



***BOROUGH OF CALDWELL  
NEW JERSEY***

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**REGULAR BOROUGH COUNCIL MEETING  
July 19, 2022**

Trinity Academy Gymnasium  
235 Bloomfield Avenue,  
Caldwell, NJ  
7:15pm



**BOROUGH OF CALDWELL  
NEW JERSEY**

**ORDINANCE NO. 1430-22**

**AN ORDINANCE AUTHORIZING THE ADJUSTMENT OF NUMBERING IN THE BOROUGH CODE, FOR CHAPTER 252 ALSO KNOWN AS "DEVELOPMENT FEES" TO CHAPTER 85, TO MAINTAIN PROPER ORDER**

Recommended for approval by:

Thomas Banker, Administrator

Approved as to form and legality by:

Title:

**WHEREAS**, on February 23, 2021, the Mayor and Council adopted Ordinance 1400-21, an ordinance adding Chapter 252 "Development Fees" of the Borough of Caldwell to provide for the collection of development fees in support of affordable housing as permitted by the New Jersey Fair Housing Act; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this State or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

**WHEREAS**, pursuant to the foregoing statutory authority, the Borough deems it necessary to adjust the numbering of the Code, so that Chapter 252 "Development Fees" is renumbered to Chapter 85, in order to maintain alphabetical uniformity throughout the Code and its Table of Contents; and

**BE IT ORDAINED** by the Mayor and Council of the Borough of Caldwell, Essex County, New Jersey, that the Code of the Borough of Caldwell is hereby amended as follows:

**SECTION 1.** Chapter 252, Development Fees of the Revised General Ordinances of the Borough of Caldwell is hereby repealed in its entirety and here is hereby established a new Chapter 85 (Development Fees) to read as follows:

**85-1. Purpose**

This Ordinance establishes standards for the collection, maintenance, and expenditure of development fees that are consistent with COAH's regulations developed in response to P.L. 2008, c. 46, Sections 8 and 32-38 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7). Fees collected pursuant to this Ordinance shall be used for the sole purpose of providing very low, low- and moderate-income housing in accordance with a Court-approved Spending Plan.

**85-2. Basic Requirements**

- A. This Ordinance shall not be effective until approved by the Court.
- B. The Borough of Caldwell shall not spend development fees until the Court has approved a plan for spending such fees (i.e., a Spending Plan).

**85-3. Definitions**

The following terms, as used in this Ordinance, shall have the following meanings:

“Affordable housing development” means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable housing development.

“COAH” or the “Council” means the New Jersey Council on Affordable Housing established under the Fair Housing Act.

“Development fee” means money paid by a developer for the improvement of property as authorized by Holmdel Builder’s Association v. Holmdel Township, 121 N.J. 550 (1990) and the Fair Housing Act of 1985, N.J.S.A. 52:27d-301, *et seq.*, and regulated by applicable COAH Rules.

“Developer” means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

“Equalized assessed value” means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with Sections 1, 5, and 6 of P.L. 1973, c.123 (C.54:1-35a through C.54:1-35c).

“Green building strategies” means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

#### **85-4. Residential Development Fees**

##### **A. Imposition of Fees**

- 1) Within the Borough of Caldwell, all residential developers, except for developers of the types of developments specifically exempted below and developers of developments that include affordable housing, shall pay a fee of one and a half percent (1.5%) of the equalized assessed value for all new residential development provided no increased density is permitted. Development fees shall also be imposed and collected when an additional dwelling unit is added to an existing residential structure; in such cases, the fee shall be calculated based on the increase in the equalized assessed value of the property due to the additional dwelling unit.
- 2) When an increase in residential density is permitted pursuant to a “d” variance granted under N.J.S.A. 40:55D-70d(5), developers shall be required to pay a “bonus” development fee of six percent (6%) percent of the equalized assessed value for each additional unit that may be realized, except that this provision shall not be applicable to a development that will include affordable housing. If the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

##### **B. Eligible Exactions, Ineligible Exactions and Exemptions for Residential Developments**

- 1) Affordable housing developments and/or developments where the developer has made a payment in lieu of on-site construction of affordable units, if permitted by Ordinance or by Agreement with the Borough of Caldwell, shall be exempt from the payment of development fees.
- 2) Developments that have received preliminary or final site plan approval prior to the adoption of this Ordinance and any preceding Ordinance permitting the collection of development fees shall be exempt from the payment of development fees, unless the developer seeks a substantial change in the original approval. Where site plan approval is not applicable, the issuance of a Zoning Permit and/or Construction Permit shall be synonymous with preliminary or final site plan approval for the purpose of determining the right to an exemption. In all cases, the applicable fee percentage shall be determined based upon the Development Fee Ordinance in effect on the date that the Construction Permit is issued.

3) Any repair, reconstruction or improvement of a structure, the cost of which is less than 50% of the market value of the structure before the improvement or repair is started. For purpose of this section, "market value" shall mean the equalized assessed value of the existing improvement as established by the Borough Tax Assessor. The cost of the repair, reconstruction or improvements shall be determined by an itemized construction cost estimate prepared and submitted to the Construction Official. The estimate shall be signed and sealed by an architect or professional engineer licensed by the State of New Jersey, or where no such professionals are retained, signed by the contractor or the homeowner. Where prepared by the homeowner or contractor, the Borough Engineer may review such estimates for accuracy. "Substantial improvement" is considered to commence when the first alteration of any wall, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

(a) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are only necessary to assure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places but a development fee shall be charged for any new dwelling constructed as a replacement for a previously existing dwelling on the same lot that was or will be demolished, unless the owner resided in the previous dwelling for a period of one year or more prior to obtaining a demolition permit. Where a development fee is charged for a replacement dwelling, the development fee shall be calculated on the increase in the equalized assessed value of the new structure as compared to the previous structure.

4) Structural alterations that do not increase gross floor area of a building or structure or increase the equalized assessed value of a property shall be exempted from paying a development fee.

5) Nonprofit organizations constructing residential projects which have received tax-exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code, providing current evidence of that status is submitted to the Municipal Clerk, together with a certification that services of the organization are provided at reduced rates to those who establish an inability to pay existing charges, shall be exempted from paying a development fee.

6) Federal, state, county and local governments shall be exempted from paying a development fee.

7) Homes replaced as a result of a natural disaster, fire or flood shall be exempt from the payment of a development fee. (This exemption applies only for the owner of record at the time of the fire, flood, or natural disaster.)

8) Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

#### **85-5. Non-Residential Development Fees**

##### **A. Imposition of Fees**

1) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

2) Within all zoning districts, non-residential developers, except for developers of the types of developments specifically exempted below, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

3) Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvements and the equalized assessed value of the newly improved structure, i.e. land and

improvements, and such calculation shall be made at the time a final Certificate of Occupancy is issued. If the calculation required under this Section results in a negative number, the non-residential development fee shall be zero.

**B. Eligible Exactions, Ineligible Exactions and Exemptions for Non-residential Development**

1) The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to a two and a half percent (2.5%) development fee, unless otherwise exempted below.

2) The two and a half percent (2.5%) development fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within the existing footprint, reconstruction, renovations and repairs.

3) Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to the Statewide Non-Residential Development Fee Act (N.J.S.A. 40:55D-8.1 through 8.7), as specified in Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption". Any exemption claimed by a developer shall be substantiated by that developer.

4) A developer of a non-residential development exempted from the non-residential development fee pursuant to the Statewide Non-Residential Development Fee Act shall be subject to the fee at such time as the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final Certificate of Occupancy for the non-residential development, whichever is later.

5) If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this Section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Caldwell as a lien against the real property of the owner.

6) Federal, state, county and local governments constructing nonresidential housing shall be exempted from paying a development fee.

**85-6. Collection Procedures**

A. Upon the granting of a preliminary, final or other applicable approval for a development, the approving authority or entity shall notify or direct its staff to notify the Construction Official responsible for the issuance of a Construction Permit.

B. For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/ Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The Construction Official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

C. The Construction Official responsible for the issuance of a Construction Permit shall notify the Borough Tax Assessor of the issuance of the first Construction Permit for a development which is subject to a development fee.

D. Within 90 days of receipt of such notification, the Borough Tax Assessor shall prepare an estimate of the equalized assessed value of the development based on the plans filed.

E. The Construction Official responsible for the issuance of a final Certificate of Occupancy shall notify the Borough Tax Assessor of any and all requests for the scheduling of a final inspection on a property which is subject to a development fee.

F. Within 10 business days of a request for the scheduling of a final inspection, the Borough Tax Assessor shall confirm or modify the previously estimated equalized assessed value of

the improvements associated with the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

G. Should the Borough of Caldwell fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in Subsection b. of Section 37 of P.L. 2008, c.46 (C.40:55D-8.6).

H. Except as provided in Section 5.A.3) hereinabove, fifty percent (50%) of the initially calculated development fee shall be collected at the time of issuance of the Construction Permit. The remaining portion shall be collected at the time of issuance of the Certificate of Occupancy. The developer shall be responsible for paying the difference between the fee calculated at the time of issuance of the Construction Permit and that determined at the time of issuance of the Certificate of Occupancy.

I. Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and the fee determined upon issuance of certificate of occupancy.

#### J. Appeal of Development Fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest-bearing escrow account by the Borough of Caldwell. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S. 54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest-bearing escrow account by the Borough of Caldwell. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1, *et seq.*, within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

#### **85-7. Affordable Housing Trust Fund**

A. There is hereby created a separate, interest-bearing Affordable Housing Trust Fund to be maintained by the Chief Financial Officer of the Borough of Caldwell for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

B. The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1) Payments in lieu of on-site construction of a fraction of an affordable unit, where permitted by Ordinance or by Agreement with the Borough of Caldwell;

2) Funds contributed by developers to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached dwelling unit development accessible;

3) Rental income from municipally operated units;

4) Repayments from affordable housing program loans;

5) Recapture funds;

6) Proceeds from the sale of affordable units; and

7) Any other funds collected in connection with Caldwell's affordable housing program.

C. In the event of a failure by the Borough of Caldwell to comply with trust fund monitoring and reporting requirements or to submit accurate monitoring reports; or a failure to comply with the conditions of the judgment of compliance or a revocation of the judgment of compliance; or a failure to implement the approved Spending Plan and to expend funds within the applicable required time period as set forth in In re Tp. of Monroe Housing Element, 442 N.J. Super. 565 (Law Div.), aff'd, 442 N.J. Super. 563 (App. Div. 2015); or the expenditure of funds on activities not approved by the Court; or for other good cause demonstrating the unapproved use(s) of funds, the Court may authorize the State of New Jersey, Department of Community Affairs, Division of Local Government Services (LGS), to direct the manner in which the funds in the Affordable Housing Trust Fund shall be expended, provided that all such funds shall, to the extent practicable, be utilized for affordable housing programs within the Borough of Caldwell, or, if not practicable, then within the County or the Housing Region.

Any party may bring a motion before the Superior Court presenting evidence of such condition(s), and the Court may, after considering the evidence and providing the municipality a reasonable opportunity to respond and/or to remedy the non-compliant condition(s), and upon a finding of continuing and deliberate non-compliance, determine to authorize LGS to direct the expenditure of funds in the Trust Fund or impose such other remedies as may be reasonable and appropriate to the circumstances.

D. Interest accrued in the Affordable Housing Trust Fund shall only be used to fund eligible affordable housing activities approved by the Court.

**85-8. Use of Funds**

A. The expenditure of all funds shall conform to a Spending Plan approved by the Court. Funds deposited in the Affordable Housing Trust Fund may be used for any activity approved by the Court to address the Borough of Caldwell's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls; housing rehabilitation; new construction of affordable housing units and related costs; accessory apartments; a market to affordable program; Regional Housing Partnership programs; conversion of existing non-residential buildings to create new affordable units; green building strategies designed to be cost saving and in accordance with accepted national or State standards; purchase of land for affordable housing; improvement of land to be used for affordable housing; extensions or improvements of roads and infrastructure to affordable housing sites; financial assistance designed to increase affordability; administration necessary for implementation of the Housing Element and Fair Share Plan; and/or any other activity permitted by the Court and specified in the approved Spending Plan.

B. Funds shall not be expended to reimburse the Borough of Caldwell for past housing activities.

C. At least 30 percent of all development fees collected and interest earned on such fees shall be used to provide affordability assistance to very low-, low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to very low-income households earning 30 percent or less of the regional median household income by household size for Housing Region 2, in which Caldwell is located.

1) Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs. The specific programs to be used for affordability assistance shall be identified and described within the Spending Plan.

2) Affordability assistance to households earning 30 percent or less of the regional median household income by household size may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income. The specific programs to be used for very low income affordability assistance shall be identified and described within the Spending Plan.

3) Payments in lieu of constructing affordable housing units on site, if permitted by Ordinance or by Agreement with the Borough of Caldwell, and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.

D. The Borough of Caldwell may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including its programs for affordability assistance.

E. No more than 20 percent of all revenues collected from development fees may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultants' fees necessary to develop or implement a new construction program, prepare a Housing Element and Fair Share Plan, and/or administer an affirmative marketing program or a rehabilitation program.

1) In the case of a rehabilitation program, the administrative costs of the rehabilitation program shall be included as part of the 20 percent of collected development fees that may be expended on administration.

2) Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with the Court's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or related to securing or appealing a judgment from the Court are not eligible uses of the Affordable Housing Trust Fund.

