



BEACON PLANNING AND CONSULTING SERVICES, LLC
315 STATE HIGHWAY 34, SUITE 129
COLTS NECK, NEW JERSEY 07722
TEL: 732.845.8103

December 28, 2020

Via electronic mail (abrewer@mfhenvlaw.com)

Borough of Flemington
38 Park Avenue
Flemington, New Jersey 08822
c/o Andrew Brewer, Esq.
Maraziti Falcon, LLP
240 Cedar Knolls Road, Suite 301
Cedar Knolls, New Jersey 07927

re: Professional Consulting Services
Fiscal Analysis and Community Impact Review
35 North Main Street
Block 5, Lots 1 and 2
Borough of Flemington
Hunterdon County, New Jersey
Beacon File #A20283

Dear Mr. Brewer:

Thank you for the opportunity to present this proposal for professional services pertaining to a fiscal analysis and community impact review of the proposed redevelopment of 35 North Main Street (Block 5, Lots 1 and 2), also known as the Global Agway site. It is our understanding the project will entail the construction of two residential buildings containing a total of 100 units. The site is located within a Transition Commercial Zone; however, BPCS notes the parcel is included within a draft copy of the Global Agway Redevelopment Plan. The core issue, as we understand it, is a review of the fiscal impact of the proposal on the community and a review of projected expenses, revenue streams and project values relative to each component in an effort to opine regarding benefits or detriments associated with the proposal and the requested PILOT.

We have provided redevelopment and PILOT review services to numerous communities throughout the State of New Jersey, including the City of Newark, the City of Bayonne, the City of Perth Amboy, the Borough of Carteret, the Borough of Tinton Falls, the City of South Amboy and the Borough of Palmyra. We also provide due diligence services to such national and regional construction lenders as PNC Bank, Capital One Bank, Investors Bank and Provident Bank. Beacon Planning has extensive experience in assisting communities in evaluating

financial considerations of development/redevelopment projects. The depth of our in-house resources, which include real estate professionals, an economist and an appraiser, have been a key component in the satisfaction expressed by our clients. I have lectured on the topic of redevelopment, redeveloper selection and PILOT analysis at conferences and classes sponsored by the New Jersey Redevelopment Authority, New Jersey Future, the League of Municipalities, PlanSmart NJ and Monmouth University. I have attached a copy of our corporate resume, which includes a summary of our experience, references, and copies of licenses and insurance certificates.

We are pleased to submit this proposal for professional services concerning the above project as follows:

Scope of Services

A. Review of Project Assumptions:

Beacon Planning will undertake a review of the project cost, revenue and income projections and proforma analysis in order to opine on the validity of assumptions. The redeveloper and/or the redeveloper's team have prepared estimates, projections and proformas to be reviewed. Additionally, supporting documents to be provided by the redeveloper may include market studies for each component of the undertaking. BPCS will rely upon our internal database of costs supplemented by resources generally accepted by the industry, such as Mean's Construction Cost Data and/or Marshall and Swift.

B. Community Impact Assumptions

Beacon Planning will review relevant financial information obtained from the Borough and work with the Tax Assessor's office to estimate assessed valuations for each project component. The redeveloper's Community Impact Statement (if available) will be reviewed with respect to assumptions regarding demographic impact, municipal services requirements and school age children generation. An independent verification will be undertaken as well.

C. Fiscal Impact Comparison

Beacon Planning, in working with the Borough to develop assumptions, will prepare a cursory fiscal impact of a development completed pursuant to the redeveloper's proposal.

D. PILOT Analysis

Beacon Planning will model the proposed PILOT structure for each component and opine regarding the validity of the assumptions that may be considered by the Borough in making the decision to participate in the PILOT.

In order to commence our initial review, we will require the following documentation and cooperation:

- Copy of the development proposal for the property;

- Pro forma prepared by the developer indicating components anticipated in the project and, if available, anticipated development costs, construction costs, projected rents or sales prices, and an explanation of market assumptions utilized to prepare the document;
- Copy of a Community Impact Statement prepared by the redeveloper, if available;
- Access to: the municipal budget; Board of Education information regarding the cost to educate students and infrastructure sufficiency; and the Borough Tax Assessor in order to estimate values and municipal costs for each component of the redevelopment effort.

Beacon Planning, upon reviewing the referenced information, may determine that more specific information is required in order to meet the goals and objectives of the Borough, and therefore reserves the right to request additional data throughout the review period.

E. Meeting Attendance

Beacon Planning will be available to attend meetings with representatives of Flemington and its professionals in order to provide financial and professional planning opinions and guidance. Meeting attendance will be on an as needed basis at the request of the Borough.

