5 acres
Small-scale Sand Filter	2.5 acres

- (3) To satisfy the stormwater runoff quantity standards at 258-4.R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with 258-4.G.
- (4) If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with Section IV.D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with 258-4.G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at 258-4.P, Q and R.
- (5) For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at 258-4.P, Q and R, unless the project is granted a waiver from strict compliance in accordance with 258-4.D.

#### P. Groundwater Recharge Standards

- (1) This subsection contains the minimum design and performance standards for groundwater recharge as follows:
- (2) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at 258-5, either:

- i. Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
  - ii. Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.
- (3) This groundwater recharge requirement does not apply to projects within the "urban redevelopment area," or to projects subject to 4 below.
- (4) The following types of stormwater shall not be recharged:
  - i. Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
  - ii. Industrial stormwater exposed to "source material." "Source material" means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

#### Q. Stormwater Runoff Quality Standards

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
- (2) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:
  - i. Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.

- ii. If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.
- (3) The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with 2 above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
- (4) The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

**Table 4 - Water Quality Design Storm Distribution**

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

- (5) If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B) / 100,$$

Where

$R$  = total TSS Percent Load Removal from application of both BMPs, and

$A$  = the TSS Percent Removal Rate applicable to the first BMP

$B$  = the TSS Percent Removal Rate applicable to the second BMP.

- (6) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in 258-4.P, Q and R.
- (7) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
- (9) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.
- (10) These stormwater quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

#### R. Stormwater Runoff Quantity Standards

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.
- (2) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at 258-5, complete one of the following:

- i. Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
  - ii. Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 10- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
  - iii. Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
  - iv. In tidal flood hazard areas, stormwater runoff quantity analysis in accordance with 2.i, ii and iii above is required unless the design engineer demonstrates through hydrologic and hydraulic analysis that the increased volume, change in timing, or increased rate of the stormwater runoff, or any combination of the three will not result in additional flood damage below the point of discharge of the major development. No analysis is required if the stormwater is discharged directly into any ocean, bay, inlet, or the reach of any watercourse between its confluence with an ocean, bay, or inlet and downstream of the first water control structure.
- (3) The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

## **§258-5. Calculation of Stormwater Runoff and Groundwater Recharge.**

A. Stormwater runoff shall be calculated in accordance with the following:

- (1) The design engineer shall calculate runoff using one of the following methods:
  - i. The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in *Technical Release 55 - Urban Hydrology for Small Watersheds* (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at:



[https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb1044171.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf)

or at United States Department of Agriculture Natural Resources  
Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873;  
or

- ii. The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at:

<http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>.

- (2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term "runoff coefficient" applies to both the NRCS methodology above at Section V.A.1.i and the Rational and Modified Rational Methods at Section V.A.1.ii. A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (3) In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.
- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the NRCS *Technical Release 55 – Urban Hydrology for Small Watersheds* or other methods may be employed.
- (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

- (6) Groundwater recharge may be calculated in accordance with the following:

The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at:

<https://www.nj.gov/dep/njgs/pricelst/greport/gsr32.pdf>

or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

## **§258-6. Sources for Technical Guidance.**

- A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department's website at:

[http://www.nj.gov/dep/stormwater/bmp\\_manual2.htm](http://www.nj.gov/dep/stormwater/bmp_manual2.htm).

- (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.
- (2) Additional maintenance guidance is available on the Department's website at:

[https://www.njstormwater.org/maintenance\\_guidance.htm](https://www.njstormwater.org/maintenance_guidance.htm).

- B. Submissions required for review by the Department should be mailed to:

The Division of Water Quality, New Jersey Department of Environmental Protection, Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

## **§258-7. Solids and Floatable Materials Control Standards.**

- A. Site design features identified under Section IV.F above, or alternative designs in accordance with 258-4.G above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard 258-7.A.2 below.
- (1) Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
    - i. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or

- ii. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.

- iii. For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

(2) The standard in A.1. above does not apply:

- i. Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
- ii. Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
- iii. Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
  - a. A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
  - b. A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- iv. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- v. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

## **§258-8. Safety Standards for Stormwater Management Basins.**

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in 258-8.C.1, 258-8.C.2, and 258-8.C.3 for trash racks, overflow grates, and escape provisions at outlet structures.
- C. Requirements for Trash Racks, Overflow Grates and Escape Provisions
  - (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater management BMP to ensure proper functioning of the BMP outlets in accordance with the following:
    - i. The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
    - ii. The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
    - iii. The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
    - iv. The trash rack shall be constructed of rigid, durable, and corrosion resistant material and designed to withstand a perpendicular live loading of 300 pounds per square foot.
  - (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
    - i. The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
    - ii. The overflow grate spacing shall be no less than two inches across the smallest dimension
    - iii. The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
  - (3) Stormwater management BMPs shall include escape provisions as follows:
    - i. If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to 258-8.C, a free-standing outlet structure may be exempted from this requirement;

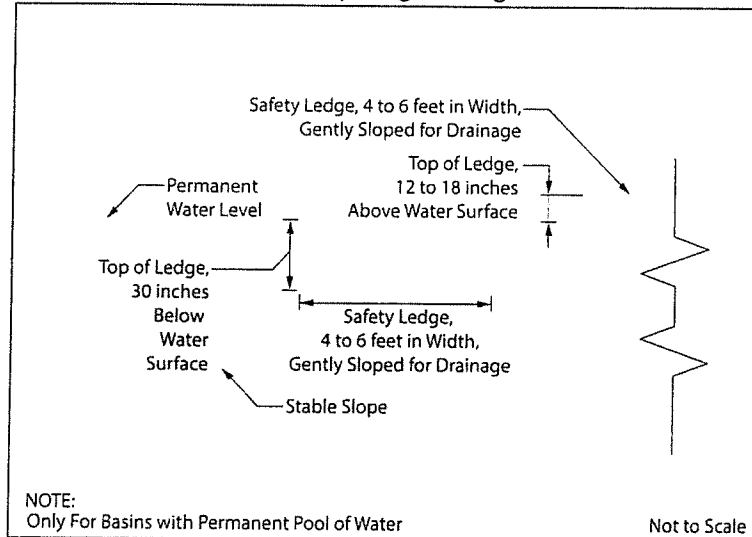
- ii. Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See 258-8.E for an illustration of safety ledges in a stormwater management BMP; and
- iii. In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

(4) Variance or Exemption from Safety Standard

A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

(5) Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration



## §258-9. Requirements for a Site Development Stormwater Plan.

### A. Submission of Site Development Stormwater Plan

- (1) Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at 258-9.C below as part of the submission of the application for approval.