#### **85- 9. Monitoring**

The Borough of Caldwell shall provide annual reporting of Affordable Housing Trust Fund activity to the State of New Jersey, Department of Community Affairs, Council on Affordable Housing or Local Government Services or other entity designated by the State of New Jersey, with a copy provided to Fair Share Housing Center and posted on the municipal website, using forms developed for this purpose by the New Jersey Department of Community Affairs, Council on Affordable Housing or Local Government Services. The reporting shall include an accounting of all Affordable Housing Trust Fund activity, including the sources and amounts of funds collected and the amounts and purposes for which any funds have been expended. Such reporting shall include an accounting of development fees collected from residential and non-residential developers, payments in lieu of constructing affordable units on site (if permitted by Ordinance or by Agreement with the Borough), funds from the sale of units with extinguished controls, barrier free escrow funds, rental income from Borough owned affordable housing units, repayments from affordable housing program loans, and any other funds collected in connection with Caldwell's affordable housing programs, as well as an accounting of the expenditures of revenues and implementation of the Spending Plan approved by the Court.

#### **85-10. Ongoing Collection of Fees**

A. The ability for the Borough of Caldwell to impose, collect and expend development fees shall expire with the expiration of the repose period covered by its Judgment of Compliance unless the Borough of Caldwell has first filed an adopted Housing Element and Fair Share Plan with the Court or with a designated State administrative agency, has petitioned for a Judgment of Compliance from the Court or for Substantive Certification or its equivalent from a State administrative agency authorized to approve and administer municipal affordable housing compliance and has received approval of its Development Fee Ordinance from the entity that will be reviewing and approving the Housing Element and Fair Share Plan.

B. If the Borough of Caldwell fails to renew its ability to impose and collect development fees prior to the expiration of its Judgment of Compliance, it may be subject to forfeiture of any or all funds remaining within its Affordable Housing Trust Fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to Section 20 of P.L. 1985, c. 222 (C. 52:27D-320).

C. The Borough of Caldwell shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its Judgment of Compliance, nor shall the Borough of Caldwell retroactively impose a development fee on such a development. The Borough of Caldwell also shall not expend any of its collected development fees after the expiration of its Judgment of Compliance.

SECTION 2. All ordinances or parts thereof in conflict or inconsistent with the provisions of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 3. This Ordinance shall be a part of the Code of the Borough of Caldwell as though codified and fully set forth therein. The Borough Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Borough Clerk and the Borough Administrator are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Borough of Caldwell in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

DATE OF INTRODUCTION: **July 19, 2022**

DATE OF ADOPTION:

FIRST:

FIRST:

SECOND:

SECOND:

RECORD OF COUNCIL VOTE

\_\_\_\_\_ presented the following ordinance – Seconded by: \_\_\_\_\_

COUNCIL MEMBER    Yes    No    Absent    Abstain    COUNCIL MEMBER    Yes    No    Absent  
Abstain

DePalma-Iozzi						Lace				
Gates						Buechner				
Cole						Alonso				

\_\_\_\_\_  
 Brittany Heun, Deputy Clerk

\_\_\_\_\_  
 John Kelley, Mayor

This ordinance, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.



**BOROUGH OF CALDWELL  
NEW JERSEY**

**ORDINANCE NO. 1431-22**

**AN ORDINANCE TO AMEND THE ORDINANCE GOVERNING SEWER SERVICE CHARGES AND  
THE COMPUTATION THEROF**

Recommended for approval by:

\_\_\_\_\_  
Thomas Banker, Administrator

Approved as to form and legality by:

Title: \_\_\_\_\_

Be it ordained by the Mayor and Municipal Council of the Borough of Caldwell, New Jersey, that:

1. Ordinances 190-56 and 190-57 are hereby amended in their entirety to read as follows:

190-56. Sewer service charge.

The sewer service charge is hereby established for all users of the Borough sewer services according to three classes of user as follows:

A. Metered users. Metered users are all accounts possessing an approved sewer flow metering system. The annual sewer volume for this class for any calendar year shall be the actual metered sewer volume of the previous year. Quarterly sewer volume for each quarter shall be one-quarter of the annual sewer volume.

B. Non-metered users. Non-metered users are all sewer users that do not utilize an approved sewer flow metering system. Quarterly sewer volume for this class shall be calculated as 90% of the average actual water consumption for the first and fourth quarters of the immediately previous year

C. Specialty users.

(1) Specialty users are all sewer users whose operations cause the volume of sewer flow to differ very substantially from the amount of metered water flowing into the property and which are unwilling or unable to utilize a sewer flow meter. Subject to formal acceptance by the Mayor and Council, specialty users may be billed for a quarterly sewer volume that is based on an engineering study, performed by and certified to by a licensed professional engineer. To be eligible for approval, such study must demonstrate that there is a measurable relationship between the amount of sewer flow generated by the specialty user and some variable that is available to the Borough to measure. Some examples of possible specialty users are entities that utilize significant amounts of water in a production process by which a large proportion of that water leaves the property as part of a product being offered for sale, such as takes place in the production of foods and beverage; or entities such as laundromats that perform operations that cause large amounts of water to be extracted

through evaporation prior to discharge into the sanitary sewer system. Approval of the use of an engineering study shall be subject to annual review by the Borough, which may, at its sole discretion, require the study to be repeated to ensure its continued propriety for use.

(2) The quarterly sewer volume for specialty users shall be such amount as is determined by the application of the methodology set forth in the approved engineering study, which shall be billed at the rate set forth for non-metered users.

#### § 190-57. Computation of sewer service charges

A. Sewer rate (Metered Users): The rate charged to metered users for each quarter shall be the greater of the following:

- (1) A minimum quarterly charge of \$25; or
- (2) The amount determined by multiplying the quarterly sewer volume for metered users as set forth in sub-section 1980-56 A above by the rate of \$7.50 per 1,000 gallons.

B. Sewer rate (Non-Metered Users): The rate charged to non-metered users for each quarter shall be the greater of the following:

- (1) A minimum quarterly charge of \$25; or
- (2) The amount determined by multiplying the quarterly sewer volume for non-metered users as set forth in sub-section 1980-56 B above by the rate of \$7.50 per 1,000 gallons.

C. Sewer billing: The first quarter invoice shall be issued on or before February 15. The second quarter invoice shall be issued on or before May 15. The third quarter invoice shall be issued on or before August 15; and the fourth quarter invoice shall be issued on or before October 15.

D. Exempt properties: The following properties shall be exempt from the payment of the sewer service charge:

(1) All property owned by the Borough shall be exempt from the payment of a sewer service charge including but not limited to the following:

- (a) Rescue squad, fire department and police department facilities.
- (b) Department of Public Works facilities
- (c) Caldwell Public Library.
- (d) Caldwell Community Center.
- (e) Borough recreation facilities.

(2) All properties for which sanitary sewer service is not provided, including properties served by septic systems.

E. Private wells: The Borough reserves the right at its sole discretion, where a private well for water supply is involved, to require the owner to install facilities, at the owner's expense, for measuring or determining the volume of sewage discharges into the sanitary sewage system. The volume thus metered or measured shall be

the basis for sewer service charges in accordance with provisions stated elsewhere herein.

F. Billing disputes:

(1) The Mayor and Council hereby create the Sewer Dispute Resolution Committee. The Committee shall consist of the Borough Administrator, the Tax Collector and the Sewer Director, with the Mayor as an ex-officio member.

(2) The Sewer Dispute Resolution Committee shall only review disputes regarding the sewer volume. The Committee cannot alter the sewer volume rate set by the Borough Council and the Committee may only consider an account's actual water billing when a modification of the calculated sewer volume is sought.

(3) Disputes over sewer volumes may only be challenged through written request to the Sewer Dispute Resolution Committee. Residents are required to provide supporting data at least seven calendar days in advance of the Committee's meeting to consider the request. In order for any dispute to be considered, all municipal taxes, users' fees and other municipal obligations must be up to date. Consideration will not be given to those with an outstanding unpaid balance.

(4) The Committee may elect to have an agent review the disputes prior to the review by the full Committee. The agent could be a member of the Committee or another qualified person such as the Borough Engineer, Borough Building Code Official or other qualified staff from the Borough. The agent will report its findings to the Committee.

DATE OF INTRODUCTION: **July 19, 2022**

DATE OF ADOPTION:

FIRST:

FIRST:

SECOND:

SECOND:

**RECORD OF COUNCIL VOTE**

\_\_\_\_\_ presented the following ordinance - Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi						Lace				
Gates						Buechner				
Cole						Alonso				

\_\_\_\_\_  
**Brittany Heun, Deputy Clerk**

\_\_\_\_\_  
**John Kelley, Mayor**

This ordinance, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.



**BOROUGH OF CALDWELL  
NEW JERSEY**

**ORDINANCE NO. 1428-22**

**AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A SHARED DRIVEWAY EASEMENT ON CERTAIN REAL PROPERTY WITHIN THE BOROUGH OF CALDWELL IDENTIFIED AS BLOCK 23, LOTS 9.01 AND 9.02, COMMONLY KNOWN AS 14 AND 16 PARK AVENUE**

Recommended for approval by:

Thomas Banker, Administrator

Approved as to form and legality by:

Title:

**WHEREAS**, the Borough of Caldwell, hereinafter “Borough”, is the owner of certain property identified as Block 23, Lot 9.01, commonly known as 14 Park Avenue, Borough of Caldwell, County of Essex, State of New Jersey; and

**WHEREAS**, 16 Park Ave LLC, a limited liability company of the State of New Jersey, hereinafter “Park”, is the owner of property identified as Block 23, Lot 9.02, commonly known as 16 Park Avenue, Borough of Caldwell, County of Essex, State of New Jersey; and

**WHEREAS**, there exists on the aforesaid properties a shared driveway more particularly described and shown on the Boundary and Topographic Survey prepared by EKA Associates, P.A., dated April 27, 2021 and revised May 25, 2021, attached hereto as Exhibit “A”; and

**WHEREAS**, the Borough and Park desire to share the driveway between the properties; and

**WHEREAS**, the parties wish to effectuate the foregoing and set rights and obligations in connection therewith; and

**WHEREAS**, the Borough Council of the Borough of Caldwell has determined that such property is needed for a public purpose.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Caldwell as follows:

**Section 1.** The Borough of Caldwell and 16 Park Ave LLC enter into a Driveway Easement Agreement for the shared use of the driveway located between the properties identified as Block 23, Lots 9.01 and 9.02, more commonly known as 14 Park Avenue and 16 Park Avenue subject to the following terms:

- a. 16 Park Ave LLC shall be responsible for all required snow plowing, ice removal, debris/leaf removal, and periodic washing.
- b. The Borough of Caldwell shall be responsible for repairs of potholes, periodic seal coating and repaving.
- c. The Driveway Easement Agreement shall be recorded in the Office of the Essex County Clerk.

**Section 2.** The Mayor and Borough Clerk, be and are hereby authorized and directed to execute Driveway Easement Agreement in the form reviewed and approved by the Borough Attorney and attached hereto as Exhibit “B”.

**Section 3.** If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

**Section 4.** All ordinances or parts of ordinances of the Borough heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such

inconsistency.

**Section 5.** This Ordinance shall take effect twenty (20) days after final passage, adoption and publication according to law.

ATTEST:

\_\_\_\_\_  
Brittany Heun, Deputy Municipal Clerk

\_\_\_\_\_  
John Kelley, Mayor

DATE OF INTRODUCTION: **June 14, 2022**

DATE OF ADOPTION: **July 19, 2022**

FIRST: Council President Gates

FIRST:

SECOND: Councilman Cole

SECOND:

**RECORD OF COUNCIL VOTE**

\_\_\_\_\_ presented the following ordinance - Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi						Lace				
Gates						Buechner				
Cole						Alonso				

\_\_\_\_\_  
Brittany Heun, Deputy Clerk

\_\_\_\_\_  
John Kelley, Mayor

This ordinance, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.

DRIVEWAY EASEMENT AGREEMENT

WHEREAS, 16 Park Ave LLC, a limited liability company of the State of New Jersey, hereafter, "Park" is the owner of the following tract located in the Borough of Caldwell, Essex County, State of New Jersey known as "Tract A";

WHEREAS, the Borough of Caldwell, a municipality of the State of New Jersey, hereafter "Borough" is the owner of the following tract located in the Borough of Caldwell, Essex County, State of New Jersey known as "Tract B";

TRACT A

16 Park Avenue  
Caldwell, New Jersey 07006  
Block 23 Lot 9.02

TRACT B

14 Park Avenue  
Caldwell, New Jersey 07006  
Block 23 Lot 9.01

WHEREAS, there exists on said Tract A and Tract B a certain shared driveway more particularly described and shown on the Boundary and Topographic Survey by James R. Watson, P.L.S., P.P. of EKA Associates, P.A. dated 4/27/21 and revised 5/25/21 attached hereto as Exhibit A and made a part hereof, and,

WHEREAS, Park desires to impress upon Tract A for the benefit of Borough and the Borough desires to impress upon Tract B for the benefit of Park certain covenants, rights-of-way and restrictions regarding the use, access and maintenance of said shared driveway which shall inure the benefit of both current owners of records, as aforesaid, and which shall be binding upon the successors and assigns of Park and Borough .