Professional services related to Tasks A through D will be provided on a Time and Expense basis pursuant to the General Terms and Conditions attached hereto and incorporated into this proposal for professional services. While it is difficult to estimate costs until the full scope of documentation is made available for review, for budgeting purposes, we would estimate Tasks A through C to be \$7,500 to \$10,000. BPCS reserves the right to modify the estimate as information is provided and reviewed. Monthly invoicing will be provided indicating hours billed. Additional services and meeting attendance, including assistance going forward in negotiating terms of agreements with the redeveloper, will be invoiced on a Time and Expense basis.

Responsibilities of Client

Beacon Planning will rely upon the accuracy of any and all information submitted to us by the redeveloper, the Borough of Flemington and its professionals in the performance of our services, and will not be held responsible for errors or inaccuracies contained in information provided to us.

Limitations and Assumptions

The provision of services pursuant to this agreement is based on the following limitations and assumptions:

1. BPCS agrees to provide conscientious, competent and diligent services and at all times will seek to achieve solutions that are just and reasonable to you. However, because of the uncertainty of land use matters, the interpretation and changes in laws and ordinances, and many unknown factors, including subjective opinions and positions of the factors and of the parties participating in the case or matter, BPCS

cannot and does not warrant, predict or guarantee results or the final outcome of any matter or issue.

2. This proposal does not include any exploratory or testing work, interpretations or conclusions related to determination of potential chemical, toxic, radioactive or other types of contaminants on the site, traffic studies, offsite infrastructure studies, off-site improvement design, off-site analysis of any drainage facilities downstream of the site, land surveying, NJDEP permitting, regional or municipal pump station design, off-tract utility extension design, construction management, or any other item not specifically listed in this proposal. Printing costs will be billed as a reimbursable expense.
3. Meeting attendance will require your authorization and we would bill our services in accordance with the attached fee schedule.

We appreciate the opportunity to submit this proposal and look forward to working with you on this undertaking. If you would like us to proceed as outlined, please sign where indicated below and return a copy of this Agreement along with a purchase order and billing instructions to my attention. Once again, thank you for your consideration of Beacon Planning.

Sincerely,

/s/ *Andrew W. Janiw*

Andrew W. Janiw, P.P., A.I.C.P.
Principal

ACCEPTED BY:

By: _____
Title: _____
For Client: _____
Date: _____

The above-signed represents that they have read and understand the attached General Conditions and have the authority to enter into this agreement on behalf of the client named above. The above-signed also acknowledges that this contract includes a Limitation of Liability Clause as part of the General Conditions.

2020 SCHEDULE OF HOURLY RATES

Principals	\$215.00 per hour
Project Professional	\$175.00 per hour
Project Assistant	\$135.00 per hour
Administrative Support	\$85.00 per hour
Fax	\$0.25 per page
Standard reproduction (letter or legal size)	\$0.10 per page
Out-of-pocket expenses	Cost
Outside services	Cost

BEACON PLANNING AND CONSULTING SERVICES, L.L.C.

GENERAL CONDITIONS OF SERVICE

Client: Borough of Flemington
Project: Professional Planning Services
35 North Main Street
Block 5, Lots 1 and 2
Borough of Flemington, New Jersey
Project Number: A20283
Date: December 28, 2020

1.0 BILLING AND PAYMENT

RETAINER. The Client shall make an initial retainer payment of \$0.00 upon execution of this Agreement. Beacon Planning and Consulting Services, L.L.C. (Beacon) will hold and apply this retainer to the final invoice, as stipulated in the proposal.

REIMBURSABLE EXPENSES. Client shall pay Beacon for reimbursable expenses, including application fees, printing and reproduction, courier and express delivery service, bulk and special mailings, facsimile transmissions, computer design technology, specialized equipment and laboratory charges, costs of acquiring materials specifically for Client and related charges. The reimbursable expenses will be added to each monthly invoice.

INVOICES. Beacon shall submit invoices monthly and payment in full is due upon presentation. Our invoices are due and payable upon receipt since there is generally a relatively significant time lag between the rendering of our services and the submission of our statement.

INTEREST. If any invoice is not paid in full within thirty (30) days of receipt, the Client shall pay as interest an additional charge of one-and-one-half percent (1.5%) (or the maximum allowable by law, whichever is lower) per month of the **PAST DUE** amount. Payment after that shall first be applied to accrued interest and then to the unpaid principal.

COLLECTION COSTS. In the event legal action is necessary to enforce the payment provisions of this Agreement, Beacon shall be entitled to recover from the Client the reasonable attorneys' fees, court costs and expenses incurred by Beacon in connection therewith.