- (2) The applicant shall demonstrate that the project meets the standards set forth in this Chapter.
- (3) The applicant shall submit three (3) copies of the materials listed in the checklist for site development stormwater plans in accordance with 258-9.C of this Chapter.

#### B. Site Development Stormwater Plan Approval

The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the municipality's review engineer to determine if all of the checklist requirements have been satisfied and to determine if the project meets the standards set forth in this Chapter.

#### C. Submission of Site Development Stormwater Plan

The following information shall be required:

##### (1) Topographic Base Map

The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of 1"=200' or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.

##### (2) Environmental Site Analysis

A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.

##### (3) Project Description and Site Plans

A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.

##### (4) Land Use Planning and Source Control Plan

This plan shall provide a demonstration of how the goals and standards of 258-3 through 5 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater

quality and stormwater quantity problems at the source by land management and source controls whenever possible.

(5) Stormwater Management Facilities Map

The following information, illustrated on a map of the same scale as the topographic base map, shall be included:

- i. Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
- ii. Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

(6) Calculations

- i. Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in 258-4.
- ii. When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.

(7) Maintenance and Repair Plan

The design and planning of the stormwater management facility shall meet the maintenance requirements of 258-10.

(8) Waiver from Submission Requirements

The municipal official or board reviewing an application under this Chapter may, in consultation with the City's review engineer, waive submission of any of the requirements in 258-9.C.1 through 258-9.C.6 when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

## **§258-10. Maintenance and Repair.**

A. Applicability

Projects subject to review as in 258-1.C shall comply with the requirements of 258-10.B and 258-10.C.

## B. General Maintenance

- (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- (2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.\
- (3) If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.
- (4) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
- (5) If the party responsible for maintenance identified under 258-10.B.3 above is not a public agency, the maintenance plan and any future revisions based on 258-10.B.7 below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- (6) Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
- (7) The party responsible for maintenance identified under 258-10.B.3 above shall perform all of the following requirements:
  - i. maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
  - ii. evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and



- iii. retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by 258-10.B.6 and B.7 above.
  - (8) The requirements of 258-10.B.3 and B.4 do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
  - (9) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.
- C. Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53.

### **§258-11. Penalties.**

Any person(s) who erects, constructs, alters, repairs, converts, maintains, or uses any building, structure or land in violation of this Chapter may be subject to the following penalties: a fine of up to \$1,000, imprisonment for up to 90 days and/or community service for up to 90 days at the discretion of the municipal court judge.

### **§258-12. Severability.**

Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

### **§258-13. Effective Date.**

This Chapter shall take effect immediately upon the approval by the Atlantic County Planning Department and any publication as required by law.

ALL OF WHICH IS ADOPTED THIS 7 day of April, 2021, by the Brigantine City Council.

**Section 2.** Any and all Ordinances inconsistent with the terms of this Ordinance are hereby repealed to the extent of any such inconsistencies.

**Section 3.** Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid or unenforceable for any reason, then the City Council hereby declares its intent that the balance of the Ordinance not affected by said invalidity shall remain in full force and effect to the extent that it allows the City to meet the goals of the Ordinance.

**Section 4.** This Ordinance shall take effect after final adoption and publication in accordance with law.

**ATTEST:**

**CITY OF BRIGANTINE**

\_\_\_\_\_  
LYNN SWEENEY, CITY CLERK

\_\_\_\_\_  
VINCE SERA

First Reading: \_\_\_\_\_

Publication: \_\_\_\_\_

Second Reading: \_\_\_\_\_

**CITY OF BRIGANTINE**

**ORDINANCE \_\_-2021**

**AN ORDINANCE BY CITY OF BRIGANTINE IN ATLANTIC COUNTY, NEW JERSEY AMENDING CHAPTER 257 OF THE BRIGANTINE MUNICIPAL CODE TO PROHIBIT THE SMOKING OF MARIJUANA IN PUBLIC AREAS**

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act does not preempt municipal authority to regulate the smoking and/or vaping of these items in public areas; and

**WHEREAS**, N.J.S.A. 40:40-2 authorizes the City to make, amend, repeal and enforce such ordinances, regulations, or rules not contrary to the laws of the State of New Jersey or the United States, as it may deem necessary and proper for the good government, order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

**WHEREAS**, the City Council of the City of Brigantine having reviewed the matter has determined that it is in the best interest of the City and its inhabitants to regulate the use and smoking of marijuana in public areas.

**NOW THEREFORE, BE IT ORDAINED**, by the City Council of the City of Brigantine, in the County of Atlantic, State of New Jersey, as follows:

**SECTION 1.** The Code of the City of Brigantine is hereby amended and supplemented to include the following new Article – Chapter 257, Article II, entitled *Prohibition of Public Consumption of Cannabis, Marijuana, and Hashish*

**§257-5. City Policy.**

The purpose of this Article is to regulate conduct in public areas affecting the public health, safety and general welfare by protecting residents of and visitors to the City of Brigantine from the nuisance and health hazards of second hand marijuana smoke, and to provide for the public health, safety and welfare by discouraging the inherently dangerous behavior of smoking marijuana around non-marijuana users; by protecting the public from nonconsensual exposure to secondhand marijuana smoke and marijuana-related litter and pollution, and, by affirming the family-friendly atmosphere of public areas in the City of Brigantine.