THEREFORE, the undersigned Oscar Mejia, Managing Member of Park, and John Kelley, Mayor of the Borough of Caldwell do hereby impress upon the above described properties the following covenants, rights-of-way and restrictions, which shall hereafter be covenants which run with the land and

shall inure to the benefit of and be binding upon Park's and Borough's, successors, and assigns of each of said separate tracts.

1. The driveway shown on Exhibit A shall be a perpetual easement in favor of the successors in title of both Park and Borough for purposes of assuring unimpeded ingress and egress to and from both tracts, as aforesaid. Accordingly, Tract A shall be burdened by said easement in favor of Borough's successor's in title to Tract B and likewise Tract B shall be burdened by said easement in favor of the Park's successors in title to Tract A.
2. Neither the owners of record, as aforesaid, nor the successors in title to each tract shall obstruct or restrict the use of any portion of the said driveway and no buildings or improvements shall be erected upon said easement without the express written consent of both parties having been memorialized prior.
3. The easement shall be maintained in a serviceable, neat, and acceptable manner so that the overall appearance of said driveway and parking lot shall be uniform; the parties agree that continuing responsibilities with respect to care, maintenance and repair of the shared driveway easement shall be allocated as provided for in ¶¶ 4 and 5 below:
4. Park shall be responsible, at its sole cost and expense, for snow and ice removal, salting, leaf removal and power-washing, in a manner and at such intervals which will assure compliance with the standards articulated in ¶3 above.
5. Borough shall be responsible, at its sole cost and expense, for pothole repairs, re-paving and re-surfacing in a manner and at such intervals which will assure compliance with the standards articulated in ¶3 above.
6. Each of Park's and Borough's successors in title to Tracts A and B shall be charged with the repair and maintenance thereof and shall cooperate with each other in the performance of routine and necessary repairs, overlay and sealing of said driveway. The successor in title to either tract may perform such repairs and maintenance as may be necessary without the consent of the other upon giving written notice of intent to perform such repairs and the estimated cost thereof. Notice may be delivered by U.S. Mail, certified, return receipt requested or by personal service not less than thirty (30) days prior to beginning such repairs or maintenance.
7. In the event it becomes necessary to enforce the terms of this easement through court proceedings the prevailing party shall be entitled to reasonable attorney's fees. Disputes, if any, shall be heard in the Superior Court of New Jersey, Essex Vicinage, without jury,
8. The within Easement Agreement shall be construed and interpreted in accordance with the laws of the State of New Jersey.
9. All prior negotiations and communications by and between the parties relating to any or all of the matters herein stated are deemed to have merged into and to have been superseded by the execution, delivery and recording of the within Agreement. No change, modification or addition to the within Agreement shall be binding or legally effective unless duly executed by both parties, in the manner hereof, and duly recorded as provided for in ¶ 7 below.

10. The parties each consent to the recording of the within Agreement, at the sole expense of Park, with the Essex County Clerk/Register,
11. Any portion of the within Agreement deemed, by the tribunal specified in ¶4 above, to be unlawful or unenforceable shall in no way impair or derogate the remaining portions of this Agreement.

Witness the due execution hereof on this the \_\_\_\_ day of \_\_\_\_\_,  
2022.

**16 PARK AVE LLC, a limited liability company of the State of New Jersey**

By: \_\_\_\_\_

Oscar Mejia, Managing Member

**BOROUGH OF CALDWELL, a municipality of the State of New Jersey**

By: \_\_\_\_\_

John Kelley, Mayor

STATE OF NEW JERSEY

COUNTY OF ESSEX

Personally appeared before me, the undersigned authority in and for the said County and State, on this \_\_\_ day of \_\_\_\_\_ 2022, within my jurisdiction, the within named Oscar Mejia, Managing Member of 16 Park Ave LLC who acknowledged that he executed, signed and delivered the above and foregoing instrument on the above date provided, and that he signed the same as his own voluntary act and deed and the voluntary act and deed of the above named Limited Liability Company pursuant to its Operating Agreement.

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NOTARY PUBLIC

My Commission Expires:

STATE OF NEW JERSEY

COUNTY OF ESSEX

Personally appeared before me, the undersigned authority in and for the said County and State, on this Day of \_\_\_\_\_, 2022, within my jurisdiction, the within named John Kelley, Mayor of the Borough of Caldwell, a Body Politic of the State of New Jersey, who acknowledged that he executed, signed and delivered the above and foregoing instrument on the above date provided, and that he signed the same as his own voluntary act and deed having been authorized to do so by the Borough Council of the Borough of Caldwell at a regularly scheduled and properly noticed meeting on \_\_\_\_\_ 2022.  
Caldwell.

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NOTARY PUBLIC

My Commission Expires:





**BOROUGH OF CALDWELL  
NEW JERSEY**

**ORDINANCE NO. 1429-22**

**BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY, APPROPRIATING \$2,998,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$1,948,500 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF.**

Recommended for approval by:

\_\_\_\_\_  
Thomas Banker, Administrator

Approved as to form and legality by:

\_\_\_\_\_  
Title:

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF CALDWELL, IN THE COUNTY OF ESSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Borough of Caldwell, in the County of Essex, New Jersey (the "Borough") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$2,998,000, including a grant in the amount of \$505,000 from the State of New Jersey Department of Transportation for the purpose described in Section 3(a) and a grant in the amount of \$535,000 from the State of New Jersey Department of Transportation for the purpose described in Section 3(b) (collectively, the "State Grants") and further including the aggregate sum of \$9,500 as the down payment for the improvement or purpose described in Section 3(c) as required by the Local Bond Law. Pursuant to N.J.S.A. 40A:2-11(c), no down payment is provided for the costs of the improvements or purposes described in Sections 3(a) and 3(b) since the improvements or purposes are being partially funded by the State Grants. The down payment is at least 5% of the obligations authorized for the improvement or purpose in Section 3(c) which is not being funded by the State Grants. The down payment has been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the down payment and the State Grants, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,948,500 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation &amp; Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds &amp; Notes</u>	<u>Period of Usefulness</u>
a) 2021 Roadway Project, all as set forth on a list on file in the Office of the Clerk, including all work and materials necessary therefor and incidental thereto.	\$1,525,000 (includes a grant from State of New Jersey Department of Transportation in the amount of \$505,000)	\$1,020,000	10 years
b) 2022 Roadway Project, all as set forth on a list on file in the Office of the Clerk, including all work and materials necessary therefor and incidental thereto.	\$1,275,000 (includes a grant from the State of New Jersey Department of Transportation in the amount of \$535,000)	\$740,000	10 years
c) Police and fire radio upgrades, including all work and materials necessary therefor and incidental thereto.	<u>\$198,000</u>	<u>\$188,500</u>	10 years
Total	<u>\$2,998,000</u>	<u>\$1,948,500</u>	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment or State Grant, as applicable, for each purpose.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no bond anticipation note shall mature later than one year from its date, unless such bond anticipation notes are permitted to mature at such later date in accordance with applicable law. The bond anticipation notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with bond anticipation notes issued pursuant to this bond ordinance, and the chief financial officer's signature upon the bond anticipation notes shall be conclusive evidence as to all such determinations. All bond anticipation notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law or other applicable law. The chief financial officer is hereby authorized to sell part or all of the bond anticipation notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase

price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the bond anticipation notes pursuant to this bond ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

Section 5. The Borough hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Borough is hereby amended to conform with the provisions of this bond ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvements or purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements or purposes that the Borough may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Borough as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,948,500, and the issuance of the obligations authorized herein is permitted by the exception to the debt limitation authorized by N.J.S.A. 40A:2-7(d).

(d) An aggregate amount not exceeding \$550,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

(e) This bond ordinance authorizes obligations of the Borough solely for a purpose described in N.J.S.A. 40A:2-7(d). This purpose is in the public interest and is for the health, welfare, convenience or betterment of the inhabitants of the Borough. The amounts to be expended for this purpose pursuant to this bond ordinance are not unreasonable or exorbitant, and the issuance of the obligations

authorized by this bond ordinance will not materially impair the credit of the Borough or substantially reduce its ability to pay punctually the principal of and the interest on its debts and to supply other essential public improvements and services. The Local Finance Board in the Division of Local Government Services of the Department of Community Affairs of the State of New Jersey has heretofore made a determination to this effect and has caused its consent to be endorsed upon a certified copy of this bond ordinance as passed upon first reading.

Section 7. The Borough hereby declares the intent of the Borough to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes or improvements described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of the Treasury Regulations.

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or, if other than the State Grants referred to in Section 1 hereof, to payment of the obligations issued pursuant to this bond ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Borough is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Borough and to execute such disclosure document on behalf of the Borough. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Borough pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Borough and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Borough fails to comply with its undertaking, the Borough shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Borough, and the Borough shall be obligated to levy *ad valorem* taxes upon all the taxable property within the Borough for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. The \$198,000 appropriation for police and fire radio upgrades authorized in Section 3(c) of this bond ordinance provides in full for the \$198,000 emergency temporary appropriation

authorized by Resolution #2-47 of the Borough, adopted on February 1, 2022, and entitled, "Resolution of the Borough of Caldwell, in the County of Essex, New Jersey Authorizing an Emergency Temporary Appropriation Pursuant to N.J.S.A. 40A:4-20 in the amount of \$198,000 to Fund Police and Fire Radio Upgrades". Accordingly, such emergency temporary appropriation shall not be provided for in the 2022 municipal budget.

Section 12. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

DATE OF INTRODUCTION: **June 14, 2022**

DATE OF ADOPTION: **July 19, 2022**

FIRST: Council President Gates

FIRST:

SECOND: Councilman Cole

SECOND:

**RECORD OF COUNCIL VOTE**

\_\_\_\_\_ presented the following ordinance - Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi						Lace				
Gates						Buechner				
Cole						Alonso				

\_\_\_\_\_  
**Brittany Heun, Deputy Clerk**

\_\_\_\_\_  
**John Kelley, Mayor**

This ordinance, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.



**BOROUGH OF CALDWELL  
NEW JERSEY**

Resolution No: 7-166  
Date of Adoption: July 19, 2022

**TITLE:**

**RESOLUTION AUTHORIZING AN EXECUTIVE SESSION FROM WHICH THE PUBLIC IS EXCLUDED  
For the Meeting of July 19, 2022**

Recommended for approval by:

Approved as to form and legality by:

\_\_\_\_\_  
Thomas Banker, Administrator

\_\_\_\_\_  
Title:

**WHEREAS**, The Borough of Caldwell (the "Borough" or the "public body" has been duly created and is validly existing as a public body corporate and politic of the State of New Jersey pursuant to applicable laws of the State of New Jersey; and

**WHEREAS**, The Borough constitutes a "public body" as such term is defined in the New Jersey Open Public Meetings Act, constituting Chapter 231 of the Pamphlet Laws of 1975 of the State of New Jersey, N.J.S.A. 10:4-6 et seq. and the acts amendatory thereof and supplemental thereto (the "Open Public Meetings Act"); and

**WHEREAS**, the Open Public Meetings Act permits a public body, as such term is defined therein, to exclude members of the public from portions of any "meeting", as such term is defined therein including N.J.S.A. 10:4-12(b) et seq., under certain limited circumstances which include, but are not limited to, (a) a discussion of pending or anticipated litigation in which the public body is or may become a party, or (b) a discussion of any matters which fall within the attorney-client privilege, or (c) a discussion of a collective bargaining agreement including the negotiation of the terms and conditions thereof, or (d) a discussion regarding the purchase, acquisition or lease of real property with public funds or (e) a discussion of involving the employment, appointment or termination of employment of an existing or prospective public officer or employee; and

**WHEREAS**, the governing body of the Borough has determined that and is of the opinion that such circumstances presently exist that permit the governing body of the Borough to discuss the matters set forth in this Resolution in executive session; and

**WHEREAS**, the matters set forth in this Resolution are within the exceptions and the limited circumstances set forth in N.J.S.A. 10:4-12(b) et seq., the governing body of the Borough desires to conduct a portion of the meeting in an executive session from which members of the public will be excluded.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE BOROUGH OF CALDWELL**, in accordance with the provisions of The Open Public Meetings Act, that the governing body of the Borough hereby determines to conduct a portion of the meeting in an executive session from which members of the public will be excluded in accordance with the provisions of Open Public Meetings Act; and

**BE IT FURTHER RESOLVED**, that the aforementioned executive session will be limited to matters relating to the following items and which matters involve, as applicable, pending and anticipated litigation involving or expected to involve the Borough, matters which fall within the attorney-client privilege, matters regarding the discussion of a collective bargaining agreement, matters relating to purchase, acquisition or lease of real property with public funds or matters relating to personnel.

**BE IT FURTHER RESOLVED**, that the minutes of each executive session will be prepared and maintained by the Borough and with regard to each of the matters discussed in executive session; and

**BE IT FURTHER RESOLVED**, that the minutes relating to a particular matter discussed will be made available to members of the public – (a) at such time as the matter no longer requires confidentiality as permitted by applicable laws, (b) upon the completion of a pending or anticipated litigation, or (c) upon such matter no longer falling within the attorney-client privilege, (d) upon the completion of a collective bargaining agreement including the negotiation of the terms and conditions thereof, or (e) upon the completion of a purchase, acquisition or lease of real property with public funds, or (f) as such disclosure may otherwise may be required by the Open Public Meetings Act.

It is hereby certified that at a regular meeting of the Mayor and Council of the Borough of Caldwell, New Jersey being held on the date of July 19, 2022, the foregoing Resolution was duly adopted.

