

To protect the health, safety and welfare of the public, Township Commissioners and Township employees during the COVID-19 pandemic, this meeting will take place entirely via Zoom. Participation is enabled via telephone, smartphone, tablet or personal computer.

Please mute yourself for the duration of the meeting unless you are called upon to comment. Cheltenham Township, believing that public input is appropriate on any items coming before the Commissioners, will recognize any citizen wishing to address a specific item prior to the vote on that issue. There are several ways to comment on an item: 1) raise your hand (to your camera or using the hand raise button); 2) type your comment in the Zoom Comments Box; or 3) dial *9 from your phone, and wait until you are called on.

If you would like to send your comment in advance of the meeting, you may email it to alupino@cheltenham-township.org no later than 24 hours prior to the meeting.

This meeting will be available to 100 participants. If you are unable to participate in the live meeting, the meeting will be recorded and the recording will be posted on the Township's [website](#), [YouTube](#) and [Facebook](#) pages.

FINANCE COMMITTEE

Baron B. Holland, Chairman
Mitchell Zygmund-Felt, Vice Chairman
Matthew Areman, Member
Irv Brockington, Member
Brad M. Pransky, Member
Ann L. Rappoport, Member
Daniel B. Norris, Ex-Officio, Board President

AGENDA

Wednesday, April 13, 2022
8:00 p.m. | Via Zoom Web Conference

To Join Zoom Video Meeting:

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Dial by your location:

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

Meeting ID: 875 3069 4101, Password: 458245

1. Review of the Executive Financial Summary Report for the period ended March 31, 2022.
2. Report from the Finance Officer.
3. Old Business.
4. New Business.
 - a. Consider recommending the Board of Commissioners approve a contract between Cheltenham Township and H.A. Berkheimer, Inc. ("Berkheimer"), and the accompanying four ancillary resolutions, designating and employing Berkheimer as the exclusive collector of the Township's Local Services Tax from January 1, 2022 to December 31, 2023 (see attached).
 - b. Consider recommending the Board of Commissioners approve the appointment of Edward Diasio, Esq. of Wisler Pearlstine, LLP as Township Solicitor from April 1, 2022 – January 2, 2024, upon the terms and conditions outlined in the accompanying Agreement (see attached).
 - c. Discussion on implementation of a Procurement Card program through PLGIT.
5. Citizen's Forum.
6. Adjournment.



Robert A. Zienkowski
Township Manager

AGREEMENT

THIS AGREEMENT, Made and entered into, in duplicate, this _____ day of _____, _____, By and Between **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, Pennsylvania, hereinafter referred to as "CLIENT," and **H.A. BERKHEIMER, INC.**, a Pennsylvania corporation, with its principal offices at 50 North Seventh Street, Bangor, Northampton County, Pennsylvania, trading as "Berkheimer Tax Administrator" () hereinafter referred to as "BERKHEIMER."

WITNESSETH:

WHEREAS, the Local Tax Enabling Act ("LTEA"), authorizes certain political subdivisions, including CLIENT, to levy, assess and collect a tax on the privilege of engaging in an occupation, as therein with more particularity specified, generally and hereinafter referred to as the "**Local Services Tax**"; and

WHEREAS, CLIENT, has levied, assessed and provided for the collection of a Local Services Tax under the LTEA; and

WHEREAS, the LTEA specifies that any such political subdivision may provide for the creation of such bureaus or the appointment and compensation of such officers, clerks, collectors and other assistants and employees as may be deemed necessary for the assessment and collection of taxes imposed under the authority of that Act; and

WHEREAS, BERKHEIMER has represented to CLIENT that it is competent, experienced and qualified to perform in the capacity of Local Services Tax Collector for CLIENT; and

WHEREAS, CLIENT and BERKHEIMER have negotiated an Agreement whereby and whereunder CLIENT will appoint and/or hire BERKHEIMER to exclusively collect the Local Services Tax levied by CLIENT; and

WHEREAS, the terms and form of this written Agreement, in which the parties have embodied the verbal understanding heretofore reached by them, have been submitted to, approved by and the execution hereof authorized by Resolution and/or Ordinance of CLIENT duly and regularly passed;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants herein contained and other good and valuable consideration, the parties hereto, each intending to be legally bound hereby, do covenant and agree as follows:

1. **Designation as Tax Collector.** CLIENT does hereby designate and employ BERKHEIMER as the exclusive Collector of the Local Services Tax levied by CLIENT for the term commencing **January 1, 2022** and ending **December 31, 2023**, and as may be renewed in accordance with Paragraph 8 below. Said term shall be deemed to include all quarterly collections for each tax year herein. BERKHEIMER shall perform all of the duties and shall have all of the powers of the exclusive Tax Collector of the CLIENT for the collection of the Local Services Tax, as conferred and designated by the Ordinances of the CLIENT, by the applicable provisions of the LTEA and any successor laws thereto. To the extent applicable to BERKHEIMER in its capacity as such Tax Collector, BERKHEIMER shall be subject to the requirements, provisions, and penalties provided in the Ordinances of the CLIENT, the LTEA and any successor laws thereto.

2. **Duties of Berkheimer.** In the collection of CLIENT's Local Services Tax, BERKHEIMER agrees as follows:

(a) to perform, at its expense, all of the necessary work and/or labor and to supply all necessary forms, notices, modern accounting equipment, facilities and materials and all else necessary to efficiently administer, enforce and collect the Local Services Tax levied by CLIENT;

(b) to exclusively collect, administer, receive and enforce the provisions of CLIENT's Local Services Tax enactments, the LTEA and any subsequent laws relative to same;

(c) to collect and receive the taxes, fines, interest and penalties levied and imposed by CLIENT's Local Services Tax enactments and maintain a record showing the amount received by it from each taxpayer paying same and the date of such collection and receipt;

(d) to furnish to CLIENT a bond with corporate surety in an amount sufficient to cover collections that, under the terms hereto, shall remain undistributed in the control of BERKHEIMER at any time;

(e) to promptly deposit all sums collected by it in a banking institution of its choice and in an account designated as "Berkheimer Tax Account," which need not be separate and segregated from other taxes or funds of other taxing bodies collected by BERKHEIMER, and to disburse to CLIENT all collected sums identified by BERKHEIMER as legally due CLIENT during each calendar month, reconciling disbursements not later than the twenty-fifth (25th) day of the next succeeding month;

(f) to provide to CLIENT, on or about the twentieth (20th) day of each calendar month, a written report identifying separately, without individual names or amounts, all taxes, interest, penalties and fines collected under this Agreement during the preceding calendar month;

(g) to advise CLIENT of any errors which it may discover committed in the collection of CLIENT's Local Services Tax prior to BERKHEIMER's tenure as Local Services Tax Collector, including but not limited to errors in tax distributions and/or inaccurate tax records, which may have been caused or created by the CLIENT or its duly elected or appointed officials, agents or tax collectors, past or present, and to correct said errors to the best of its ability. To the extent that BERKHEIMER is required to correct said prior collection errors, CLIENT hereby indemnifies BERKHEIMER from and against any and all loss, damage or claim relative to uncollected tax revenue caused by said prior collection errors and/or BERKHEIMER's inability to correct same, except to

the extent that such loss, damage, or claim results from the gross negligence or willful misconduct of BERKHEIMER.

(h) to be responsible, at its expense, for the collection of all delinquent taxes which BERKHEIMER is tasked with collecting, for which CLIENT can provide adequate documentation for tax years prior to those set forth in this Agreement in addition to those taxes which become delinquent during the term of this Agreement. CLIENT does hereby designate BERKHEIMER and/or its counsel to appear before any court of competent jurisdiction on behalf of CLIENT for the purpose of such delinquent collections, upon prior written notice to CLIENT. The costs of collection incurred by BERKHEIMER may be assessed to the taxpayer and retained by BERKHEIMER as allowed by law.