**§257-6. Definitions.**

As used in this Article, the following terms shall have the meanings indicated herein:

- A. *Bayfront Municipal Swim Area* is defined and shall consist of the municipally owned land identified as Block 236, Lots 8 and 9 and Block 237 Lot 1 on the municipal tax map for the City of Brigantine.
- B. *Cove Recreation Area* is defined and shall consist of Block 8429, Lot 1 as depicted on the official tax map of the City of Brigantine and include all beach, sand, dunes, marsh and grass areas and the waters adjacent thereto.
- C. *Marijuana* is defined as all parts of the Cannabis plant, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, resin, or oil. For purposes of this Article, any reference to Marijuana shall also include and incorporate by reference regulated Cannabis, Medical Cannabis, unregulated Marijuana and Hashish.
- D. *Municipal Beaches* is defined and shall consist of all sand, dunes, marsh and grass areas seaward from the landward side of any vegetation line or man-made structure, from the North Brigantine Natural Area to the South Brigantine Jetty, to the mean high tide water line and the waters adjacent thereto.
- E. *Public Open Space* is defined as any nature areas, and wildlife and vegetation habitat areas open to the public.
- F. *Public Park* is defined as any public park owned, leased, or utilized by the City of Brigantine.
- G. *Public Right-of-Way* is defined as the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the City of Brigantine has an interest.
- H. *Recreation Area* is defined as any area(s) open to the general public for recreational purposes, regardless of any fee requirement, including, but not limited to public parks, children play areas, playgrounds, athletic fields and courts, and senior center outdoor areas.
- I. *Seawall* is defined as the man-made structure running parallel to the mean high tide water line and extending from 9<sup>th</sup> Street North to 15<sup>th</sup> Street North.
- J. *Scheduled Public Event* is defined as any scheduled event within the City of Brigantine where the public is invited, including the Brigantine Farmer's Market, concerts, parades, or festivals.

- K. *Smoking* is defined as the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted marijuana cigarette, pipe, vape, or similar device, or other matter of substance which contains marijuana or any other matter that can be smoked, or the inhaling or exhaling of marijuana smoke or vapor from an electronic smoking device.
- L. *Smoking Device* is defined as any electronic or other device that can be used to deliver cannabis, marijuana or hashish or other related substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, cigarillo, pipe, or other device used to consume these products. This definition includes “vaping” the above-described products.

**§257-8. Restrictions on Public Consumption of Cannabis, Marijuana, and Hashish.**

It is unlawful for any person to smoke or otherwise use or consume Marijuana while on the outdoor grounds of any City building, including adjacent parking lots, and in or on any Public Open Space, Parks, Public Right-of-Way, Recreation Area, the Bayfront Municipal Swim Area, the Cove Recreation Area, Municipal Beaches, the Seawall, the Links Golf Course or the area of any scheduled public event.

**§257-9. Enforcement.**

The City of Brigantine Police Department is hereby charged with the enforcement of this section of the code. All members of the Police Department are hereby designated as enforcement officers for the purpose of enforcement of this section.

**§257-10. Penalties.**

Any person who is found guilty of violating this section shall pay fines as follow:

- A. For a first offense, a fine of not less than \$100 nor more than \$250.
- B. For a second or subsequent offense, a fine of not less than \$500 nor more than \$1,000.

**SECTION 2.** Any article, section, paragraph, subsection, clause, or other provision of the City of Brigantine inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

**SECTION 3.** If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

**SECTION 4.** This ordinance shall take effect upon its passage and publication in accordance with the law.

ATTEST:

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn A. Sweeney, Clerk

\_\_\_\_\_  
Vince Sera, Mayor

I, \_\_\_\_\_, Clerk of the City of Brigantine, do hereby certify that the foregoing is a true copy of an ordinance duly adopted by the City Council of the City of Brigantine on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Lynn A. Sweeney, Clerk

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE BY CITY OF BRIGANTINE IN ATLANTIC COUNTY, NEW JERSEY PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN ITS GEOGRAPHICAL BOUNDARIES AND AMENDING SECTION 198-62 OF THE BRIGANTINE MUNICIPAL CODE**

**WHEREAS**, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

**WHEREAS**, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

**WHEREAS**, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchases items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

**WHEREAS**, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”),

cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

**WHEREAS**, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

**WHEREAS**, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021); and

**WHEREAS**, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

**WHEREAS**, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

**WHEREAS**, the City Council of the City of Brigantine has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the City of Brigantine in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the City of Brigantine's residents and members of the public who visit, travel, or conduct business in the City of Brigantine, to amend the City of Brigantine's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the City of Brigantine; and

**WHEREAS**, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

**NOW THEREFORE, BE IT ORDAINED**, by the City of Brigantine of the City of Brigantine, in the County of Atlantic, State of New Jersey, as follows:



1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the City of Brigantine, except for the delivery of cannabis items and related supplies by a delivery service.

2. Section 198-62 of the City of Brigantine is hereby amended by adding to the list of prohibited uses, the following: "All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service."

3. Any article, section, paragraph, subsection, clause, or other provision of the the City of Brigantine inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

5. This ordinance shall take effect upon its passage and publication and filing with the Atlantic County Planning Board, and as otherwise provided for by law.

ATTEST:

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn A. Sweeney, Clerk

\_\_\_\_\_  
Vince Sera, Mayor

I, \_\_\_\_\_, Clerk of the City of Brigantine, do hereby certify that the foregoing is a true copy of an ordinance duly adopted by the City Council of the City of Brigantine on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Lynn A. Sweeney, Clerk

RESOLUTION NO. 2021-

THE CITY OF BRIGANTINE AUTHORIZING AWARD OF CONTRACT FOR  
DESIGN AND CONSTRUCTION MANAGEMENT SERVICES

**WHEREAS**, the City Council of the City of Brigantine authorized the acceptance of proposals for Design and Construction Management Services for Refurbishing the Public Works Building; and

**WHEREAS**, the City Engineer has reviewed proposals in accordance with applicable law, regulations and procedures for the above-mentioned municipal contract; and

**WHEREAS**, the City Engineer recommended the award of contract; and

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Brigantine, County of Atlantic and State of New Jersey on this 21<sup>st</sup> day of April, 2021:

1. The contract for the Design and Construction Management Services for Refurbishing the Public Works Building is awarded to Settembrino Associates in the amount of \$69,500.00.
2. Roxanne Tosto, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in Account # C-04-19-012-402.
3. This resolution shall take effect immediately.