\_\_\_\_\_  
Borough Deputy Clerk

The foregoing Resolution, having been duly presented to me on July 19, 2022 I hereby approve the same.

\_\_\_\_\_  
Mayor

**RECORD OF COUNCIL VOTE**

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\_\_\_\_\_ presented the following resolution - Seconded by: \_\_\_\_\_

COUNCIL MEMBER    Yes    No    Absent    Abstain    COUNCIL MEMBER    Yes    No    Absent    Abstain

DePalma-Iozzi						Lace				
Gates						Buechner				
Cole						Alonso				

\_\_\_\_\_  
**Brittany Heun, Deputy Clerk**

\_\_\_\_\_  
**John Kelley, Mayor**

This resolution, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.



**BOROUGH OF CALDWELL  
NEW JERSEY**

Resolution No: 7-167

Date of Adoption: July 19, 2022

**TITLE:**

**AUTHORIZING PAYMENT OF THE BILLS AND THE ISSUANCE OF CHECKS FOR THE PERIOD 06/28/2022 THROUGH 7/18/2022 IN THE AMOUNT OF \$ \$2,127,842.37.**

Recommended for approval by:

Approved as to form and legality by:

\_\_\_\_\_  
Thomas Banker, Administrator

\_\_\_\_\_  
Title:

**BE IT RESOLVED** by the Borough Council of the Borough of Caldwell, New Jersey that,

**WHEREAS,** certain bills which are contained on the bills list which is annexed hereto and incorporated herein have been submitted to the Borough of Caldwell for payment, and;

**WHEREAS,** pursuant to N.J.S.A. 40A:5:16, it has been certified to the governing body that the goods or services for which said bills were submitted have been received by or rendered to the Borough of Caldwell, and;

**WHEREAS,** the Director of Finance of the Borough of Caldwell has certified to the governing body that there are funds legally appropriated and available in the current operating budget for the payment of said bills and that the said payment will not result in the disbursement of public monies or in the encumbering of same in excess of the 2021 appropriation for said purpose;

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Caldwell that the, Borough Administrator and Deputy Clerk be and are hereby authorized to sign checks in payment of the bills set forth in the annexed schedule

**RECORD OF COUNCIL VOTE**

\_\_\_\_\_ presented the following resolution - Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi						Lace				
Gates						Buechner				
Cole						Alonso				

\_\_\_\_\_  
**Brittany Heun, Deputy Clerk**

\_\_\_\_\_  
**John Kelley, Mayor**



Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
2-01-20-100-044 03892	DUES NJ LEAGUE OF MUNICIPALITIES	22-00852	NJ Municipalities Subscription	250.00	0.00	
2-01-20-100-053 04420 04394	XEROX COPIER CIT BANK, N.A. DEX IMAGING LLC	22-00154 22-00925	COPIER LEASE 2022 07/07/22 COPIER OVERAGES	737.69 <u>88.34</u> 826.03	0.00 0.00	B
2-01-20-100-059 01190 01190	COMPUTER MAINTENANCE TRI-STATE TECHNICAL SERVICES TRI-STATE TECHNICAL SERVICES	22-00924 22-00966	ADMIN. PC TROUBLESHOOTING ZOOM MEETING MAINTENANCE	329.00 <u>532.50</u> 861.50	0.00 0.00	
2-01-20-100-103 01190	WEBSITE MAINTENANCE TRI-STATE TECHNICAL SERVICES	22-00937	AUG. 2022 MICROSOFT EXCHANGE	256.00	0.00	
2-01-20-100-299 04420 00782 00212 04385	MISCELLANEOUS CIT BANK, N.A. MUNIC CLERKS' ASSOC. ESSEX NJ FEDEX KELLEY, JOHN	22-00155 22-00851 22-00855 22-00932	FOLDING MACHINE LEASE 2022 MCAECNJ Quarterly Meeting Shipment of Bid Specs REIMBURSEMENT - SEWER MEETING	334.31 35.00 110.82 <u>81.36</u> 561.49	0.00 0.00 0.00 0.00	B
2-01-20-110-011 00087	REGULAR PAY PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	10,500.00	0.00	
2-01-20-110-299 02044	GOVERNING BODY O/E W.B.MASON CO., INC.	22-00862	office/Meeting Supplies	63.79	0.00	
2-01-20-120-011 00087 00087	FULL TIME REGULAR PAY PAYROLL ACCOUNT PAYROLL ACCOUNT	22-00825 22-00826	06/09/2022 PAYROLL 06/23/2022 PAYROLL	585.56 <u>585.56</u> 1,171.12	0.00 0.00	
2-01-20-130-011 00087 00087	FULL TIME REGULAR PAY PAYROLL ACCOUNT PAYROLL ACCOUNT	22-00825 22-00826	06/09/2022 PAYROLL 06/23/2022 PAYROLL	195.70 <u>195.70</u> 391.40	0.00 0.00	
2-01-20-130-147 03431 03431	PROFESSIONAL SERVICES BATTAGLIA ASSOCIATES BATTAGLIA ASSOCIATES	22-00014 22-00015	2022 TAX COLLECTION SERVICES 2022 FINANCIAL MANAGEMENT	1,675.00 <u>13,995.00</u> 15,670.00	0.00 0.00	B B
2-01-20-135-147 03028	OTHER PROFESSIONAL FEES NISIVOCCIA & COMPANY LLP	22-00223	2021 AUDIT & 2022 BUDGET SRVCS	27,900.00	0.00	B
2-01-20-145-011 00087 00087	FULL TIME REGULAR PAY PAYROLL ACCOUNT PAYROLL ACCOUNT	22-00825 22-00826	06/09/2022 PAYROLL 06/23/2022 PAYROLL	2,100.00 <u>2,100.00</u> 4,200.00	0.00 0.00	

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
2-01-20-145-036	TAX OFFICE SUPPLIES					
00361	MGL PRINTING SOLUTIONS	22-00849	TAX BILLS FOR 2022-2023	534.50	0.00	
00361	MGL PRINTING SOLUTIONS	22-00856	WATER/SEWER BILLS- DELINQUENT	343.00	0.00	
01250	EDMUNDS & ASSOCIATES, INC.	22-00865	ESTIMATED TAX BILLS 3RD QTR	870.56	0.00	
02044	W.B.MASON CO., INC.	22-00898	Paper Order	85.99	0.00	
04394	DEX IMAGING LLC	22-00925	07/07/22 COPIER OVERAGES	<u>31.88</u>	0.00	
				1,865.93		
2-01-20-145-041	MEETINGS AND EDUCATION					
02922	TCTANJ	22-00853	MEETING AND EDUCATION	50.00	0.00	
2-01-20-150-011	FULL TIME REGULAR PAY					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	1,456.70	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>1,456.70</u>	0.00	
				2,913.40		
2-01-20-155-027	LEGAL FEES					
04543	CLEARY GIACOBBE ALFIERI JACOBS	22-00527	RES. 2-49 SPECIAL COUNSEL 2022	921.70	0.00	B
04543	CLEARY GIACOBBE ALFIERI JACOBS	22-00528	RETAINER 2022, RES. 4-99	9,801.00	0.00	B
04225	MANDELBAUM BARRETT PC	22-00939	PROFESSIONAL SERVICES JUN. '22	198.00	0.00	
04253	SURRENIAN, EDWARDS & NOLAN LLC	22-00967	SPECIAL COUNSEL - MAY 2022	535.00	0.00	
03107	APRUZZESE, MCDERMOTT, MASTRO	22-00969	2022 APR. LEGAL BILLING	129.50	0.00	
03107	APRUZZESE, MCDERMOTT, MASTRO	22-00970	2022 MAY LEGAL BILLING	<u>203.50</u>	0.00	
				11,788.70		
2-01-22-195-011	FULL TIME REGULAR PAY					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	7,665.00	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>7,665.00</u>	0.00	
				15,330.00		
2-01-22-195-036	CONSTRUCTION CODE OFFICE SUPPLIES					
02044	W.B.MASON CO., INC.	22-00862	Office/Meeting Supplies	45.03	0.00	
02044	W.B.MASON CO., INC.	22-00898	Paper Order	85.99	0.00	
00361	MGL PRINTING SOLUTIONS	22-00908	Construction Office Supplies	<u>799.00</u>	0.00	
				930.02		
2-01-23-215-138	WORKMAN'S COMP/OTHER (SHARED)					
03967	BOROUGH OF CALDWELL	22-00973	REALLOCATE PO 22-00789 PAYMENT	664.98	0.00	
2-01-23-220-150	EMPLOYEE HEALTH BENEFITS					
00752	NJ HEALTH BENEFITS PROGRAM	22-00928	JUL. '22 HEALTH INS-ACTIVE	54,959.18	0.00	
04083	EB EMPLOYEE SOLUTIONS, LLC	22-00930	JUL. 2022 DIFFERENCE CARD	169.15	0.00	
04083	EB EMPLOYEE SOLUTIONS, LLC	22-00938	MID-YEAR PROJECTED SAVINGS FEE	<u>2,404.48</u>	0.00	
				57,532.81		
2-01-23-220-151	DENTAL/VISION					
00254	GUARDIAN LIFE INS.CO.AMERICA	22-00847	JUL. 2022 DENTAL/VISION/LTD	5,761.58	0.00	
2-01-23-220-153	CHAPTER 88 - RETIREES					
00752	NJ HEALTH BENEFITS PROGRAM	22-00929	JUL. '22 HEALTH INS-RETIREES	36,361.97	0.00	

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
2-01-25-240-011	FULL TIME REGULAR PAY					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	105,288.35	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>103,035.05</u>	0.00	
				208,323.40		
2-01-25-240-014	CROSSING GUARDS					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	3,134.29	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>4,254.93</u>	0.00	
				7,389.22		
2-01-25-240-031	OXYGEN SERVICE					
00478	REISINGER OXYGEN SERVICE INC	22-00927	COMPRESSED OXYGEN	228.60	0.00	
2-01-25-240-036	POLICE OFFICE SUPPLIES					
02044	W.B.MASON CO., INC.	22-00898	Paper Order	171.98	0.00	
2-01-25-240-299	MISCELLANEOUS					
01803	ATLANTIC HEALTH SYSTEM	22-00846	CROSSING GUARD PHYSICALS	330.00	0.00	
04269	NJ STATE TOXICOLOGY LAB	22-00934	RANDOM DRUG TESTS	<u>90.00</u>	0.00	
				420.00		
2-01-25-245-039	PARKING METERS PARTS & SUPPLIES					
00190	METER PRODUCTS COMPANY INC	22-00945	PARKING METER BATTERY HOLDERS	83.00	0.00	
2-01-25-266-010	FIRE PREVENTION S&W					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	3,815.87	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>3,779.96</u>	0.00	
				7,595.83		
2-01-25-266-021	FIRE PREVENTION O/E					
02044	W.B.MASON CO., INC.	22-00854	Misc Office Supplies	42.17	0.00	
02735	TURN OUT UNIFORMS, INC.	22-00935	FIRE PREVENTION UNIFORMS	<u>490.15</u>	0.00	
				532.32		
2-01-26-290-011	FULL TIME REGULAR PAY					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	16,811.74	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>13,953.79</u>	0.00	
				30,765.53		
2-01-26-290-050	DPW SUPPLIES					
02111	SHERWIN WILLIAMS	22-00872	PARTS AND PAINT	920.80	0.00	
01158	JESCO INC	22-00875	PARTS FOR LOADER	<u>79.82</u>	0.00	
				1,000.62		
2-01-26-290-299	MISCELLANEOUS					
02112	APOLLO FLAGS LLC	22-00873	FLAGS	252.68	0.00	
2-01-26-304-200	CONTRACT/FIRST OCCUPATIONAL					
01768	CALI CARTING INC.	22-00046	2022 RECYCLING & WASTE SERVICE	41,500.00	0.00	B

