

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE  
BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS,  
NEW JERSEY, AUTHORIZING THE EXECUTION OF A CONTRACT  
BETWEEN DIGITAL STRATEGY ASSOCIATES, LLC AND  
THE BOROUGH OF MOUNT ARLINGTON**

**NOW, THEREFORE BE IT RESOLVED**, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, State of New Jersey, that the Mayor and Borough Clerk are authorized to execute a Website Maintenance Contract between Digital Strategy Associates, LLC and the Borough of Mount Arlington.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, State of New Jersey, that the term of said Contract shall be for two (2) years, commencing on October 1, 2016 and terminating on September 30, 2018.

I hereby certify this to be an accurate and true resolution as approved by the Mayor and Borough Council at a Meeting held on September 13, 2016.



Linda DeSantis, RMC  
Borough Clerk

# DIGITAL STRATEGY ASSOCIATES LLC

## AGREEMENT WITH

## THE BOROUGH OF MOUNT ARLINGTON

This Agreement dated August 8<sup>th</sup>, 2016 contains the terms and conditions pursuant to which **DIGITAL STRATEGY ASSOCIATES LLC**, ("CONTRACTOR") with a principle place of business at 645 Reba Road, Landing, New Jersey 07850 will provide certain services for the **BOROUGH OF MOUNT ARLINGTON** ("CLIENT"), with a principle place of business at 419 Howard Boulevard Mount Arlington, NJ 07856. CONTRACTOR and CLIENT hereby agree as follows:

### I. SERVICES AND OWNERSHIP OF PRODUCT

- A. Subject to the terms and conditions of this Agreement, CONTRACTOR agrees to perform the following services for CLIENT:
  - a. Website Management for MountArlingtonNJ.org, not to exceed three (3) hours per month. Updates and services that exceed the time allotment will be billed at DIGITAL STRATEGY ASSOCIATES regular hourly rate.
    - i. Add, remove, and update website content as supplied by the CLIENT.
    - ii. Troubleshoot website related issues.
    - iii. Maintain and provide updates for the website content management system.
  - b. Manage Web Hosting for MountArlingtonNJ.org.
  - c. Manage Domain Name Registration for MountArlingtonNJ.org, mountarlingtonnj.info, mountarlingtonnj.net, mountarlingtonnj.com, mtarlingtonboro.com, and mtarlingtonpd.com.
- B. CLIENT may elect for CONTRACTOR to perform optional services beyond the scope of this agreement. Optional services will be performed at the discretion of the CONTRACTOR, and will be billed at the CONTRACTOR's regular hourly rate of \$85 per hour or may be subject to a new agreement.
- C. All material produced by CONTRACTOR on behalf of CLIENT, upon completion of the Services, shall belong exclusively to CLIENT or its subsidiaries and CLIENT shall have the right to obtain and to hold in CLIENT'S own name copyrights, patents, and any other proprietary rights as may be appropriate. CLIENT agrees that CONTRACTOR has the right to display all work performed on CONTRACTOR's website, social media, journal submissions, newsletters, pamphlets, videos, and other marketing or promotional materials and that CONTRACTOR may place a credit link in the footer of CLIENT's website. CONTRACTOR reserves the right to display all aspects of creative work, including sketches, work-in-progress designs and the completed project in their portfolio and in articles on websites, social media, in magazine articles, and in books.
- D. CONTRACTOR agrees to provide any assistance necessary in securing, defending or enforcing any copyright, patent or other appropriate proprietary rights with respect to materials produced by CONTRACTOR pursuant to this agreement.
- E. CLIENT agrees to furnish and authorize full access and permission to the CONTRACTOR, all necessary information, accounts, and resources for the completion of the agreement including but not limited to: web hosting directory, server credentials, FTP, and other programs.
- F. Services will be performed at CLIENT's site, CLIENT offices or at CONTRACTOR's site, as appropriate.