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn Sweeney, RMC  
City Clerk

\_\_\_\_\_  
Roxanne Tosto  
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Sera					
Riordan					
Kane					
Bew					
Lettieri					
Haney					
DeLucry					

CITY OF BRIGANTINE  
RESOLUTION # 2021-

IMPROVEMENTS AND REPAIRS  
FOR VARIOUS CITY PROJECTS

**WHEREAS**, the Public Works department has a need for maintenance and repairs for various City projects; and

**WHEREAS**, it is determined in the best interest of the City of Brigantine to acquire said services as needed; and

**WHEREAS**, Dennis Krause, QPA, City Purchasing Agent has determined and certified in writing that the value of various improvement projects will exceed \$17,500.00; and

**WHEREAS**, Public Works solicited quotes from three (3) vendors and W.J. Gross Inc. was the lowest responsible bid; and

**WHEREAS**, John W. Doring Jr., Superintendent of Public Works and Dennis Krause, QPA, City Purchasing Agent have reviewed up-coming projects and recommended that W.J. Gross Inc., 495 Center Street, Sewell NJ 08080 receive an alternative non-advertised method of award for general maintenance and repairs for various City Projects as determined by the needs of the City of Brigantine; and

**WHEREAS**, W.J. Gross Inc. has completed and submitted a Business Registration Certificate (BRC), a Business Entity Disclosure Certification which certifies that W.J. Gross Inc. has not made any contributions to a political or candidate committee for an elected office in the City of Brigantine in the previous one-year period, and will prohibit them from making any contributions through the projected time of completion; and

**WHEREAS**, the vendor has provided information demonstrating its compliance with the provisions of N.J.S.A. 19:44A-20.5, regarding political contributions; and

**NOW, THEREFORE BE IT RESOLVED** by the Municipal Council of the City of Brigantine that an alternative method award with W.J. Gross Inc. for maintenance and repairs for various City Projects. A copy of the Business Entity Certification and Determination of Value shall be on file with this resolution in the City Clerk's Office.

**BE IT FURTHER RESOLVED** that Roxanne Tosto, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in Capital Account# C-04-17-012-101. Estimated expenditures for 2021 should not exceed \$40,000.00.

Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, on the 21<sup>st</sup> day of April 2021

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn Sweeney, RMC  
City Clerk

\_\_\_\_\_  
Roxanne Tosto  
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Sera					
Riordan					
Kane					
Bew					
Lettieri					
Haney					
DeLucry					

RESOLUTION NO. 2021-

A RESOLUTION OF THE CITY OF BRIGANTINE  
AUTHORIZING THE PURCHASE OF ONE 2022 FORD F-250 4WD 4DR PICKUP FROM  
APPROVED STATE CONTACT VENDOR, WINNER FORD

**WHEREAS**, the City of Brigantine Fire Department, pursuant to N.J.S.A. 40A:11-12a and N.J.A.C. 5:34-7.29c, may by resolution and without advertising for bids, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program for any state contracts entered into on behalf of the state by the Division of Purchase and Property in the Department of the Treasury; and

**WHEREAS**, the City of Brigantine Police Department has the need to purchase one (1) 2022 Ford F-250, 4WD 4DR Pickup utilizing State Contracts, totaling \$37,777.00; and

**WHEREAS**, the City of Brigantine intends to enter into a contract with Winner Ford through this resolution which shall be subject to all the conditions applicable to the current New Jersey State Contract #A88726.

**NOW, THEREFORE, BE IT RESOLVED** by the Municipal Council for the City of Brigantine, County of Atlantic, and State of New Jersey, that the City Purchasing Agent is hereby authorized to purchase one (1) 2022 Ford F250, 4WD 4DR Pickup, pursuant to all conditions of the individual state contracts.

**BE IT FURTHER RESOLVED** that Roxanne Tosto, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in the Fire Department Current Fund account #1-01-25-265-207 (\$37,777.00).

Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine, County of Atlantic and State of New Jersey, on the 21<sup>st</sup> day of April, 2021.

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn Sweeney, RMC  
City Clerk

\_\_\_\_\_  
Roxanne Tosto  
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Sera					
Riordan					
Kane					
Bew					
Lettieri					
Haney					
DeLucry					

RESOLUTION NO. 2021-

THE CITY OF BRIGANTINE AUTHORIZING AWARD OF CONTRACT FOR  
DESIGN AND CONSTRUCTION MANAGEMENT SERVICES

**WHEREAS**, the City Council of the City of Brigantine authorized the acceptance of proposals for Design and Construction Management Services for the Partial Reconstruction of Revere Blvd; and

**WHEREAS**, the City Engineer has reviewed proposals in accordance with applicable law, regulations and procedures for the above mentioned municipal contract; and

**WHEREAS**, the City Engineer recommended the award of contract; and

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Brigantine, County of Atlantic and State of New Jersey on this 21<sup>st</sup> day of April, 2021:

1. The contract for the Design and Construction Management Services for the Partial Reconstruction of Revere Blvd is awarded to DeBlasio & Associates in the amount of \$17,450.00.
2. Roxanne Tosto, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in Account # C-04-17-015-101.
3. This resolution shall take effect immediately.

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn Sweeney, RMC  
City Clerk

\_\_\_\_\_  
Roxanne Tosto  
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Sera					
Riordan					
Kane					
Bew					
Lettieri					
Haney					
DeLucry					

RESOLUTION # 2021-

FOR TAX ASSESSMENT SERVICES AND APPEALS

**WHEREAS**, the Assessor's office has a need for a third-party professional to provide County and State appeals and inspections for assessment purposes for the City of Brigantine when needed; and

**WHEREAS**, it is determined in the best interest of the City of Brigantine to utilize said services in connection with the 2021 added assessments; and

**WHEREAS**, Dennis Krause, QPA, City Purchasing Agent has determined and certified in writing that the value for these services will exceed \$17,500.00; and

**WHEREAS**, Barbara Saccoccia, Tax Assessor, and Dennis Krause, QPA, City Purchasing Agent have reviewed the proposal and recommended that Professional Property Appraisers Inc., 101 Route 130 S. Cinnaminson, NJ 08077 receive an alternative non-advertised method of award to provide County and State appeals and inspections for assessment purposes as determined by the needs of the City of Brigantine; and

**WHEREAS**, Professional Property Appraisers Inc has completed and submitted a Business Registration Certificate (BRC), a Business Entity Disclosure Certification which certifies that Professional Property Appraisers Inc has not made any contributions to a political or candidate committee for an elected office in the City of Brigantine in the previous one year period and will prohibit them from making any contributions through the projected time of completion; and

**WHEREAS**, the vendor has provided information demonstrating its compliance with the provisions of N.J.S.A. 19:44A-20.5, regarding political contributions; and

**NOW, THEREFORE BE IT RESOLVED** by the Municipal Council of the City of Brigantine, New Jersey that an alternative method award with Professional Property Appraisers Inc for County and State appeals and inspections for assessment purposes. A copy of the Business Entity Certification and Determination of Value shall be on file with this resolution in the City Clerk's Office.