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
2-01-26-305-079	ADDITIONAL TRANSFER CHARGES					
04474 DART LLC		22-00843	WASTE DISPOSAL 06/22/2022	1,132.03	0.00	
00153 ECUA		22-00922	JUN. 2022 2ND HALF SOLID WASTE	<u>10,643.25</u>	0.00	
				11,775.28		
2-01-26-310-024	REPAIRS & MAINTENANCE					
00441 PAINTLAND INC		22-00878	MISC REPAIRS	78.26	0.00	
04439 CINTAS FIRE PROTECTION		22-00903	STOVE INSPECTION	<u>501.89</u>	0.00	
				580.15		
2-01-26-310-035	JANITORS SUPPLIES					
03699 COSTELLO'S ACE HARDWARE		22-00899	MISC SUPPLIES	256.89	0.00	
01542 JACK'S SUPERMARKET		22-00901	RETIREMENT PARTY	<u>90.87</u>	0.00	
				347.76		
2-01-26-310-299	MISCELLANEOUS					
00190 METER PRODUCTS COMPANY INC		22-00803	METER REPAIR PARTS	462.40	0.00	
01440 BIFALCO, MARIO		22-00902	REIMBURSEMENT	<u>39.96</u>	0.00	
				502.36		
2-01-26-313-113	REMOVAL OF TREES					
00066 BROHEIMER TREE EXPERTS INC		22-00874	TREE REMOVAL	1,675.00	0.00	
00066 BROHEIMER TREE EXPERTS INC		22-00943	TREE REMOVAL	<u>520.00</u>	0.00	
				2,195.00		
2-01-26-315-026	FIRE DEPT - VEHICLE MAINT.					
00010 ABSOLUTE FIRE PROTECTION CO.		22-00956	524 Annual Maintenance	11,098.76	0.00	
2-01-26-315-027	STREETS - VEHICLE REPAIRS					
04399 NORTHEAST SWEEPERS & RENTALS		22-00877	SWEEPER REPAIRS	399.23	0.00	
02717 WEST ESSEX SUNOCO		22-00900	REPAIRS 551	<u>259.65</u>	0.00	
				658.88		
2-01-27-330-011	FULL TIME REGULAR PAY					
00087 PAYROLL ACCOUNT		22-00825	06/09/2022 PAYROLL	1,768.77	0.00	
00087 PAYROLL ACCOUNT		22-00826	06/23/2022 PAYROLL	<u>1,768.77</u>	0.00	
				3,537.54		
2-01-27-330-036	OFFICE SUPPLIES					
04394 DEX IMAGING LLC		22-00925	07/07/22 COPIER OVERAGES	31.89	0.00	
2-01-27-330-133	RODENT CONTROL					
00484 ALL-WAY PEST CONTROL		22-00879	PEST CONTROL FOR BOROUGH HALL	420.00	0.00	
2-01-28-370-011	FULL TIME REGULAR PAY					
00087 PAYROLL ACCOUNT		22-00825	06/09/2022 PAYROLL	2,774.12	0.00	
00087 PAYROLL ACCOUNT		22-00826	06/23/2022 PAYROLL	<u>2,534.12</u>	0.00	
				5,308.24		

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
2-01-28-372-011	FULL TIME REGULAR PAY					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	0.00	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>0.00</u>	0.00	
				0.00		
2-01-28-372-103	COMPUTER MAINTENANCE					
03651	CONSTANT CONTACT, INC.	22-00737	EMAIL SERVICE	546.00	0.00	
2-01-28-372-106	OFFICE SUPPLIES (CCC)					
02044	W.B.MASON CO., INC.	22-00898	Paper Order	85.99	0.00	
2-01-28-372-109	COMMUNITY PASS					
03964	CAPTUREPOINT	22-00012	2022 COMMUNITY PASS DATABASE	50.00	0.00	B
2-01-28-372-803	COPIER LEASE					
04394	DEX IMAGING LLC	22-00925	07/07/22 COPIER OVERAGES	31.89	0.00	
2-01-28-372-804	UTILITIES					
00467	PSE&G	22-00818	2022 APR. & MAY 4201031500	14,078.93	0.00	
2-01-28-372-902	POOL CHEMICALS					
00478	REISINGER OXYGEN SERVICE INC	22-00972	POOL CHEMICALS	26.25	0.00	
2-01-28-372-904	CCC HOUSEKEEPING SUPPLIES					
01542	JACK'S SUPERMARKET	22-00848	Supplies	58.90	0.00	
02044	W.B.MASON CO., INC.	22-00897	Janitorial Supplies	<u>1,952.84</u>	0.00	
				2,011.74		
2-01-29-390-011	FULL TIME REGULAR PAY					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	14,372.64	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>9,347.19</u>	0.00	
				23,719.83		
2-01-29-390-071	ELECTRIC & GAS					
00467	PSE&G	22-00822	2022 MAY BATCH ACCOUNTS	203.29	0.00	
2-01-31-430-071	BLDG & GNDS - ELECTRIC/GAS					
00467	PSE&G	22-00822	2022 MAY BATCH ACCOUNTS	1,100.16	0.00	
2-01-31-430-072	14 PARK AVE E & GAS					
00467	PSE&G	22-00822	2022 MAY BATCH ACCOUNTS	41.40	0.00	
2-01-31-430-073	24 SMULL AVE ELECTRIC & GAS					
00467	PSE&G	22-00817	MAY 2022 7623452304 24 SMULL	2,071.59	0.00	
2-01-31-430-077	FIRE DEPT - ELECTRIC/GAS					
00467	PSE&G	22-00822	2022 MAY BATCH ACCOUNTS	321.38	0.00	
2-01-31-435-299	MISCELLANEOUS					
00467	PSE&G	22-00822	2022 MAY BATCH ACCOUNTS	11,598.45	0.00	
2-01-31-440-075	ADMIN - TELEPHONE					
03611	8 X 8 INCORPORATED	22-00919	2022 JULY SERVICE FEES	2,445.77	0.00	

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
2-01-31-460-074 02906 WEX BANK	POLICE - GAS & OIL	22-00923	JUNE '22 GAS CHARGES	6,996.95	0.00	
2-01-31-460-075 02906 WEX BANK	FIRE - GAS & OIL	22-00923	JUNE '22 GAS CHARGES	133.69	0.00	
2-01-31-460-076 02906 WEX BANK	STREETS - GAS & OIL	22-00923	JUNE '22 GAS CHARGES	4,314.97	0.00	
2-01-31-460-077 02906 WEX BANK	SENIORS - GAS & OIL	22-00923	JUNE '22 GAS CHARGES	423.93	0.00	
2-01-36-472-021	SOCIAL SECURITY/MEDICARE					
00087 PAYROLL ACCOUNT		22-00825	06/09/2022 PAYROLL	6,758.41	0.00	
00087 PAYROLL ACCOUNT		22-00826	06/23/2022 PAYROLL	<u>7,880.34</u>	0.00	
				14,638.75		
2-01-36-476-021	DCRP					
02930 PRUDENTIAL RETIREMENT		22-00832	EMPLOYER CONTRIBUTIONS-DCRP	17.34	0.00	
02930 PRUDENTIAL RETIREMENT		22-00834	EMPLOYER CONTRIBUTIONS-DCRP	<u>23.11</u>	0.00	
				40.45		
2-01-43-490-011	FULL TIME REGULAR PAY					
00087 PAYROLL ACCOUNT		22-00825	06/09/2022 PAYROLL	5,108.30	0.00	
00087 PAYROLL ACCOUNT		22-00826	06/23/2022 PAYROLL	<u>5,088.82</u>	0.00	
				10,197.12		
2-01-43-490-036	COURT OFFICE SUPPLIES					
02044 W.B.MASON CO., INC.		22-00898	Paper Order	85.99	0.00	
2-01-43-490-299	COURT MISCELLANEOUS					
00157 MUNICIPAL RECORD SERVICE		22-00859	Court office supplies	163.00	0.00	
	Fund Total: CURRENT FUND			646,265.20		
Fund:	WATER OPERATING					
2-05-20-100-011	S&W ALLOCATED TO WATER					
00087 PAYROLL ACCOUNT		22-00825	06/09/2022 PAYROLL	7,607.16	0.00	
00087 PAYROLL ACCOUNT		22-00826	06/23/2022 PAYROLL	<u>6,662.82</u>	0.00	
				14,269.98		
2-05-20-100-540	SUPPLIES					
03022 ONE CALL CONCEPTS		22-00094	2022 Markouts / Messages	74.36	0.00	B
2-05-20-100-542	WATER ANALYSIS					
00444 PASSAIC VALLEY WATER COMMISSION		22-00095	2022 Water Analysis	120.00	0.00	B
2-05-20-100-544	STATE WATER FEES					
00420 NJ STATE PWT		22-00915	2ND QTR 2022 PUBLIC WATER TAX	460.47	0.00	
	Fund Total: WATER OPERATING			14,924.81		

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
Fund: SEWER OPERATING						
2-07-20-100-011	S&W ALLOCATED TO SEWER					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	4,725.41	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>11,264.01</u>	0.00	
				15,989.42		
2-07-20-100-521	CHEMICAL TREATMENT					
04489	G20 TECHNOLOGIES LLC	22-00439	2022 SEWER TREATMENT SERVICES	8,629.20	0.00	B
04475	ATLANTIC COAST POLYMERS, INC.	22-00440	2022 CHEMICAL TREATMENT	<u>2,736.00</u>	0.00	B
				11,365.20		
2-07-20-100-524	ELECTRIC & GAS (DIRECT ELECTRICITY)					
00467	PSE&G	22-00912	2022 APR. - JUN. 4201058409	30,620.93	0.00	
00467	PSE&G	22-00913	2022 APR. 4201058409 2414068	361.40	0.00	
00467	PSE&G	22-00914	2022 MAY 4201058409 2414068	<u>43.23</u>	0.00	
				31,025.56		
2-07-20-100-529	LEGAL FEES					
4514	MARAZITI FALCON, LLP	22-00042	2022 SEWER LEGAL SERVICES	15,045.95	0.00	B
2-07-20-100-538	DIRECT SLUDGE REMOVAL COST					
04308	SPECTRASERV INC.	22-00683	2022 SEWER PLANT BIOSOLID HAUL	20,328.00	0.00	B
04308	SPECTRASERV INC.	22-00684	2022 GRIT & SCREENING SERVICES	2,711.30	0.00	B
03709	PASSAIC VALLEY SEWERAGE COMMIS	22-00941	SLUDGE REMOVAL 06/01-06/30/22	<u>20,727.00</u>	0.00	
				43,766.30		
2-07-20-100-544	CONTRACTUAL OPERATIONS					
00306	MOTT MACDONALD	22-00043	WWTP O&M 2022	115,858.76	0.00	B
00581	WEST CALDWELL TOWNSHIP	22-00942	2ND QTR 2022 WATER/HYDRANT CHG	<u>3,184.62</u>	0.00	
				119,043.38		
	Fund Total: SEWER OPERATING			236,235.81		
	Year Total:			897,425.82		
Fund: GENERAL CAPITAL						
C-04-20-138-903	2020 ROAD IMPROVEMENT PROGRAM					
04481	D.L.S. CONTRACTING, INC.	21-00598	RES: 3-90 ROAD IMPROVEMENTS	613,417.00	0.00	B
03127	TRUST ACCOUNT, CALDWELL BORO	22-00829	06/09/2022 PD EXTRA DUTY	1,040.00	0.00	
03127	TRUST ACCOUNT, CALDWELL BORO	22-00830	06/23/2022 PD EXTRA DUTY	<u>3,706.76</u>	0.00	
				618,163.76		
C-04-21-141-100	REDEVELOPMENT					
04525	ARTERIAL LLC.	21-01648	RES. 9-197 DESIGN SERVICES	4,482.50	0.00	B
04574	TNS CONSTRUCTION, LLC	22-00844	RES. 4-109, H.H.S. REHAB.	191,782.08	0.00	B
04570	WILLIAMS LIFT COMPANY	22-00926	24 SMULL AVE - RAMP RENTAL	1,193.00	0.00	
04576	NEW WAVE ENGINEERING, LLC	22-00936	14 PARK AVE - ASBESTOS COLLECT	1,975.00	0.00	
03699	COSTELLO'S ACE HARDWARE	22-00940	STORAGE / 24 SMULL MATERIALS	<u>459.25</u>	0.00	
				199,891.83		
C-04-21-141-110	BOROUGH HALL RELOCATION					
04545	PORTER LEE CORPORATION	22-00398	BEAST EVIDENCE SOFTWARE	11,697.39	0.00	

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
C-04-21-141-110	BOROUGH HALL RELOCATION		Continued			
04558	PODS ENTERPRISES LLC	22-00570	2 STORAGE CONTAINERS - 1 YEAR	179.00	0.00	B
00014	ADI	22-00765	AUDIO EQUIPMENT	697.84	0.00	B
04575	SAINT ALOYSIUS ROMAN CATHOLIC	22-00845	6/14 & 6/28 COUNCIL MEETINGS	600.00	0.00	
00066	BROHEIMER TREE EXPERTS INC	22-00943	TREE REMOVAL	<u>325.00</u>	0.00	
				13,499.23		
	Fund Total: GENERAL CAPITAL			831,554.82		
	Year Total:			831,554.82		
Fund:	ANIMAL CONTROL					
T-10-55-160-999	DOG LICENSE FEES TO STATE					
00413	NJ DEPT HEALTH & SENIOR SERV	22-00881	1ST QUARTER DOG LICENSES	305.40	0.00	
	Fund Total: ANIMAL CONTROL			305.40		
Fund:	TRUST OTHER					
T-11-55-286-026	POLICE OUTSIDE DUTY					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	2,480.00	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	7,400.00	0.00	
00083	CURRENT ACCOUNT	22-00827	06/09/22 PAYROLL- OUTSIDE DUTY	585.00	0.00	
00083	CURRENT ACCOUNT	22-00828	06/23/22 PAYROLL- OUTSIDE DUTY	<u>2,968.75</u>	0.00	
				13,433.75		
T-11-55-286-031	FOOD PANTRY DONATIONS					
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	157.59	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>148.32</u>	0.00	
				305.91		
T-11-55-286-035	AFFORDABLE HOUSING TRUST					
04519	HEYER GRUEL & ASSOCIATES, P.A.	21-01423	COAH ADMINISTRATIVE AGENT	825.00	0.00	B
00087	PAYROLL ACCOUNT	22-00825	06/09/2022 PAYROLL	0.00	0.00	
00087	PAYROLL ACCOUNT	22-00826	06/23/2022 PAYROLL	<u>1,000.00</u>	0.00	
				1,825.00		
	Fund Total: TRUST OTHER			15,564.66		
Fund:	OPEN SPACE TRUST					
T-12-55-286-000	OPEN SPACE EXPENDITURES					
02413	LAND CONSERVANCY OF NEW JERSEY	21-00791	OPEN SPACE - GRANT APP. ASST.	2,500.00	0.00	B
	Fund Total: OPEN SPACE TRUST			2,500.00		
Fund:	PAYROLL FUND					
T-13-55-286-010	ADP - NET PAYROLL					
04478	PRIMEPOINT, LLC	22-00823	06/09/22 NET PAYROLL/PR TAXES	121,115.92	0.00	
04478	PRIMEPOINT, LLC	22-00824	06/23/22 NET PAYROLL/PR TAXES	<u>130,065.39</u>	0.00	
				251,181.31		