### II. CONTRACT TERMS

- A. It is expressly understood and agreed that CONTRACTOR is an independent contractor with respect to the Services and that CONTRACTOR is not acting as an agent or employee of CLIENT. It is further understood and agreed that CONTRACTOR may provide employees to perform Services for CLIENT on CONTRACTOR'S behalf under this AGREEMENT. As an independent contractor, CONTRACTOR shall hire, fire, discipline, schedule, direct, assign, evaluate and completely supervise the Services performed by its agents and employees. CONTRACTOR shall further be responsible for withholding all employment related taxes for its employees. CLIENT recognizes that CONTRACTOR may perform Services directly for its own CLIENT'S or as an independent contractor for other companies and does not perform Services exclusively for CLIENT. This Agreement does not constitute a partnership, joint venture, agency or contract of employment between CONTRACTOR and CLIENT. CLIENT has no right to control or direct the details, manner or means that CONTRACTOR and/or its workers use to accomplish the results of the services performed in connection with this Agreement. In the event that CONTRACTOR contracts with a competitor of CLIENT, CONTRACTOR may provide services under such competitor provided CONTRACTOR is not actively involved in solicitation of said CLIENT'S customers.

- B. CONTRACTOR will obtain for itself and its personnel before providing services, at its own expense, comprehensive General Liability (GL) insurance coverage for limits of liability not less than \$500,000.
- C. The equal opportunity clause is incorporated by reference in this contract and CLIENT certifies, by execution of the contract that:
- I. no segregated facilities are maintained.
  - II. it has developed and follows appropriate affirmative action programs under such regulations; and
  - III. it will incorporate by reference or otherwise in its subcontracts the equal opportunity clause and obtain assurance from its CLIENT'S as to facilities and affirmative action programs.

CLIENT and CONTRACTOR, with regard to any performance of work under this Agreement, will fully comply with the provisions of the Federal Occupational Safety and Health Act of 1979 and with the Federal Fair Labor Standards Acts and the Wage and Hour Laws of the State in which the work will be performed pursuant to this agreement and with any rules and regulations pursuant to said Acts.

### III. CONFIDENTIALITY

- A. During the term of this agreement and in the course of performing the Services, CONTRACTOR may be made aware of information concerning CLIENT or its CLIENT, which has been designated as confidential and/or proprietary. Such confidential information shall be deemed to include, but shall not be limited to (i) all information, materials and data relating to CLIENT or its CLIENT business and designated as being confidential which is obtained by CONTRACTOR from, or disclosed by, CLIENT or its CLIENT, (ii) documents and other materials relating to CLIENT'S past, present and future research, development and business activities, (iii) computer program source codes and object codes whether owned or licensed by CLIENT or its CLIENT, computer access password(s) and all CLIENT'S or its CLIENT computer system files and documentation, and (iv) the results from the work performed by CONTRACTOR under this agreement. CONTRACTOR shall hold all such confidential information in confidence and shall not disclose such information to third parties or use it for CONTRACTOR'S own benefit. CONTRACTOR shall not reproduce or make copies of any such confidential information except as required in the performance of this agreement. Excluded from this restriction is any confidential information which, (i) can be demonstrated to have been in the public domain prior to the date of its disclosure to CONTRACTOR, (ii) can be demonstrated to have been in CONTRACTOR'S possession prior to the date of disclosure by CLIENT to CONTRACTOR, (iii) becomes part of the public domain by publication or otherwise not due to any unauthorized act or conversion on the part of CONTRACTOR, or (iv) is supplied CONTRACTOR by a third party as a matter of right. Upon termination or expiration of this agreement, CONTRACTOR shall deliver all drawings, blueprints, descriptions, computer programs or other papers or documents, which may contain any such confidential information to CLIENT or its CLIENT.
- B. To the extent permitted under the New Jersey Open Public Records Act, during the term of this agreement and in the course of CONTRACTOR'S performance of Services, CLIENT may be made aware of information concerning CONTRACTOR which has been designated as confidential and/or proprietary. Such confidential information shall be deemed to include, but shall not be limited to (i) all information, materials and data relating to CONTRACTOR and designated as being confidential which is obtained by CLIENT from, or disclosed by, CONTRACTOR, (ii) documents and other materials relating to CONTRACTOR'S past, present and future research, development and business activities, (iii) computer program source codes and object codes whether owned or licensed by CONTRACTOR, computer access password(s) and all CONTRACTOR'S computer system files and documentation, and (iv) the results from the work performed for CLIENT under this agreement. CLIENT shall hold all such confidential information in confidence and shall not disclose such information to third parties or use it for CLIENT'S own benefit. CLIENT shall not reproduce or make copies of any such confidential information except as required to allow CONTRACTOR'S performance of this agreement. Excluded from this restriction is any confidential information which, (i) can be demonstrated to have been in the public domain prior to the date of its disclosure to CLIENT, (ii) can be demonstrated to have been in CLIENT'S possession prior to the date of disclosure by CONTRACTOR to CLIENT, (iii) becomes part of the public domain by publication or otherwise not due to any unauthorized act or conversion on the part of CLIENT, or (iv) is supplied CLIENT by a third party as a matter of right. Upon termination or expiration of this agreement, CLIENT shall deliver all drawings, blueprints, descriptions, computer programs or other papers or documents, which may contain any such confidential information to CONTRACTOR.
- C. CONTRACTOR hereby warrants to CLIENT that CONTRACTOR is free to enter into this Agreement. CONTRACTOR agrees not to disclose to CLIENT or its CLIENT any trade secrets or other information which CONTRACTOR does not have the free and complete right to disclose to CLIENT or its CLIENT and which CLIENT or its CLIENT are not free to use without liability of any kind.
- D. CLIENT hereby warrants to CONTRACTOR that CLIENT is free to enter into this Agreement. CLIENT agrees not to disclose to CONTRACTOR any trade secrets or other information which CLIENT does not have the free and complete right to disclose to CONTRACTOR and which CONTRACTOR is not free to use without liability of any kind.