**BE IT FURTHER RESOLVED** that Roxanne Tosto, Chief Financial Officer of the City of Brigantine, does hereby certify that there are adequate funds available in the Current Fund misc expense account #1-01-20-150-299. Estimated expenditures for 2021 should not exceed \$19,000.00.

Certified to be a true copy of a Resolution adopted by the Municipal Council for the City of Brigantine,  
County of Atlantic and State of New Jersey, on the 21<sup>st</sup> day of April, 2021

CITY OF BRIGANTINE

\_\_\_\_\_  
Lynn Sweeney, RMC  
City Clerk

\_\_\_\_\_  
Roxanne Tosto  
Chief Financial Officer

Recorded Vote:	MOTIONS	AYE	NAY	ABSTAIN	ABSENT
Sera					
Riordan					
Kane					
Bew					
Lettieri					
Haney					
DeLucry					



**RESOLUTION NO. 2021-**

**SOUTHERN COASTAL REGIONAL EMPLOYEE BENEFITS FUND**

**RESOLUTION to RENEW/JOIN**

**WHEREAS**, a number of public entities in the State of New Jersey have joined together to form the **Southern Coastal Regional Employee Benefits Fund**, hereafter referred to as "FUND", as permitted by N.J.S.A. 11:15-3, 17:1-8.1, and 40A:10-36 et seq., and;

**WHEREAS**, the FUND was approved to become operational by the Departments of Insurance and Community Affairs and has been operational since that date, and;

**WHEREAS**, the statutes and regulations governing the creation and operation of a joint insurance fund, contain certain elaborate restrictions and safeguards concerning the safe and efficient administration of the public interest entrusted to such a FUND;

**WHEREAS**, the governing body of City of Brigantine, hereinafter referred to as "LOCAL UNIT" has determined that membership in the FUND is in the best interest of the LOCAL UNIT.

**NOW, THEREFORE, BE IT RESOLVED** that the governing body of the LOCAL UNIT hereby agrees as follows:

- i. Become a member of the FUND for the period outlined in the LOCAL UNIT's Indemnity and Trust Agreements.
- ii. Will participate in the following type (s) of coverage (s):
  - a.) Health Insurance as defined pursuant to N.J.S.A. 17B:17-4, the FUND's Bylaws, and Plan of Risk Management.
- iii. Adopts and approves the FUND's Bylaws.
- iv. Execute an application for membership and any accompanying certifications.

**BE IT FURTHER RESOLVED** that the governing body of the LOCAL UNIT is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying membership in the FUND as required by the FUND's Bylaws, and to deliver these documents to the FUND's Executive Director with the express reservation that these documents shall become effective only upon:

- i. Approval of the LOCAL UNIT by the FUND.
- ii. Receipt from the LOCAL UNIT of a Resolution accepting assessment.
- iii. Approval by the New Jersey Department of Insurance and Department of Community Affairs.

**Southern Coastal Regional Employee Benefits Fund**

**ADOPTED:** \_\_\_\_\_  
Date

**BY:** \_\_\_\_\_

**ATTEST:** \_\_\_\_\_

CITY OF BRIGANTINE

RESOLUTION NO

2021-

CANCELLATION OF OUTSTANDING CHECKS

**WHEREAS**, there exists an outstanding check in the Bail Accounts of the Brigantine Municipal Court; and

**WHEREAS**, it has been determined that the outstanding check should be canceled.

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Body of the City of Brigantine, County of Atlantic, that the following outstanding check be and hereby cancelled to the cash balance of the City of Brigantine.

Bail Account	check No.3680	Amount \$ 73.00
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Disbursement Account 2184760 (Bail)	check No. 3705	Amount \$ 73.00
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**CITY OF BRIGANTINE  
RESOLUTION 2021-**

**BE IT RESOLVED**, by the City Council of the City of Brigantine that the City Manager is herewith authorized to execute a Memorandum of Understanding with the Brigantine Marine and Paddle Club.

This is to certify that the above is a  
lawful copy of a resolution adopted by the  
City Council of the City of Brigantine,  
County of Atlantic, State of New Jersey  
at its meeting of April 21, 2021.

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Lynn Sweeney, RMC  
City Clerk

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "MOU") dated as of April \_\_\_\_, 2021 by and between Brigantine Marina and Paddle Club, LLC, c/o M. Sean Scarborough, 6 West Roosevelt Boulevard, Marmora, New Jersey, 08223, and/or its assignee, as provided herein (the "Conditional Redeveloper"), and the City of Brigantine (the "City"), located at 1417 West Brigantine Avenue, City of Brigantine, County of Atlantic and State of New Jersey; collectively referred to as the "Parties".

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented ("Redevelopment Law"), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of rehabilitation or redevelopment; and

WHEREAS, Conditional Redeveloper owns a parcel of property located at 4401 Atlantic-Brigantine Boulevard, Block 5702, Lots 7, 7.01, 7.02, 8, and 9, which is or will be declared to be an Area in Need of Rehabilitation ("Rehabilitation Area") under the Redevelopment Law; and

WHEREAS, the City is considering adopting a Redevelopment Plan for the Rehabilitation Area; and

WHEREAS, the City has been in discussion with Conditional Redeveloper regarding redevelopment of the Rehabilitation Area; and

WHEREAS, Conditional Redeveloper has presented its redevelopment concepts to the City, and the City and Conditional Redeveloper desire that the Project Site be redeveloped in accordance with a possible future Redevelopment Plan; and

WHEREAS, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented, provides for a process for redevelopment entities to enter agreements with redevelopers to carry out and effectuate the terms of a redevelopment plan; and

WHEREAS, the Redevelopment Law, N.J.S.A. 40A:12A-8(f), authorizes the City to arrange or contract with a redeveloper for the planning, construction or undertaking of any project or redevelopment work in an area designated as an area in need of rehabilitation or redevelopment; and

WHEREAS, a possible future Redevelopment Plan calls for, among other things, rehabilitation and/or demolition of existing improvements and construction of new improvements; and

WHEREAS, the City and Conditional Redeveloper have engaged in such preliminary discussions and the City has determined that it is in the best interests of the City to enter into additional negotiations with Conditional Redeveloper for drafting of a Redevelopment Agreement and, therefore, to enter into this MOU with Conditional Redeveloper for the redevelopment of the Rehabilitation Area, including, but not limited to, rehabilitation and/or demolition of existing improvements and construction of new improvements (the "Project Improvements").