Budget Account Vendor	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
T-13-55-286-020	ADP - PAYROLL TAXES					
04478 PRIMEPOINT, LLC		22-00823	06/09/22 NET PAYROLL/PR TAXES	39,757.35	0.00	
04478 PRIMEPOINT, LLC		22-00824	06/23/22 NET PAYROLL/PR TAXES	<u>43,663.75</u>	0.00	
				83,421.10		
T-13-55-286-110	MASS MUTUAL CONTRIBUTIONS					
04549 EMPOWER RETIREMENT		22-00837	EE CONTRIBUTIONS W/E 06/09/22	1,464.00	0.00	
04549 EMPOWER RETIREMENT		22-00838	EE CONTRIBUTIONS W/E 06/23/22	<u>1,464.00</u>	0.00	
				2,928.00		
T-13-55-286-250	AFLAC INSURANCE					
03447 AFLAC INSURANCE		22-00840	JUNE 2022 EE CONTRIBUTION	1,125.14	0.00	
T-13-55-286-260	NY LIFE INSURANCE					
03955 NEW YORK LIFE INSURANCE		22-00839	JUNE 2022 BILLING	72.78	0.00	
T-13-55-286-310	PFRS - PENSION CONTRIBUTIONS					
00416 NJ STATE PFRS		22-00921	2ND QTR 2022 PFRS - IROC	19,566.94	0.00	
T-13-55-286-330	PFRS - BACK DEDUCTIONS					
00416 NJ STATE PFRS		22-00921	2ND QTR 2022 PFRS - IROC	0.00	0.00	
T-13-55-286-350	PFRS LOANS					
00416 NJ STATE PFRS		22-00921	2ND QTR 2022 PFRS - IROC	6,383.95	0.00	
T-13-55-286-410	PERS - PENSION CONTRIBUTIONS					
00415 NJ STATE PERS		22-00920	2ND QTR 2022 IROC PERS	7,638.45	0.00	
T-13-55-286-420	PERS - CONTRIBUTORY INSURANCE					
00415 NJ STATE PERS		22-00920	2ND QTR 2022 IROC PERS	846.37	0.00	
T-13-55-286-430	PERS - BACK DEDUCTIONS					
00415 NJ STATE PERS		22-00920	2ND QTR 2022 IROC PERS	267.39	0.00	
T-13-55-286-450	PERS LOANS					
00415 NJ STATE PERS		22-00920	2ND QTR 2022 IROC PERS	1,280.65	0.00	
T-13-55-286-510	DCRP					
02930 PRUDENTIAL RETIREMENT		22-00831	EMPLOYEE CONTRIBUTIONS-DCRP	31.78	0.00	
02930 PRUDENTIAL RETIREMENT		22-00833	EMPLOYEE CONTRIBUTIONS-DCRP	<u>42.37</u>	0.00	
				74.15		
T-13-55-286-610	UNION DUES - TEAMSTERS					
03446 TEAMSTERS LOCAL 97 OF NJ		22-00841	JUNE 2022 EE CONTRIBUTION	309.00	0.00	
T-13-55-286-620	UNION DUES - PBA					
03445 WEST ESSEX PBA LOCAL		22-00835	PBA DUES W/E 06/09/2022	320.00	0.00	
03445 WEST ESSEX PBA LOCAL		22-00836	PBA DUES W/E 06/23/2022	<u>320.00</u>	0.00	
				640.00		
	Fund Total: PAYROLL FUND			375,735.23		
	Year Total:			394,105.29		

---

Revenue Account	Description	P.O. Id	P.O. Description	Amount	Void Amount	PO Type
Vendor						
2-01-08-160-002	DUE TO STATE OF NJ					
00885	NJ STATE TREASURER	22-00968	2ND QTR'22 STATE TRAINING FEES	4,249.00	0.00	
	Revenue Total:			4,249.00		

---

Total Charged Lines: 241    Total List Amount: 2,127,842.37    Total Void Amount: 0.00

---

Totals by Year-Fund Fund Description	Fund	Budget Total	Revenue Total	G/L Total	Total
CURRENT FUND	1-01	507.44	0.00	0.00	507.44
CURRENT FUND	2-01	646,265.20	4,249.00	0.00	650,514.20
WATER OPERATING	2-05	14,924.81	0.00	0.00	14,924.81
SEWER OPERATING	2-07	<u>236,235.81</u>	<u>0.00</u>	<u>0.00</u>	<u>236,235.81</u>
Year Total:		897,425.82	4,249.00	0.00	901,674.82
GENERAL CAPITAL	C-04	831,554.82	0.00	0.00	831,554.82
ANIMAL CONTROL	T-10	305.40	0.00	0.00	305.40
TRUST OTHER	T-11	15,564.66	0.00	0.00	15,564.66
OPEN SPACE TRUST	T-12	2,500.00	0.00	0.00	2,500.00
PAYROLL FUND	T-13	<u>375,735.23</u>	<u>0.00</u>	<u>0.00</u>	<u>375,735.23</u>
Year Total:		394,105.29	0.00	0.00	394,105.29
Total of All Funds:		<u>2,123,593.37</u>	<u>4,249.00</u>	<u>0.00</u>	<u>2,127,842.37</u>



BOROUGH OF CALDWELL
NEW JERSEY

Resolution No: 7-168

Date of Adoption: July 19, 2022

TITLE:

DISPOSAL OF AN OBSOLETE BOROUGH OF CALDWELL PUBLIC WORKS VEHICLE

Recommended for approval by:

Approved as to form and legality by:

Thomas Banker, Administrator

Title:

WHEREAS, the Borough Administrator has advised the Borough Council that there is an obsolete Borough of Caldwell Public Works Department vehicle that is no longer needed for public use; and

WHEREAS, N.J.S.A. 40A:11-36 authorizes the disposition of personal property not needed for public use without public sale when the fair market value of the property is less than \$3,750.00; and

WHEREAS, the Borough of Caldwell vehicle being disposed of below, have a value of less than \$3,750.00; and

WHEREAS, it is in the best interest of the Borough of Caldwell to dispose of said vehicle,

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Caldwell that the obsolete Borough of Caldwell vehicle referenced by the Borough Administrator is no longer needed for public use by the Borough and shall be disposed of according to the manner as prescribed by law.

Table with 3 columns: VEHICLE / EQUIPMENT, DEPARTMENT, VIN# / ASSET TAG#. Row 1: 1997 Ford Truck, Public Works, 1FDKF38G6VEC50245

RECORD OF COUNCIL VOTE

presented the following resolution - Seconded by:

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Table for Council Vote Record with columns for Council Member and Yes/No/Absent/Abstain for each member: DePalma-Iozzi, Lace, Gates, Buechner, Cole, Alonso.

Brittany Heun, Deputy Clerk

John Kelley, Mayor

This resolution, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.

# CERTIFICATE OF TITLE

PREFIX IDENTIFICATION NUMBER SUFFIX YEAR MAKE MODEL BODY TYPE  
**1FDKF 38G6V EC502 45 1997 FOR TRK**

TYPE OF TITLE DUPLICATE NO. GVW/WC/LGTH. COLOR/W/FL/HP DEALER I.D. AXLES/PROP FUEL  
**DUPLICATE 01 05000 WT 2**

FEE ISSUE DATE VIN-REPLACEMENT MILEAGE STATUS  
**25.00 06-19-1998 10 A**

OWNER(S)  
**TWP OF THE BORO OF CALDWELL  
 1 PROVOST SQUARE  
 CALDWELL NJ 07006**

F-FLOOD S-SALVAGE  
 P-POLICE T-TAXI  
 L-LEMON LAW  
 A-ACTUAL MILEAGE  
 N-NOT THE ACTUAL MILEAGE  
 M-MILEAGE EXCEEDS THE MECHANICAL LIMITS

NUMBER OF OWNERS: **1**

NUMBER OF LIENHOLDERS:

**OWNER DL/CC #: 91611 11390 70060**

I, CHIEF ADMINISTRATOR OF THE MOTOR VEHICLE COMMISSION, OF THE STATE OF NEW JERSEY, DO HEREBY CERTIFY THAT EVIDENCE OF PURCHASE OF OWNERSHIP, IN COMPLIANCE WITH THE LAWS OF THE STATE OF NEW JERSEY, OF THE DESCRIBED ARTICLE, HAS BEEN RECORDED AND FILED WITH ME, AND I DO HEREBY ISSUE THIS CERTIFICATE OF OWNERSHIP SUBJECT TO SECURITY AGREEMENT OR LIEN, IF ANY AS STATED.

CONTROL NUMBER **836685J**

*Arson O. Harrington*  
 SIGNATURE

**State of New Jersey**  
 MOTOR VEHICLE COMMISSION



DATE

LIEN RELEASED BY:

SIGNATURE \_\_\_\_\_

SECOND LIENHOLDER

SECOND RELEASE

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

DATE

LIEN RELEASED BY:

SIGNATURE \_\_\_\_\_

FIRST LIENHOLDER

FIRST RELEASE

TITLE \_\_\_\_\_ DATE \_\_\_\_\_

ISM/SS-1 (R6/06)

**MM WN20070940293**

**VOID IF ALTERED**

↑ FOLD AND TEAR AT PERFORATION ↑

THIS IS A RECEIPT DOCUMENT ONLY

VIN: 1FDKF38G6VEEC50245	MILEAGE: 10 A	DUP: 01	STATUS:
FOR 1997 TRK	WT 05000	AXLE: 2	
91611 11390 70060	TITLE D :	25.00	
TWP OF THE BORO OF CALDWELL	SALES TAX :		
1 PROVOST SQUARE	TOTAL (K) :	25.00	
CALDWELL NJ 07006			
MM WN20070940293	25.00 D DUPLICATE		

STATE OF NEW JERSEY

CUSTOMER COPY 836685J



BOROUGH OF CALDWELL
NEW JERSEY

Resolution No: 7-169

Date of Adoption: July 19, 2022

TITLE:

RESOLUTION AUTHORIZING A PROFESSIONAL SERVICE CONTRACT WITH PEARLMAN & MIRANDA, LLC IN AN AMOUNT NOT TO EXCEED \$30,000

Recommended for approval by:

Approved as to form and legality by:

Thomas Banker, Administrator

Title:

Whereas, the Local Public Contracts Law (N.J.S.A.11-1 et seq.) provides that contracts for professional services may be negotiated and awarded by the governing body without public advertising for bids; and

Whereas, the Borough of Caldwell (the "Borough") wishes to engage the services of Pearlman & Miranda, LLC ("Pearlman") for the provision of legal services for both the Borough and its Sewer Utility as Special Counsel during the year 2022; and

Whereas, the Borough Administrator has solicited a proposal from Pearlman for such services and has negotiated with Pearlman terms and conditions that are appropriate to the needs of the Borough;

Now Therefore Be It Resolved By The Mayor And Council Of The Borough Of Caldwell New Jersey That:

- 1. The terms of the proposal of Pearlman which was submitted on July 12, 2022 (the "Proposal") shall serve as the basis of a contract for the provision of those legal services during the year 2022 by Pearlman; and
2. The Proposal is attached hereto for use in referencing those terms; and
3. The Borough Administrator is hereby authorized and directed to enter into an agreement with Pearlman for the provision of the services described in the attached proposals; and
4. The maximum amount authorized to be paid to Pearlman pursuant to such agreement is one hundred thousand dollars (\$30,000); and
5. The Borough Attorney is hereby authorized and directed to prepare an appropriate form of contract to allow Pearlman to perform the services and receive the compensation set forth in the attached proposal; and
6. The award of this contract is subject to and conditioned upon the provision by the Chief Financial Officer of the Borough of a certification of the availability of funds sufficient to provide for payment of the contract; and
7. The Borough Clerk is hereby authorized and directed to cause such notices as are required by statute to be provided in the form as required by such statutes for the award of contracts of this type.

CERTIFICATION OF AVAILABLE FUNDS

As required by N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq. and any other applicable requirement, I, Chris Battaglia, Chief Financial Officer of the Borough of Caldwell, have ascertained that there are available sufficient uncommitted funds in the line item specified below to award the contract specified in the above resolution, in the amount specified below. I further certify that I will encumber these funds upon the passage of this resolution.

Table with 3 columns: Line-Item, Description, Amount. Includes signature line for Chris Battaglia, Chief Financial Officer and Date.

RECORD OF COUNCIL VOTE

presented the following resolution - Seconded by:

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Table for Council Member votes with columns for Yes, No, Absent, Abstain and rows for Buechner, Alonso, Cole and Lace, DePalma-Iozzi, Gates.