### IV. COMPENSATION

- A. CONTRACTOR agrees to provide Services in section I-A (SERVICES AND OWNERSHIP OF PRODUCT) for \$3100 per year. This fee shall be distributed through two biannual payments of \$1550. The first payment shall be due by

November 1st and the second payment by May 1st of the following year. This fee shall be the total compensation for the Services. CONTRACTOR shall not receive royalties, bonuses or commissions of any kind.

- B. CLIENT will reimburse CONTRACTOR and/or its workers for any expenses incurred by them in the performance of the services described herein including travel to and from client, materials or software needed for specific client and travel to any client site beyond a distance of 20 miles to perform services on behalf of CLIENT. Said expenses shall be invoiced to CLIENT with CONTRACTOR's regularly monthly invoices and shall be payable within thirty (30) days of receipt of such invoice.
- C.

#### **V. TERMINATION**

- A. This agreement shall commence as of October 1<sup>st</sup>, 2016 and shall continue for a period of two (2) years unless it is terminated earlier in accordance with this agreement.
- B. CONTRACTOR may terminate this agreement, in whole or in part, with or without cause, upon thirty (30) days written notice to CLIENT. CLIENT may terminate this agreement, in whole or in part, with or without cause, at any time upon thirty (30) days written notice to DIGITAL STRATEGY. Upon any termination of this agreement by CLIENT, CONTRACTOR shall be entitled to payment for all Services up to the date of such termination.
- C. CLIENT acknowledges that termination of CONTRACTOR's Services under this Agreement can subject CONTRACTOR to employee related costs. Should CLIENT terminate Services of CONTRACTOR with less than twenty-five (25) business days notice, CLIENT shall be liable to CONTRACTOR for liquidated damages in the amount of CONTRACTOR's payroll expenses and taxes associated therewith.

#### **VI. LIABILITY AND INDEMNIFICATION**

- A. In the event CLIENT fails to compensate CONTRACTOR under this Agreement, CONTRACTOR reserves the right to bring a cause of action arising out of this Agreement against CLIENT'S CLIENT.
- B. CONTRACTOR shall not be liable to CLIENT or its CUSTOMERS for any delay or other non-performance resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, any law, order or requirement of any governmental agency or authority, or any act or omission of CONTRACTOR or its employees or agents. In the event and to the extent of any period of such delay, nonperformance shall not be deemed a breach of this Agreement and any schedule or due dates shall be adjusted accordingly.
- C. CONTRACTOR does not warrant that the functions contained in the services will be uninterrupted or error-free. CONTRACTOR will not be liable to CLIENT or any third-party for damages, including lost profits, lost savings or other incidental, consequential or special damages, even if previously advised of them. If any provision of this contract shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this contract and shall not affect the validity and enforceability of any remaining provisions.