NOW, THEREFORE, in consideration of the Parties' promises and mutual representations, covenants and agreements set forth herein, the Parties, each binding itself, its successors and assigns, do hereby mutually promise, covenant and agree as follows:

1. Designation as Conditional Redeveloper. The City shall use its best efforts to conditionally designate Conditional Redeveloper as the Conditional Redeveloper for the Project Improvements in the rehabilitation Area, pursuant to this MOU, hereby agrees for a period of ninety (90) days from the date hereof, to negotiate solely with Conditional Redeveloper in good faith, for the redevelopment of the Rehabilitation Area which period can be extended by the Parties' mutual written agreement.

2. Redevelopment Agreement. The Parties hereby agree to immediately commence good faith negotiations of the intended terms and conditions of a Redevelopment Agreement and other agreements.

3. Payment of Interim Costs.

- a. Within seven (7) days of full execution of this Memorandum, the Conditional Redeveloper shall deposit with the City the sum of Fifteen Thousand (\$15,000.00) Dollars, which the City shall deposit into a non-interest bearing escrow account established by it for the payment of its "Interim Costs" ("Redeveloper's Escrow"). For purposes of this Memorandum, Interim Costs shall mean costs incurred by the City's outside professionals as retained by the City and approved by the Conditional Redeveloper as provided below (the "Approved Professionals") and shall include the City's reasonably incurred out-of-pocket fees, costs, and expenses related to the negotiation of the terms and conditions of the Redevelopment Agreement and other documents and actions related to the

redevelopment of the Redevelopment Area including, but not limited to, fees for legal, accounting, engineering, planning, and financial advisory services. Such Interim Costs will be billed to the Escrow Account as of April 1, 2021. Except as previously agreed upon by the Conditional Redeveloper, the Interim Costs shall expressly exclude all such fees, costs, and expenses incurred prior to April 1, 2021, and any future costs, fees or expenses incurred by the City (other than by the Approved Professionals), including but not limited to, employees of the City.

- b. If the Conditional Redeveloper's Escrow is drawn down to or below the sum of Five Thousand (\$5,000.00) Dollars, then the Conditional Redeveloper shall, within ten (10) days of Conditional Redeveloper becoming aware of same, replenish the Conditional Redeveloper's Escrow to the sum of \$15,000.00 for use in accordance with these terms.
- c. Attached hereto are the existing professional rates charged to the City for services in regard to the \_\_\_\_\_ Redevelopment Area. If the Conditional Redeveloper objects to any such fees in writing, the Parties agree to further negotiate the dispute pertaining to the fee structure.
- d. Prior to the City's withdrawal of funds from the Conditional Redeveloper's Escrow for the payment of its Interim Costs, the City shall provide the Conditional Redeveloper with a copy of each invoice reflecting the Interim Costs to be paid for review. The Conditional Redeveloper shall have seven (7) business days from receipt of the invoice for Interim Costs



to review the invoices for the Interim Costs and notify the City in writing of any objections to the invoices for Interim Costs. Failure to approve or provide reasons for disapproval of an invoice(s) in writing to City within seven (7) business days of receipt of the invoice, shall be deemed an approval of the invoice on the part of Conditional Redeveloper and the total fees of the Approved Professionals for such billing period shall be paid from the Conditional Redeveloper's Escrow. If the Conditional Redeveloper objects to an invoice in writing, the Parties agree to further negotiate the dispute pertaining to the invoice. Statements reflecting all charges and the then current balance of the Conditional Redeveloper's Escrow shall be provided to the Conditional Redeveloper by the City on a monthly basis or more often upon request by the Conditional Redeveloper.

- e. In the event that this Memorandum either expires, or is otherwise cancelled or terminated, then all remaining escrow monies shall be returned to the Conditional Redeveloper following the payment from the Conditional Redeveloper's Escrow of the City's Interim Costs incurred up to the time of said expiration or cancellation subject to the terms above. However, in the event the Memorandum expires based on the successful negotiation of the Redevelopment Agreement, then Conditional Redeveloper may designate the remaining balance of the Conditional Redeveloper's Escrow to be utilized for any required escrows under the terms of the Redevelopment Agreement.

f. On the first day of each month following the execution of this Memorandum, the City shall provide a copy of a current ledger or balance sheet for the escrow which shall include a listing of all payments from the escrow and the current balance of same.

4. **Notices.** Notifications, as defined above, given under this Memorandum shall be duly given to the appropriate addresses by regular first class mail, or telex number and telecopier numbers set forth below (or to such other addresses, telex numbers and telecopier numbers as a Party may designate as to itself by notice to the other):

If to Conditional Redeveloper:

Scarborough Properties, LLC  
Address:  
Telephone No.:  
E-Mail Address:

With a copy to:

Telephone No.: (609)  
Telecopy No.: (609)

If to City:

James Bennett, City Manager  
City of Brigantine  
1417 W. Brigantine Avenue  
Brigantine, New Jersey 08203  
Telephone No.: (609) 266-2700  
Telecopy No.: (609)

With a copy to:

Alfred R. Scerni, Jr., Esq.  
Parker McCay P.A.  
1809 Pacific Avenue, Suite 200  
Atlantic City, New Jersey 08401  
Telephone No.: (609) 347-8000  
Telecopy No.: (609) 347-8010

5. Amendments. Any and all amendments to this MOU shall be in writing and shall require the mutual agreement of both Parties.

6. Entire Agreement. This MOU sets forth all the promises, covenants, agreements, conditions and undertakings between the Parties hereto with respect to the subject matter hereto, and supersedes all prior or contemporaneous agreements and undertakings, inducements or conditions, express or implied, oral or written, between the Parties hereto.