Brittany Heun, Deputy Clerk

John Kelley, Mayor

P E A R L M A N & M I R A N D A, L L C

---

ISABEL MIRANDA  
575 MADISON AVENUE, 24<sup>TH</sup> FLR  
NEW YORK, NY 10022  
TELEPHONE: (212) 980-0010  
[imiranda@pearlmanmiranda.com](mailto:imiranda@pearlmanmiranda.com)

ADMITTED IN NY AND NJ  
110 EDISON PLACE, SUITE 301  
NEWARK, NJ 070102  
TELEPHONE: (973) 707-3567  
FAX: (973) 893-5952

July 12, 2022

**VIA ELECTRONIC MAIL**

Borough of Caldwell  
1 Provost Square  
Caldwell, New Jersey 07006

Attn: Mr. Thomas Banker, Borough Administrator

Re: Engagement Letter for Legal Services

Dear Mr. Banker:

This will confirm our agreement that the Borough of Caldwell (the "Borough") has retained the law office of Pearlman & Miranda, LLC (the "Firm") to represent the Borough in connection with its role as landlord for a solar canopy project located at 19 Pine Tree Place, West Caldwell, Essex County, New Jersey. The scope of the Firm's representation shall include: (i) the review of that certain Lease Agreement, dated May 6, 2016, entered into by and between the Borough and Public Service Electric and Gas Company, and any documents related thereto, including, but not limited to, discussion and advice related to the terms of same, and (ii) any other directed legal services in connection therewith or otherwise (the "Legal Services").

Notwithstanding the standard billing rates of Firm attorneys set forth in the following paragraph, the Firm is pleased to propose the following blended rate for which the Legal Services shall be billed: all Firm attorneys at a blended hourly rate of \$275 per hour; law clerk support to be provided at the Firm's standard rate of \$175 per hour; and paralegal support to be provided at the Firm's standard rate of \$150 per hour.

It is anticipated that Legal Services will be performed for the Borough primarily by the following Firm attorneys (traditional hourly rates provided to demonstrate discount): Stephen B. Pearlman, Esq. (\$550), Adam L. Peterson, Esq. (\$425), Nicole E. Charpentier, Esq. (\$300), and, if litigation is required, Grace Chun, Esq. (\$425). This listing of lawyers is included to maximize efficiencies to the Borough. On an as needed basis, other potential Firm attorneys that might provide Legal Services are Isabel Miranda, Esq. (\$550), Michael J. Caccavelli, Esq. (\$550), Patricia J. Ryou, Esq. (\$475), and Howard Eichenbaum (\$475). Ms. Miranda is an expert in fiduciary matters, Mr. Caccavelli is an expert in real estate, including tax appeal and PILOT matters, Ms. Ryou is an expert in corporate matters, and Mr. Eichenbaum is an expert in complex tax matters. Furthermore, Legal Services will be supported by our law clerks at a rate of \$175 per hour and our paralegals at a rate of \$150 per hour. In addition, the Firm hires additional attorneys from time to time, some of whom might have expertise in the Legal Services to be offered by the Firm, the range of hourly time charges for which would not exceed the ranges of existing Firm attorneys without the Borough's consent.

When specialized law or other expertise is needed in an area outside our focus, we engage appropriate lawyers, accountants, or other professionals on behalf of our clients without conflict or benefit to our Firm. The Firm would be responsible for overseeing the performance of the services in such specialized field; however, the cost of such specialized services would be discussed with the Borough before engaging anyone to serve in this role. Upon approval by the Borough, such outside professionals would be retained and paid by the Firm on behalf of the Borough and billed as disbursements on the Firm's invoices to the Borough.

Please be advised that the Legal Services contemplated herein do not include income tax advice and paying personal expenses and/or legal fees from a personal, business, or trust account may have tax consequences. Any questions regarding the Borough's tax implications should be answered by the Borough's tax advisor.

The Firm reserves the right to periodically request adjustments of its rates to take into account for the advanced experience, capabilities and seniority of its attorneys and paraprofessionals, along with consideration of general economic factors. Notwithstanding the foregoing, the attorney blended rate shall be in effect for the balance of calendar year 2022; any further adjustment to the blended rate will not be in effect unless and until this letter agreement is amended by both parties, if ever.

The Borough shall be billed on a monthly basis for (i) Legal Services rendered by the Firm, (ii) disbursements for outside professionals' fees, and (ii) expenses incurred thereby or on its behalf, with expenses including state and federal filing and recording fees, legal research, faxing, photocopying, travel, conference calls, and overnight mail or courier services. In addition, there may be additional expenses that may arise which the Firm may ask that the Borough pay directly to the provider. Payment is due immediately upon receipt of our invoice.

While the Firm would normally otherwise require a retainer to be deposited for all new clients, because the Borough has been referred to us by a known and respected source, we have waived the requirement for any retainer. However, please be advised that, in the event that payment becomes due in arrears for a period longer than thirty (30) days, in addition to the amounts due and owing, the Firm reserves the right to request a retainer from the Borough for a reasonable amount in connection with anticipated Legal Services to be rendered.

The Borough may terminate the Firm's representation at any time, with or without cause, by notifying us. If such termination occurs, the Borough's papers will be returned upon receipt of payment for outstanding fees and disbursements. The Firm's own files pertaining to any matter(s) will be retained and be kept confidential, although the Borough can receive a copy of same as a final disbursement. The Borough's termination of the Firm's Legal Services will not affect the Borough's responsibility for payment for Legal Services rendered and disbursements incurred before termination and in connection with an orderly transition of the matter.

The Firm also reserves its right to withdraw from representation of the Borough. The Firm shall try to identify in advance and discuss with the Borough any situation that may lead to our withdrawal and, if withdrawal becomes necessary, the Firm shall promptly give the Borough

written notice. If it becomes necessary for the Firm to withdraw from its representation of the Borough, the Borough shall take such reasonable steps as the Firm may request to complete the Firm's withdrawal, including the execution of any documents, and to pay for all services rendered and expenses incurred on the Borough's behalf prior to withdrawal. Although the Firm must inform the Borough of this right, it has been our experience that withdrawal is an extremely unlikely occurrence.

Although the Firm will try to avoid any legal conflicts during the provision of Legal Services, if an unavoidable legal conflict does arise, nothing that waives from public entities are impermissible in New Jersey, the Firm may have to withdrawal from the representation of the Borough.

As electronic communications are commonplace, please be reminded that electronic delivery services are not necessarily secure and that others may have access to this information. If such is the case, the confidentiality between us regarding the attorney-client privilege may be compromised. For sensitive materials, the Firm endeavors to protect against such unauthorized release of information through the use of secure means, whenever possible.

Please be advised that if the Firm, on behalf of the Borough, has communications with, or provides a benefit to, a New Jersey official covered by the "Legislative and Governmental Process Activities Disclosure Act" (N.J.S.A. 52:13C-18 et seq.), the time value (number of Firm hours billed times billing rate(s) actually paid by the Borough) that was billed on such communications (the "Time Value") must be reported by the Firm to New Jersey's Election Law Enforcement Commission ("ELEC") on a quarterly and annual basis.

To the extent the Borough requests that the Firm represent it in additional matters, the Borough and the Firm agree for the Firm to undertake such representation and provide all appropriate legal services related thereto, as directed by the Borough, under the terms and conditions set forth in this Engagement Letter (such services to be considered Legal Services for purposes of this engagement), without the requirement for an additional formal letter.

*[Remainder of Page Intentionally Left Blank]*

Borough of Caldwell  
July 12, 2022  
Page 4 of 4

Kindly indicate your consent to these terms by executing below and returning the fully executed copy to me.

Thank you for this opportunity to provide Legal Services to the Borough. On behalf of the Firm, I look forward to representing the Borough's interests.

Very truly yours,

*/s/ Isabel Miranda*

Isabel Miranda, Managing Partner

On behalf of the Borough, I have read and understand the terms of this engagement letter set forth above. Based on the foregoing, the Borough desires to retain the Firm to provide the Legal Services for the fee arrangement, all as described above, this \_\_\_ day of July 2022.

By:

\_\_\_\_\_  
Thomas Banker  
Borough Administrator



BOROUGH OF CALDWELL
NEW JERSEY

Resolution No: 7-170

Date of Adoption: July 19, 2022

TITLE:

APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE BOROUGH OF CALDWELL, CHESTNUT STREET, ELLA ROAD, OAK GROVE ROAD, PARK AVENUE, PARK LANE, SEYMOUR STREET AND WHITE BIRCH TERRACE- 2023 VARIOUS STREETS.

Recommended for approval by:

Approved as to form and legality by:

Thomas Banker, Administrator

Title:

WHEREAS, 2023 Municipal Aid funds are available through the New Jersey Department of Transportation; and,

WHEREAS, the Borough of Caldwell Mayor and Council desire to construct improvements to various streets in the Borough of Caldwell, including but not limited to curb repairs, storm drainage repairs, pavement resurfacing, and replacement of traffic control signs.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of Caldwell formally approves the grant application for the above stated project.

BE IT FURTHER RESOLVED that the Borough Administrator is hereby authorized to submit an electronic grant application identified as (2023 - MA - 00659) to the New Jersey Department of Transportation on behalf of the Borough of Caldwell and that the signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.

Certified as a true copy of the Resolution adopted by the Council on this 19TH day of July, 2022.

My signature and the Clerk's seal serve to acknowledge the above resolution and constitute acceptance of the terms and conditions of the grant agreement and approve the execution of the grant agreement as authorized by the resolution above.

ATTEST and AFFIX SEAL

Deputy Clerk

Mayor John Kelley

RECORD OF COUNCIL VOTE

presented the following resolution - Seconded by:

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Table with 10 columns for council members and their votes (Yes, No, Absent, Abstain). Rows include DePalma-Iozzi, Lace, Gates, Buechner, and Cole, Alonso.

Brittany Heun, Deputy Clerk

John Kelley, Mayor



BOROUGH OF CALDWELL
NEW JERSEY

Resolution No: 7-171

Date of Adoption: July 19, 2021

TITLE:

RESOLUTION AUTHORIZING THE BOROUGH OF CALDWELL TO ISSUE A PURCHASE ORDER TO TROJAN UV TO PURCHASE A HYDRAULIC SYSTEM CENTRE REPLACEMENT FOR THE CALDWELL WASTEWATER TREATMENT PLANT.

Recommended for approval by:

Thomas Banker, Administrator

Approved as to form and legality by:

Title:

WHEREAS, Trojan UV, a Division of Trojan Technologies Group ULC, of London, Ontario, Canada is the manufacturer of the UV3PLUS Hydraulic System Centre needed to replace and older unit at the Caldwell Wastewater Treatment Plant; and,

WHEREAS, Trojan UV has provided the Borough of Caldwell with a quotation for the equipment to replace the old Hydraulic System Center in the amount of \$33,539.92 incorporated herein; and

WHEREAS, this particular item will be included in a reimbursement package that will be sent to FEMA, as the old is equipment was damaged during Hurricane Ida.

NOW, THEREFOR, BE IT RESOLVED, the Borough Council hereby authorizes the Administrator to authorize the release of a purchase order to Trojan UV for the purchase of the UV3PLUS Hydraulic System Center at the Caldwell Wastewater Treatment Plant, in the same form as attached.

CERTIFICATION OF AVAILABLE FUNDS

As required by N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq. and any other applicable requirement, I, Chris Battaglia, Chief Financial Officer of the Borough of Caldwell, have ascertained that there are available sufficient uncommitted funds in the line item specified below to award the contract specified in the above resolution, in the amount specified below. I further certify that I will encumber these finds upon the passage of this resolution.

Line-Item Description Amount

Chris Battaglia, Chief Financial Officer Date

RECORD OF COUNCIL VOTE

presented the following resolution - Seconded by:

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

Table with 5 columns for Council Members and 5 columns for Yes/No/Absent/Abstain votes. Rows include DePalma-Iozzi, Gates, and Cole.

Brittany Heun, Deputy Clerk

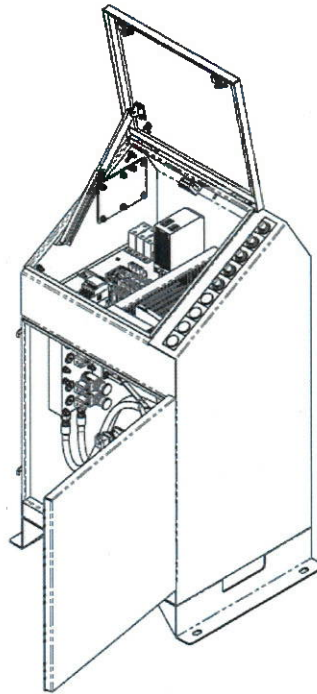
John Kelley, Mayor

**UV3PLUS HYDRAULIC SYSTEM CENTRE REPLACEMENT**

**For**

**CALDWELL NJ- WASTE WATER TREATMENT PLANT**

**Project No: 511447- SF 194040**



**Date: June 10, 2022**

**NOTICE**

**This report is proprietary and may not be reproduced or distributed to parties not directly associated with the *Caldwell, NJ Waste Water Treatment Plant***

**HYDRAULIC SYSTEM CENTER UPGRADE**

Full replacement of the existing Hydraulic System Centre

Trojan P/N	Parts Description	Quantity	Total Price
907717G	HSC, G4 UV3+ 07 4B 48060 15 - 4 BANK; 60HZ; 3PHASE; 3.0GPM pump - 304 Stainless Steel (Type 4X, IP 66) - Hydraulic Solution – same as current	1	\$27 266.00
326396-050	HOSE KIT, UV3+ HSC TO PDC XFT	2	\$ 396.21
326396-080	HOSE KIT, UV3+ HSC TO PDC XFT	2	\$ 590.75
<b>Optional Adders:</b>			
	HSC Heater (avoid condensation)		\$ 486.00
	HSC Disconnect		\$ 693.00
	HSC TVSS / SPD		\$ 1,032.00
	HSC Lockable Electrical Panel		\$ 509.00
	HSC Material - 316 Stainless Steel (Type 4X, IP 66)		\$ 892.00
	HYD FLUID 446022-020 (OIL,MINERAL HYDRAULIC 20L		\$ 824.06
<b>Total Parts USD\$</b>			<b>\$29, 239.92 (not including adders)</b>

**Site Responsibility:**

The site is to be responsible for setting in place and bolting the HSC and manifold as shown on the contract drawings. The HSC should be located within 50 feet (15 meters) from the farthest PDC. The site shall be responsible for the supply, connection and installation of the following at the HSC:

1. One (1) 480V, 60 Hz, 3 Phase, 3 Wire, 5 Amp power feed with local disconnect
2. One (1) ground link of, 14 gauge minimum, TWH stranded from the PDC(s).
3. One (1) serial communication link of one (1) twisted, shielded pairs, 18 gauge maximum cable from the SCC and daisy chained to the PDC's.