3. **Compensation.** CLIENT agrees to compensate and reimburse BERKHEIMER for all of BERKHEIMER's services and for all materials furnished including, but not limited to, expenditures made by BERKHEIMER for equipment, supplies, personnel and related expenses, except postage, in an amount equal to **One and Seventy-Five One Hundredths Percent (1.75%)** of the gross Local Services Tax collected by BERKHEIMER, which compensation and reimbursement shall be known as "BERKHEIMER's commission." This commission rate shall be effective throughout the term of this Agreement except in the event of a change in the rate of the tax levy. In the event of such change the rate of commission shall be immediately open for negotiation and be considered as a change in the terms of the Agreement. CLIENT agrees that BERKHEIMER shall retain said commission from the proceeds of any tax sums collected and shall not be transmitted with the monthly reconciliation payment. CLIENT shall be liable for all postage charges incurred by BERKHEIMER. BERKHEIMER shall account for and provide CLIENT a breakdown and itemization of commission and expenditures, including postage charges, with the monthly reconciliation payment.

4. **Client Contact.** CLIENT agrees to appoint a specific individual or individuals as its authorized representative to make requests upon and receive any and all tax information and records from BERKHEIMER, relative to the collection of taxes for CLIENT, as desired and deemed necessary by CLIENT, to be used for official purposes only.

5. **Duties of Client.** CLIENT expressly agrees to do the following

(a) at its sole expense, publish all legal notices required to be published in any newspaper of general circulation and/or in the necessary legal journals by the laws of the Commonwealth of Pennsylvania in the enactment and/or administration of the CLIENT's Local Services Tax enactment;

(b) provide BERKHEIMER with its most recent tax records and tax rolls;

(c) provide to BERKHEIMER information sufficient to maintain and update said tax records and rolls. The parties agree and acknowledge that BERKHEIMER shall use its best reasonable efforts to update CLIENT's tax rolls during its tenure as Tax Collector, using those resources available to it; however, CLIENT bears the ultimate responsibility for updating said tax rolls;

(d) designate and authorize BERKHEIMER to appear before any district court, or other local court, including without limitation, any court of common pleas in which legal proceedings may be brought for the purpose of collecting Local Services Tax herein;

(e) provide to BERKHEIMER all necessary appointment resolutions, confidentiality resolutions, tax enactments and other documents not previously identified herein for the collection of the Local Services Tax and to give BERKHEIMER actual and/or apparent authority to settle any lawsuit brought by BERKHEIMER for the collection of the Tax. BERKHEIMER shall use its best judgment and expertise in settling said collection lawsuits; and

(f) at CLIENT's election and expense, provide legal representation through its solicitor on any matter relative to the collection, enforcement, administration and/or the validity and constitutionality of the CLIENT's Local Services Tax.

6. **Audit.** If requested by CLIENT, BERKHEIMER agrees to provide, at CLIENT's expense, a complete annual audit by a firm of Certified Public Accountants, designated by BERKHEIMER and acceptable to CLIENT. CLIENT may inspect BERKHEIMER's tax collection records upon reasonable notice.

7. **Non-liability of Berkheimer & Disclaimer.** Except for criminal, fraudulent, grossly negligent, or willful conduct by BERKHEIMER, its officers, employees, and/or agents, CLIENT shall hold harmless and indemnify BERKHEIMER from and against any and all loss, damage or claim for actual or attempted Local Services Tax collection(s) arising from:

(a) incorrect, illegal or improper tax records submitted by CLIENT to BERKHEIMER;

(b) incorrect, illegal or improper tax information submitted by taxpayers and/or employers located within CLIENT's jurisdiction, to BERKHEIMER;

(c) incorrect, illegal or improper tax information submitted by any other source to BERKHEIMER, including without limitation, another tax collector or taxing district, upon which BERKHEIMER can reasonably be expected to rely;

(d) the withholding of correct, legal or proper information by CLIENT from BERKHEIMER;

(e) the withholding of correct, legal and proper information by taxpayers and/or employers located within CLIENT's jurisdiction, from BERKHEIMER; and

(f) the withholding of correct, legal and proper information by any other source from BERKHEIMER, including without limitation, another tax collector or taxing district, upon which BERKHEIMER can reasonably be expected to rely.

BERKHEIMER does not expressly or impliedly guarantee to CLIENT that it will collect a sum certain for CLIENT in any given tax year. BERKHEIMER shall not be responsible to defend or uphold the validity, legality, or constitutionality of CLIENT's Local Services Tax Ordinance/Resolution except to the extent that the legality of same is challenged in response to a collection suit filed by BERKHEIMER for and on behalf of CLIENT.