7. Not Binding on Individuals. No covenant, condition or agreement contained in this MOU shall be deemed to be the covenant, condition or agreement of any past, present or future member, manager, trustee, official, officer, agent or employee of either Party, in his or her individual capacity, and neither the members, managers, trustees, officials, officers, agents or employees of such Party or Parties, nor any individual executing this MOU, shall be personally liable on this MOU or by reason of the execution hereof by such person, or arising out of any transaction or activity relating to this MOU.

8. Governing Law. The terms of this MOU shall be governed, construed, interpreted and enforced in accordance with the laws of the State of New Jersey, including all matters of enforcement, validity and performance.

9. Non-Binding Effect. Except for the City's obligation to negotiate exclusively and in good faith with Conditional Redeveloper, as well as Conditional Redeveloper's obligation to negotiate in good faith and to be responsible for all Interim Costs, this MOU does not constitute a

binding commitment between the Parties hereto, as the Parties' respective rights and obligations remain to be fully defined in their Redevelopment Agreement(s).

10. Counterparts. This MOU may be executed in counterparts. All such counterparts shall be deemed to be originals and together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding to be properly executed and their corporate seals (where applicable) affixed and attested to as of the day and year first above written.

ATTEST:

CITY OF BRIGANTINE

\_\_\_\_\_  
BY: Lynn A. Sweeney, City Clerk

\_\_\_\_\_  
BY: Mayor Vince Sera

WITNESS:

Conditional Redeveloper:  
BRIGANTINE MARINA  
AND PADDLE CLUB, LLC

\_\_\_\_\_  
BY: M. SEAN SCARBOROUGH

**CITY OF BRIGANTINE  
RESOLUTION 2021-**

**BE IT RESOLVED**, by the City Council of the City of Brigantine that the City shall enter into a Revocable License Agreement with Yacht Harbor Condominiums for property that will encroach upon lands owned by the City of Brigantine.

This is to certify that the above is a  
lawful copy of a resolution adopted by the  
City Council of the City of Brigantine,  
County of Atlantic, State of New Jersey  
at its meeting of April 21, 2021.

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Lynn Sweeney, RMC  
City Clerk

Prepared by:  
PARKER McCAY P.A.

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### **REVOCABLE LICENSE AGREEMENT**

Yacht Harbor Condominiums (hereinafter collectively referred to as "Yacht Harbor") is the owner of property located at 1125 Bayshore Avenue, City of Brigantine, County of Atlantic and State of New Jersey, also known as Block 1304, Lot 1 on the official tax map of the City of Brigantine (hereinafter referred to as the "property"). Yacht Harbor is authorized to enter into this Revocable License Agreement (hereinafter referred to as the "Agreement"). Yacht Harbor seeks a revocable license agreement from the City of Brigantine (hereinafter referred to as the "City") for property that will encroach upon lands owned by the City. The City-owned lands subject to the encroachment are located Brigantine rights of way and pedestrian rights of way along 12<sup>th</sup> Street South. Proposed areas of the encroachment into the City owned and controlled right-of-way are described in a site plan description prepared by Doran Engineering P.A. dated December 15, 2020. The same is attached hereto as Exhibit A. The encroachment is the area subject to this Agreement (hereinafter referred to as the "licensed area").

Yacht Harbor is requesting, and the City is willing to grant, a revocable license for the encroachments in the licensed area upon the terms and conditions as set forth herein.

The Parties, understanding this Agreement and having read the same, and having had an opportunity to discuss the same with counsel of their choosing, do hereby agree this \_\_\_\_\_ day of \_\_\_\_\_ 2021, as follows:

- All of the background shall be and is hereby incorporated into the body of this Agreement as if fully set forth at length herein.

- The City hereby grants to Yacht Harbor a revocable license in the licensed area.  
Any construction, improvement, or structure placed in the licensed area may only be done so after obtaining all necessary approvals from the City and any other entity with jurisdiction over the same.
- In the event the City, in the future, desires to utilize the licensed area for any public purpose, the City may give thirty (30) days' notice to Yacht Harbor any assignee or successor in title of such intention, in which event all structures or other impediments in the licensed area shall be removed by the owner of the property at his, her, or their sole cost and expense. If not so removed, the City may remove same and charge the costs thereof to the owner of the property within thirty (30) days after notice that said removal is required. If said costs are not paid within thirty (30) days after a written invoice of the same is sent to the property owner, then the amount due, together with reasonable attorney's fees and costs, shall be docketed and placed as a lien against the property in the same force and manner as real estate taxes, and shall be collected in the same manner as real estate taxes. Yacht Harbor and any assignee or successor in title therefore places any improvements in the licensed area at his, her, or their sole risk understanding the revocable nature of this license.
- Yacht Harbor agrees that they shall, and do, indemnify and hold harmless the City, its agents, servants, and employees, to the fullest extent provided by law, against any and all claims, damages, losses, and expenses, including reasonable attorney's fees, for damage to person or property arising out of the design or construction of any improvement in the licensed area and that they shall defend with legal counsel chosen by the City, at their sole cost and expense, any demand, claim, suit, controversy, or presentation against the City, its agents, servants, and

employees arising out of said design or existence of any such improvement in the licensed area or any entrance into or activity occurring within the licensed area.

The purpose of this paragraph is to make clear that Yacht Harbor and any assignees or successors in title will indemnify and hold the City harmless from any action, activity, construction, structure, or any claim of any nature arising due to the existence or use of or within the licensed area.

- Binding nature. This Agreement shall be binding upon Yacht Harbor, its heirs, executors, administrators, assignees, and/ or successors in title and shall run in perpetuity

IN WITNESS THEREOF, the parties have executed this Revocable License Agreement this     day of                      , 2021.

ATTEST:

CITY OF BRIGANTINE

By: \_\_\_\_\_  
Lynn Sweeney, City Clerk

BY: \_\_\_\_\_  
Vince Sera, Mayor

ATTEST:

YACHT HARBOR CONDOMINIUMS

BY: \_\_\_\_\_

BY: \_\_\_\_\_

ACKNOWLEDGMENTS ON NEXT PAGE



ACKNOWLEDGMENT AS TO CITY OF BRIGANTINE

STATE OF NEW JERSEY:

COUNTY OF ATLANTIC:     SS.:

I CERTIFY that on \_\_\_\_\_, 2021, Vince Sera, personally came before me and acknowledged under oath, to my satisfaction that this person is:

- a. The Mayor of the City of Brigantine and authorized to sign on behalf of the City;
- b. Personally signed this Revocable License Agreement;
- c. Signed, sealed and delivered this Revocable License Agreement on behalf of the City of Brigantine as his voluntary act and deed.