**Trojan Technologies Authorized Service:**

The following site service will be required to verify connections, and complete a functional test to confirm integration of the new Hydraulic System Centre.

Description	Certified Service Technician	Total Price
Service Travel Days	2	\$ 1840.00
Site Days required, estimated, invoice @ actual	1	\$ 1460.00
Flight	1	\$ 1,000
<b>Total Service Price USD\$</b>		<b>\$ 4,300.00</b>

**Documentation:**

One electronic copy of the following documentation will be supplied by Trojan - Updated HSC Section of O&M, including electrical drawing

**Warranty:**

Trojan Technologies warrants to the Owner/Operator that if within 12 calendar months from equipment Substantial Completion or 18 calendar months from the date of delivery (the "Warranty Period"), whichever comes first, equipment manufactured by Trojan (the "Equipment") will be free from defects in material and workmanship and will function in accordance with the specifications agreed to by Trojan for the Equipment. Refer to standard T&C for full terms.

**Service and Support:**

Technical Assistance Center (TAC) operates 5 days a week with 24/7 emergency support  
Onsite services offered through Trojan certified Technicians:

- ✓ System inspections
- ✓ Preventative maintenance, repairs, trouble shooting
- ✓ Plant Operator and Maintenance staff training Upgrades to extend system life
- ✓ Sensor validation
- ✓ Emergency services

**Terms & Conditions:**

Taxes: Extra (if applicable)

Payment terms: Net 30 days

Freight: Extra

Quote validity is good until December 31, 2022.

Delivery is 12-24 weeks to be confirmed at order placement.



**BOROUGH OF CALDWELL  
NEW JERSEY**

Resolution No: 7-172

Date of Adoption: July 19, 2022

**TITLE:**

**RESOLUTION TO MOVE THE PARKING GARAGE GRAVEL PILE; AND PROVIDE ADDITIONAL GROUND LEVEL PARKING SPACES TO ALLEVIATE PARKING CONSTRAINTS IN THE BOROUGH**

Recommended for approval by:

Approved as to form and legality by:

\_\_\_\_\_  
Thomas Banker, Administrator

\_\_\_\_\_  
Title:

**WHEREAS**, the need for additional Parking is a well-documented request for store owners; and

**WHEREAS**, the use of the Small Lot for trailers eliminates the use of that area for more spaces for the time being; and

**WHEREAS**, that the various proposals for the new Municipal Complex are not advanced, and in any case, are unlikely to include the use of the lot where the gravel pile is currently stored, for the foreseeable future

**THEREFORE, BE IT RESOLVED, BY THE MAYOR AND COUNCIL OF THE BOROUGH OF CALDWELL**, That the Borough Administrator have the Public Works Department of Caldwell determine whether or not, they could perform, some or all, of the below listed tasks, and report back the Borough Council **within 30 days** for the adoption of this resolution.

If the DPW can perform some or all of these tasks, DPW should also indicate if extra resources or equipment is required, and in what time frame could the work be done.

Then the Borough Council should take this information, and prepare, along with the Borough Administrator and Borough legal counsel, a Request for Proposal for any remaining tasks, that could be sent out for bids.

High Level tasks:

- i. Move the gravel pile either to the back of the current location, or to an alternate site (if available), thereby freeing up the front portion of the exposed lot
- ii. Move the existing chain link fence back from the current Roseland Avenue location to separate and secure the moved gravel pile at the back of the lot
- iii. Clean and minimally repair the now available ground level lot, to an acceptable state for parking (with an expected usage time of 2 years)
- iv. Coordinate the efforts of the Borough engineer and the Caldwell Police to design the lot's new parking place design
- v. Stripe and add any signage needed for the new parking places
- vi. Coordination between the Council, Borough Administrator and Police, to identify the best use of the new parking places; in the interest of supporting the needs of the residents and store owners
- vii. Make the new places available; with the intent to be ready **BEFORE winter arrives**

**RECORD OF COUNCIL VOTE**

\_\_\_\_\_ presented the following resolution - Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi					Lace				
Gates					Buechner				
Cole					Alonso				

\_\_\_\_\_  
Brittany Heun, Deputy Clerk

\_\_\_\_\_  
John Kelley, Mayor

This resolution, when adopted, must remain in the possession of the Municipal Clerk. Certified copies are available.



**BOROUGH OF CALDWELL  
NEW JERSEY**

Resolution No: 7-173

Date of Adoption: July 19, 2022

**TITLE:**

**A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF CALDWELL  
AUTHORIZING THE SALE OF SURPLUS PERSONAL PROPERTY NO LONGER NEEDED FOR PUBLIC  
USE ON AN ONLINE AUCTION WEBSITE**

Recommended for approval by:

Approved as to form and legality by:

Thomas Banker, Administrator

Title:

**WHEREAS**, the Borough of Caldwell has determined that the personal property described on Schedule A attached hereto and incorporated herein is no longer needed for public use; and

**WHEREAS**, the Borough of Caldwell intends to utilize the online auction services of GovDeals located at [www.govdeals.com](http://www.govdeals.com) and

**WHEREAS**, the sales are being conducted pursuant to N.J.S.A. 40A:11-36 and the guidance set forth in the Division of Local Government Services' Local Finance Notice 2019-15,

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Caldwell in the County of Essex, State of New Jersey, that the Borough of Caldwell is hereby authorized to sell the surplus personal property as indicated on Schedule A on an online auction website entitled [www.govdeals.com](http://www.govdeals.com); and be it further

**RESOLVED**, that the terms and conditions of the agreement entered into between GovDeals and the Borough of Caldwell are available at [www.govdeals.com](http://www.govdeals.com) and in the Borough Clerk's office.

**ITEMS TO BE AUCTIONED:**

Garland Double Oven Ten Burner Stove

**CERTIFICATION**

I, Brittany Heun, Deputy Municipal Clerk of the Borough of Caldwell, County of Essex, State of New Jersey, do hereby certify the foregoing to be a true and exact copy of a resolution duly authorized by the Borough Council on this 19<sup>th</sup> day of June, 2022.

*Brittany Heun Deputy Municipal Clerk*

**RECORD OF COUNCIL VOTE**

presented the following resolution - Seconded by:

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi					Lace				
Gates					Buechner				
Cole					Alonso				

Brittany Heun, Deputy Clerk

John Kelley, Mayor

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**BOROUGH OF CALDWELL  
NEW JERSEY**

Resolution No: 7-174

Date of Adoption: July 19, 2022

**TITLE:**

**RESOLUTION AUTHORIZING CONTRACT FOR BOROUGH HALL AND LIBRARY DEMOLITION**

Recommended for approval by:

\_\_\_\_\_  
Thomas Banker, Administrator

Approved as to form and legality by:

\_\_\_\_\_  
Title:

**WHEREAS**, on July 13, 2022 the Borough of Caldwell received the following bids for the Caldwell Borough Hall and Library Demolition:

Bidder	Base Bid	Alternate No.1	Alternate No.2
IBN Construction	\$457,254.00	\$25,000.00	\$60,000.00
Two Brothers Contracting, Inc.	\$489,600.00	\$42,800.00	\$98,800.00
ADP Group, Inc.	\$855,960.00	\$40,000.00	\$95,600.00
F.R. Beinke Wrecking	\$1,146,000	\$30,000.00	\$500,000.00

**WHEREAS**, the Borough has been advised by its Counsel, Cleary Giacobbe Alfieri Jacobs, LLC that the bid of IBN Construction contains a material defect rendering it non-responsive; and

**WHEREAS**, Two Brothers Contracting, Inc. is the lowest responsive bidder; and

**NOW THEREFORE BE IT RESOLVED** by the Mayor and Council of the Borough of Caldwell that the Borough hereby awards a contract for demolition of Borough Hall and the Library and Alternates 1 and 2 to Two Brothers Contracting for a total contract amount not to exceed \$631,200.00.

**BE IT FURTHER RESOLVED** that this contract is awarded in compliance with the fair and open requirements of N.J.S.A. 19:44a-20.1 et seq.

**BE IT FURTHER RESOLVED** that the Business Administrator is hereby authorized and empowered to take whatever action may be necessary and execute any documents that may be required, on behalf of the Borough, after consultation with legal counsel, to effectuate the purpose of this Resolution.

**RECORD OF COUNCIL VOTE**

\_\_\_\_\_ presented the following resolution - Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi						Lace				
Gates						Buechner				
Cole						Alonso				

\_\_\_\_\_  
**Brittany Heun, Deputy Clerk**

\_\_\_\_\_  
**John Kelley, Mayor**



**BOROUGH OF CALDWELL  
NEW JERSEY**

Resolution No: 7-175  
Date of Adoption: July 19, 2022

**TITLE:**

**RESOLUTION AWARDING A CONTRACT TO TWO BROTHERS CONTRACTING, INC.,  
11 VREELAND AVENUE, TOTOWA, NJ 07512 FOR THE BOROUGH PROJECT ENTITLED  
"SELECT INTERIOR DEMOLITION OF THE CALDWELL COMMUNITY CENTER, 1 PROVOST  
SQUARE, CALDWELL, NEW JERSEY 070006"**

Recommended for approval by:

Approved as to form and legality by:

\_\_\_\_\_  
Thomas Banker, Administrator

\_\_\_\_\_  
Title:

- WHEREAS,** the Borough of Caldwell advertised for and received bids for "Select Interior Demolition of the Caldwell Community Center" on June 9, 2022 and
- WHEREAS,** the Borough of Caldwell received proposals from (2) proposers; and
- WHEREAS,** this matter was reviewed by the Mayor and Council of the Borough of Caldwell; and
- WHEREAS,** the lowest responsible bidder was **Two Brothers Contracting, 11 Vreeland Avenue, Totowa, NJ 07512** with a Base Bid of \$161,100.00 and a Contingency of \$16,110.00 for a Total Bid of \$177,210.00 and
- WHEREAS,** **Two Brothers Contracting agrees to fully complete the work described in the Plans and Specifications in Sixty (#60) Days from the execution of the Contract,**
- WHEREAS,** **Two Brothers Contracting agrees that if the project is delayed beyond the time stipulated within the Contract the Contractor shall pay the Borough of Caldwell \$500.00 for each day that the project Select Interior Demolition of the Caldwell Community Center is delayed,**
- WHEREAS,** the governing body of the Borough of Caldwell pursuant to N.J.A.C. 5:30-5.5(b), the certification of available funds, shall either certify the full maximum amount against the budget at the time the contract is awarded, or no contract amount shall be chargeable or certified until such time as the goods or services are ordered or otherwise called for prior to placing the order, and a certification of availability of funds is made by the Chief Finance Officer.

**NOW THEREFORE, BE IT RESOLVED,** that Borough Council of the Borough of Caldwell, New Jersey does hereby authorize the award of a contract for Select Interior Demolition of the Caldwell Community Center to Two Brothers Contracting, 11 Vreeland Avenue, Totowa, NJ 07512 as specified in the bid specification in the contract amount with a Base Bid of \$161,100.00 and a Contingency of \$16,110.00 for a Total Bid of \$177,210.00

**BE IT FURTHER RESOLVED** by the Borough Council of the Borough of Caldwell that the Borough Administrator is authorized to execute the necessary contracts and documents upon approval.

As required by N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq. and any other applicable requirement, I, Christopher Battaglia, Chief Financial Officer of the Borough of Caldwell, have ascertained that there are available sufficient uncommitted funds in the line item specified below to award the contract specified in the above resolution, in the amount specified below. I further certify that I will encumber these funds upon the passage of this resolution.

Line Item	Description	Amount
Christopher Battaglia, CFMO		Date

**RECORD OF COUNCIL VOTE**

\_\_\_\_\_ presented the following resolution - Seconded by: \_\_\_\_\_

COUNCIL MEMBER Yes No Absent Abstain COUNCIL MEMBER Yes No Absent Abstain

DePalma-Iozzi					Lace				
Gates					Buechner				
Cole					Alonso				

\_\_\_\_\_  
**Brittany Heun, Deputy Clerk**

\_\_\_\_\_  
**John Kelley, Mayor**

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