BERKHEIMER DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND. SPECIFICALLY, THERE IS NO EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE FOR THE SERVICES TO BE PROVIDED HEREUNDER.

BERKHEIMER shall not be liable to CLIENT for any damage arising from any event that is out of the control of BERKHEIMER. BERKHEIMER shall not be liable for any requested and proven taxpayer refunds or interest thereon. Neither shall BERKHEIMER be liable to CLIENT for indirect, special, incidental, exemplary, consequential, or any other form of monetary damages, including without limitation, lost revenue, or for the loss of data or information of any kind, however caused, and arising out of or in connection with the performance of BERKHEIMER, or the provision of services or performance hereunder, whether based in contract, tort or any other legal theory, and whether or not BERKHEIMER has been aware of the possibility of such damages, except to the extent resulting from the criminal, fraudulent, grossly negligent, or willful conduct of BERKHEIMER, or its officers, employees, and/or agents. Any damages not excluded by this provision or the Agreement in general shall be limited to proven direct damages that CLIENT shall have the duty to reasonably mitigate.

8. **Renewal.** Either party may terminate this Agreement at the expiration of the term created herein by giving to the other written notice of its intention to do so at least ninety (90) days prior to the actual ending date of the current term of appointment; however, in the absence of such notice, this Agreement, with all the conditions and covenants thereof, shall continue in full force and effect for the additional period of **one (1) year** and so on for **one-year periods** thereafter until terminated by either party giving to the other ninety (90) days written notice of intention to terminate said Agreement prior to the expiration of the then current term. In the event of termination of this Agreement, either at the expiration of initial collection term or subsequent renewal terms, BERKHEIMER shall complete, and have the opportunity and right to complete its tax collections for the then current term and shall be compensated accordingly under the terms of this Agreement.

9. **Records.** BERKHEIMER shall deliver to CLIENT alphabetical lists of all taxpayers located in the CLIENT's jurisdiction at the time the Agreement expires and reports of payments posted by BERKHEIMER during the preceding tax year upon termination of this Agreement and at the end of any extension period, more fully described herein. In the event of termination of this Agreement, either at the expiration of initial collection term or subsequent renewal terms, BERKHEIMER reserves the right to retain said information/records until such time that it has fully completed its obligations under this Agreement to collect taxes for the term set forth herein or any subsequent renewal term for a period not to exceed three (3) years. Any taxpayer account(s) under or subject to civil or criminal litigation commenced by BERKHEIMER, wage garnishment, and/or payment plan, shall remain with BERKHEIMER until such collection action is completed and BERKHEIMER shall be compensated for such collections pursuant to the terms of this Agreement. BERKHEIMER shall have the right to deliver said information to CLIENT in a form it so chooses and mutually agreeable to both parties. In the event that the parties cannot agree upon an acceptable format to deliver said records, BERKHEIMER shall deliver said records in a universal computer,

Delimited, flat data file. Moreover, in the event said records or information are contained within and made a part of similar records relating to the collection of taxes of other political subdivisions whose taxes are also collected by BERKHEIMER, then in that event, the CLIENT shall not be entitled to receive non-CLIENT records. However, CLIENT shall have the right to make copies of said records or to examine same in the office of BERKHEIMER for the purpose of obtaining such information as it relates solely and exclusively to the collection of the tax from taxpayers of CLIENT. BERKHEIMER shall not be required to deliver to CLIENT any source documents such as taxpayer returns or filings. In no event shall BERKHEIMER be required to deliver said information/records to any person or entity other than to CLIENT, including, but not limited to, any successor tax collectors. Computer hardware and software utilized by BERKHEIMER in the tax collection process is, and shall remain, the exclusive property of BERKHEIMER.