Sworn and Subscribed to  
Before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

ACKNOWLEDGMENT AS TO YACHT HARBOR CONDOMINIUMS

STATE OF NEW JERSEY:

COUNTY OF ATLANTIC:     SS.:

I CERTIFY that on \_\_\_\_\_, 2021, \_\_\_\_\_, personally came before me and acknowledged under oath, to my satisfaction that this person is:

- d. The \_\_\_\_\_ of Yacht Harbor Condominiums (entity) and authorized to sign on behalf of the entity;
- e. Personally signed this Revocable License Agreement;
- f. Signed, sealed and delivered this Revocable License Agreement on behalf of Yacht Harbor Condominiums as his voluntary act and deed.

Sworn and Subscribed to  
Before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

Resolution 2021- 79

Designate Redevelopment Area for  
Bayside Marina

**RESOLUTION NO. 2021-**

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 thereof 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, and

WHEREAS, the City of Brigantine has received an award of \$14,978.19 from State of New Jersey for Hazardous Waste-2018 Recycling Tonnage Grant and wishes to amend its 2021 Budget to include this amount as revenue.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Brigantine, in the County of Atlantic, State of New Jersey, hereby requests that Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2021 in the sum of .....\$14,978.19

Which now is available as revenue from:

Miscellaneous Revenues:

Special Items of General Revenue Anticipated  
with Prior Written Consent of the Director of the  
Division of Local Government Services:

State and Federal Revenues Off-set with  
Appropriations:

Hazardous Waste- 2018 Recycling Tonnage Grant

BE IT FURTHER RESOLVED that the like sum of .....\$14,978.19  
be and the same is hereby appropriated under the caption of:  
General Appropriations:

Operations Excluded from CAPS

Hazardous Waste- 2018 Recycling Tonnage Grant

BE IT FURTHER RESOLVED, that the City Clerk will forward a certified copy electronically to the Chief Financial Officer who will file request electronically with the Division of Local Government Services for approval.

## **RESOLUTION # 2021-**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGANTINE AUTHORIZING THE REJECTION OF THE PROPOSAL RECEIVED IN RESPONSE TO REQUEST FOR PROPOSALS FOR THE MANAGEMENT AND FULL-SERVICE MAINTENANCE PROGRAM FOR WATER SERVICE VESSELS AND AUTHORIZING THE USE OF A COMPETITIVE CONTRACTING PROCESS PURSUANT TO N.J.S.A. 40A:11-4.3 TO SECURE PROPOSALS FOR THE OPERATION, MAINTENANCE AND MANAGEMENT OF A PORTION OF THE CITY'S POTABLE WATER SYSTEM INCLUDING THREE WATER TOWERS**

**WHEREAS**, the City of Brigantine, Atlantic County, New Jersey (the "City"), a municipal corporation organized and existing under the laws of the State of New Jersey, provides, among other things, certain water services to the residents of the City; and

**WHEREAS**, the City owns the water system, including sources of storage, transmission and distribution facilities, all properties, assets and franchises and all improvements, additions and extensions thereto which relate to the purposes of providing potable water service to residents and commercial and industrial establishments in the City (the "System"); and,

**WHEREAS**, the System provides water storage, transmission and distribution services to the City's residents and customers; and,

**WHEREAS**, the proper provision of such water storage, transmission and distribution services is necessary for the public health, safety and welfare of the City's residents and customers and the financial well-being of the City; and,

**WHEREAS**, the System includes three water towers identified as the 14<sup>th</sup> Street Tank, the 4 Well Tank and the Roosevelt Tank (the "Water Towers") which are critical to maintaining the quality, quantity and security of the water provided within the System; and

**WHEREAS**, the City has determined to enter into an agreement to provide for the operation, maintenance and management of the Water Towers; and

**WHEREAS**, the City issued a request for proposals for the Management and Full Service Maintenance Program for Water Storage Vessels in the City, and on November 1, 2020 received one (1) proposal from Suez Advanced Solutions (Utility Service Co, Inc.) (the "Proposal") in response to the solicitation; and

**WHEREAS**, the City determined to re-issue a request for proposals (the "RFP") for the Operation, Maintenance and Management for the Water Towers in the City as authorized under, and in accordance with, the provisions of the competitive contracting provisions of the Local Public Contract Law (*N.J.S.A. 40A:11-1 et seq.*); and

**WHEREAS**, in light of the determination to re-issue the RFP, the City desires to reject the Proposal; and

**WHEREAS**, the operation, maintenance and management of a water supply or distribution facility of the type described in *N.J.S.A. 40A:11-15(37)* is an appropriate purpose for which competitive contracting under the Local Public Contracts Law may be used; and

**WHEREAS**, the City has complied with the requirements for competitive contracting set forth in *N.J.S.A. 40A:11-4.1* through 4.5.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and the Council of the City of Brigantine as follows:

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The City hereby rejects the Proposal for the Management and Full-Service Maintenance Program for three (3) Water Storage Vessels in the City.
3. The City Council hereby authorizes the use of the competitive contracting process in accordance with *N.J.S.A. 40A:11-4.1 et. seq.* of the Local Public Contracts Law by the City for the solicitation of proposals for the operation, maintenance and management of the Water Towers.
4. Pursuant to and in accordance with *N.J.S.A. 40A:11-4.3*, the aforesaid competitive contracting process shall be administered by the City Manager (the "City Manager") in consultation with the City's special counsel.
5. Pursuant to and in accordance with *N.J.S.A. 40A:11-4.4(a)*, the City Manager, the City's special counsel, employees and professionals, as necessary, shall seek proposals through the publication and distribution of the RFP on behalf of the City for operation, maintenance and management of the Water Towers and to report the results of such solicitation and any recommendations to the Council.
6. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.
7. A copy of this Resolution shall be available for public inspection at the offices of the City Clerk.
8. This Resolution shall take effect as provided by law.

I, Lynn Sweeney, City Clerk, do hereby certify that this is a true copy of the Resolution adopted by the Mayor and Council of the City of Brigantine at the Regular Council Meeting of April 21, 2021.

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Lynn Sweeney, RMC  
City Clerk