SUSPENSION OF SERVICES. If the Client fails to make payments when due or otherwise is in breach of this Agreement, Beacon may suspend performance of services at any time after providing notice to the Client. Beacon shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client.

PAYMENT OF INVOICES. Payment of invoices is not subject to unilateral discounting or set-offs by the Client, and payment for actual services rendered is due despite suspension or termination of this Agreement by either party. Invoices will be deemed accepted without challenge or dispute fourteen days after the date of the invoice. The client shall immediately notify Beacon, in writing, of any questions or disputes related to invoicing and charges contained therein or shall otherwise forfeit rights to dispute charges contained therein after said fourteen days.

2.0 FEE DURATION

The proposed fees set forth in this Agreement shall be open for acceptance for sixty (60) days from the above date. If the Agreement is signed after that date, the proposed fees may be adjusted prior to commencement of services, subject to agreement by the Client and Beacon.

The hourly rates charged for Beacon employees are adjusted annually in January to reflect changes in the various elements that comprise such hourly rates. All adjustments will be in accordance with generally accepted accounting practices as applied on a consistent basis by Beacon and consistent with Beacon's overall compensation practices and procedures.

Where Lump Sum Contracts are signed, and the services provided by Beacon extends beyond a date months after the date of the execution of this Agreement, the quoted prices shall be subject to an increase in accordance with the NY/NJ Consumer Price Index, using the date of this Agreement as a base. In the event that a Lump Sum Contract item is partially completed at such time that the lump sum price is to be adjusted, the balance of the lump sum fee still to be billed as of the anniversary date shall be increased based on the NY/NJ Consumer Price index as indicated above.

3.0 SCOPE OF SERVICES

Descriptions of the Services to be provided by Beacon are set forth in the Proposal/Scope of Services. Services not set forth in the Scope of Services are excluded from the scope of Beacon's services and Beacon assumes no responsibility to perform such additional services under the base Contract. If additional work becomes necessary during the course of the project, Beacon can perform such Additional Services in accordance with a written Agreement between the Client and Beacon setting forth the additional services and fees.

4.0 STANDARD OF CARE

The standard of care for services performed or furnished by Beacon under this Agreement will be the care and skill ordinarily used by members of the same profession practicing under similar conditions at the same time and in the same locality based on facts and information available at the time services are provided.

5.0 INSURANCE

Beacon shall maintain, at its own expense, Workers Compensation insurance, Comprehensive General Liability Insurance and Professional Liability Insurance at all times and will, upon request, furnish insurance certificates to the Client

6.0 CONSTRUCTION OBSERVATION SERVICES

If the Scope of Services for this Agreement includes due diligence and/or construction observation services, then the following provisions shall apply:

- A. During the project construction phase, Beacon shall consult with and advise Client and act as Client's representative as provided in the Scope of Services. The extent and limitations of the duties, responsibilities and authority of Beacon as outlined in the Scope of Services shall not be modified, except as Beacon and Client may otherwise agree in writing.
- B. Beacon's services during the Construction phase are intended to provide Client a greater degree of confidence that the Completed work of Contractor will conform in general to the approved plans and related documents and to provide a general opinion of value of work-in-place based on published references typically utilized in the industry. Beacon shall not, during visits to the project site or as a result of observation of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall Beacon have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. Accordingly, Beacon neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
- C. Beacon is not a guarantor or insurer of the adequacy or sufficiency of the plans and specifications reviewed for any project nor is Beacon guaranteeing code compliance or anyone's ability to complete the project for the budget supplied. Beacon's conclusions will be based on information provided by third parties and the conclusions are subject to the same limitations imposed by the providing parties. No warranty or representation will be made as to the accuracy of information obtained from third parties and it will be submitted subject to errors, omissions and changes. Beacon reserves the right to amend our findings if new or updated information is provided or uncovered. Beacon does not assume the responsibilities of the design professionals. Beacon's services are being rendered solely as an advisor.

7.0 INDEMNIFICATION

Beacon agrees subject to the provisions herein, to indemnify and hold the Client harmless from any damage, liability or cost to the extent caused solely by Beacon's negligent acts, errors or omissions in the performance of professional Services under this Agreement.

The Client agrees to indemnify and hold Beacon harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the Client's negligent acts, errors or omissions and those of his or her contractors, subcontractors or consultants or anyone for whom the Client is legally liable. Beacon is not obligated to indemnify the Client for the Client's own negligence.