#### **VII. EXCLUSIONS**

Specifically excluded from this Agreement are the following:

- 1. Photography, content copywriting, and graphic design.
- 2. Creation of internal intranet.

#### **VIII. MISCELLANEOUS**

- A. CLIENT shall not assign its rights or delegate its obligations under this agreement, in whole or in part, without the prior written approval of CONTRACTOR.
- B. CLIENT does not have authority to enter into any contracts or agreements on behalf of CONTRACTOR, nor does CLIENT have any authorization or right to bind CONTRACTOR in any manner.
- C. Either party's failure or delay to enforce any provision hereof will not waive that party's rights. CONTRACTOR has the right to specifically enforce any provision of this Agreement. Any dispute, controversy, claim and/or disagreement concerning the interpretation, application or enforcement of or in any way arising under this Agreement or breach of this

Agreement must be brought to the attention of CONTRACTOR by written notice by the CLIENT within 90 days of occurrence. CLIENT waives the right to dispute any charges not disputed within 90 days of CLIENT'S awareness.

- D. This agreement contains the entire agreement between the parties and supersedes all prior agreements relating to the subject matter hereof. This agreement may be amended or its terms may be waived or extended only with the written consent of the parties hereto. The failure of any party to enforce any provision of this agreement shall not be constructed as a waiver of that or any other provision.
- E. This agreement shall be governed by and construed in accordance with the laws of the State of New Jersey.
- F. All communications under this agreement shall be in writing, mailed by first class mail, postage prepaid to the addresses specified below, or such other address as is communicated in accordance with this provision, and shall be deemed to be given when received:

To: **DIGITAL STRATEGY ASSOCIATES LLC:** 645 Reba Road, Landing, NJ 07850

To: **BOROUGH OF MOUNT ARLINGTON:** 419 Howard Boulevard Mount Arlington, NJ 07856

- G. If any provision of this agreement shall be held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this agreement shall remain in full force and effect.
- H. CLIENT acknowledges CONTRACTOR'S right to immediate injunctive relief in case of any breach of this agreement by CLIENT, in addition to any other remedy, which CONTRACTOR might have.
- I. CLIENT shall not withhold Federal or State Income Tax, Social Security tax, State Disability tax or any other statutory deductions. It shall be CONTRACTOR' sole responsibility to pay all taxes and make any appropriate Social Security contributions.
- J. The following provisions of the Agreement shall survive the termination of this Agreement: Article I B and D, III A and B, VI A and B, and VIII D, E and F.
- K. This contract is to remain binding regardless of any mergers or acquisitions of CLIENT or of other entities by CLIENT

Please indicate your assent to the above agreement by signing the copy of this letter and returning it to CLIENT.

For CLIENT:

By (Name): \_\_\_\_\_

Signature: \_\_\_\_\_

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

Date: \_\_\_\_\_

For CONTRACTOR:

Agreed upon by (Name): Matthew Zuccaro

Signature:  \_\_\_\_\_

Title: Managing Member, Digital Strategy Associates LLC

Date: 08/10/2016



Digital Strategy Associates LLC  
645 Reba Road  
Landing, New Jersey, 07850-1441  
Tel: (+1) 862 243 2932  
Fax: (+1) 862 239-5030  
info@digitalstrategyllc.com

**Client**

Borough of Mount Arlington  
419 Howard Blvd.  
Mount Arlington, NJ 07856  
United States

# INVOICE

Date	Invoice No.	P.O. Number	Terms	Project
09/01/16	1221		Net 60	

Item	Description	Quantity/Hours	Rate	Amount
Managed Services	Website Maintenance Payment 1 of 4 (Per 2016-2018 Contract)  Next Payment Due: May 1 2017	1	1,550.00	1,550.00

Please make checks payable to Digital Strategy Associates LLC.

Subtotal \$1,550.00

Sales Tax (0.00) \$0.00

Total \$1,550.00

Please mail payments payable to Digital Strategy Associates LLC to  
645 Reba Rd. Landing NJ 07850.