8.0 LIMITATION OF LIABILITY

Client and Beacon recognize and agree that Beacon's liability for any and all claims or actions, regardless of how arising, shall be limited to the total sum of \$25,000.00, or Beacon's total fee for services rendered on this project, whichever is less. Client hereby releases Beacon from any liability above such amount. Such claims and causes include, but are not limited to negligence, professional error or omissions, strict liability, breach of contract or breach of warranty. In no event shall Beacon be liable for any incidental, indirect or consequential damages, including commercial loss, or lost profits resulting from any Service furnished under this agreement.

9.0 OWNERSHIP AND REUSE OF DOCUMENTS

All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by Beacon pursuant to this Agreement ("Documents") are and remain the property of Beacon as instruments of service with respect to this Agreement. The Documents are not intended or represented to be suitable for reuse by the Client or others on extensions of this project or on any other project. Any reuse of the Documents without the written approval by Beacon will be at the Client's sole risk and without liability or legal exposure to Beacon. The Client shall indemnify, defend and hold harmless Beacon from and against any claims, damages or losses including attorney's fees and costs, arising out of or resulting therefrom.

Beacon grants to the Client and only the Client a non-exclusive, non-assignable and non-transferable license to reproduce, distribute and display the Documents, to the extent necessary for the Client to undertake the project. Beacon shall retain all common law, statutory and other reserved rights to the Documents, including the copyright thereto. Both the Client and Beacon agree that none of the services or Documents provided by Beacon are "work made for hire" as defined in the Copyright Act.

10.0 CONSEQUENTIAL DAMAGES

Notwithstanding any other provision of the Agreement, neither party shall be liable to the other for any consequential damages incurred due to the fault of the other party, regardless of the nature of this fault or whether it was committed by the Client or Beacon, their employees, agents, subconsultants or subcontractors. Consequential damages include, but are not limited to, loss of use or profit.

11.0 DELAYS

Beacon is not responsible for delays caused by factors beyond Beacon's reasonable control, including but not limited to delays because of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of any governmental or other regulatory authority to act in a timely manner, failure of the Client to furnish timely information or to provide review comments promptly; or delays caused by faulty performance by the Client or by contractors of any level. When such delays beyond Beacon's reasonable control occur, the Client agrees that Beacon is not responsible for damages, nor shall Beacon be deemed to be in default of this Agreement.

12.0 CORPORATE PROTECTION

It is intended by the parties to this Agreement that Beacon's services in connection with the project shall not subject Beacon's individual employees, officers or directors to any personal legal exposure for the risks associated with this project. Therefore, the Client agrees that as the Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Beacon, a New Jersey limited liability corporation, and not against any of Beacon's employees, officers or directors.

13.0 OVERTIME SERVICES

For professional services billed on an hourly basis, Beacon shall bill all overtime services performed by hourly wage earners (non-exempt employees) at one and one-half (1 1/2) times the standard hourly rate.

14.0 OPINIONS OF PROBABLE COST OR VALUE OF WORK-IN-PLACE

In reviewing Beacon's opinions of probable construction cost or opinion of value of work-in-place, the Client understands that Beacon has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that any opinions of probable construction costs or value of work-in-place provided by Beacon are to be made based on Beacon's qualifications and experience as well as on published standards typically utilized in the industry. Beacon makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

15.0 HAZARDOUS MATERIALS

It is acknowledged by both parties that Beacon's scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event Beacon or any other party encounters asbestos or hazardous or toxic materials at the job site, or should it become known in any way that such materials may be present at the job site or any adjacent areas that may affect the performance of Beacon's services, Beacon may, at its sole option and without liability for consequential or any other damages, suspend performance of services on the project until the Client takes steps to identify, abate and/or remove the asbestos or hazardous or toxic materials, and to warrant that the job site is in full compliance with applicable laws.

16.0 GOVERNING LAW

The laws of the State of New Jersey will govern the validity of this Agreement, its interpretation and performance. Any litigation arising in any way from this Agreement shall be brought in the Courts of New Jersey.

17.0 SURVIVAL

All express representations, indemnifications or limitations of liability made in or given in this Agreement will survive the completion of all services of Beacon under this Agreement or the termination of this Agreement for any reason.

18.0 ENTIRE AGREEMENT

This Agreement (**consisting of (1) Proposal Scope of Services and (2) General Conditions**) comprises the final and complete agreement between the Client and Beacon. It supersedes all prior or contemporaneous communications, representations, or Agreements, whether oral or written, relating to the subject matter of this Agreement. Execution of this Agreement signifies that each party has read the document thoroughly, has had the opportunity to have questions explained by independent counsel and is satisfied with the terms and conditions Contained herein. Amendments to this Agreement shall not be binding unless made in writing and signed by both the Client and Beacon.