10. **Tax Enactment/Regulations.** Incorporated by reference into this Agreement are the CLIENT's Local Services Tax Resolution/Ordinance and other pertinent materials relating to the Local Services Tax as adopted from time to time by CLIENT. Concurrently with the execution hereof, CLIENT has delivered to BERKHEIMER a copy of the Local Services Tax Resolution and/or Ordinance of CLIENT, of the Resolution and/or Ordinance approving these Articles of Agreement and appointing BERKHEIMER as Local Services Tax Officer/Collector, and other pertinent materials relating to the Local Services Tax of CLIENT. In the event that the CLIENT's tax enactment is declared invalid or repealed for any reason whatsoever following the execution of this Agreement, CLIENT shall remain liable to BERKHEIMER for any and all reasonable costs and expenses incurred and collection fees for services rendered by BERKHEIMER in the collection of the Local Services Tax until such time that the alleged invalidity has been finally adjudicated or such repeal finalized. If any provision of the CLIENT's tax enactment is challenged in a court of competent jurisdiction, BERKHEIMER shall be permitted to continue with its collection efforts until final

adjudication, unless otherwise enjoined by the court. CLIENT approves and adopts all rules and regulations promulgated by BERKHEIMER for purposes of administration of the Local Services Tax. CLIENT agrees to deliver to BERKHEIMER, within thirty (30) days after enactment, all amendments to the Local Services Tax Resolution and/or Ordinance and to the rules and regulations pertaining thereto.

11. **Miscellaneous Charges.** CLIENT agrees to compensate BERKHEIMER in amount equal to five percent (5%) of the gross Local Services Tax collected by BERKHEIMER for all delinquent collections. At no additional cost to the CLIENT, BERKHEIMER shall be permitted to collect and retain directly from each delinquent taxpayer, a processing fee of Five Dollars (\$5.00) for each delinquent tax year, a handling fee of Three Dollars (\$3.00) for each payment received by BERKHEIMER from such delinquent taxpayer which represents less than the full amount of taxes due (i.e., partial payments only), and a service fee of Twenty-nine Dollars (\$29.00) for any check returned “Non Sufficient Funds”, “Stopped Payment” or “Account Closed”. In addition to the aforesaid commission, the costs of collecting delinquent taxes incurred by BERKHEIMER may be assessed to the taxpayer and retained by BERKHEIMER as allowed by law. BERKHEIMER will advance the required court filing fees and any costs imposed by the court for any legal proceeding to enforce a tax obligation. Unless and until paid by the taxpayer, the CLIENT shall be liable for the aforementioned court filing fees and costs imposed by the court for any legal proceedings to enforce a tax obligation. BERKHEIMER will deduct these filing fees or costs (including any Act 192 fees) from a subsequent distribution of tax to CLIENT and thereafter will credit the amount to the CLIENT if and when it is paid by the taxpayer. Additionally, the parties acknowledge and agree that BERKHEIMER is authorized to retain excess bank earning credits to offset any bank item processing fees incurred by BERKHEIMER.

12. **Interest.** Notwithstanding any other provisions of this Agreement, the parties agree and acknowledge that any monies that remain unidentified or which are to be forwarded to other taxing districts may be held by BERKHEIMER in an interest bearing account until CLIENT or BERKHEIMER determines where said monies should be paid. Any interest accrued on such funds shall be retained by BERKHEIMER as its compensation for the handling, processing and distribution of such funds with no additional charge being made to CLIENT for this service.

13. **Non-Competition.** During the Term of Appointment and/or any renewal thereof, and for two (2) years thereafter, CLIENT agrees not to solicit or hire for employment any current or past employee of BERKHEIMER for services as an independent contractor, employee of otherwise in such a capacity that competes with the services and/or business of BERKHEIMER.

14. **Dispute Resolution.** Any dispute, controversy or claim arising out of or under this Agreement or its performance shall first be negotiated by the parties, except where the dispute, controversy or claim includes an allegation of illegal or fraudulent conduct, and if an acceptable resolution does not result shall be submitted to arbitration which shall be exclusive, final, binding and conducted in accordance with the Pennsylvania's Uniform Arbitration Act, 42 Pa.C.S.A. §7321.1 *et seq.*, and shall be nonappealable except in accordance with such act. Each party shall appoint one such arbitrator, and a third arbitrator shall be chosen by the two arbitrators aforementioned within ten days after their appointment. The decision of the majority of such arbitrators shall be binding and conclusive upon the parties hereto. The appointment of such arbitrators shall be made within thirty days after receiving notice from any one of the parties hereto to make such appointment. If such two arbitrators shall fail or be unable within ten days to select a third arbitrator, then and in such event, any Judge of the Common Pleas Court of Montgomery County, upon application made by any one of the parties hereto for that purpose, is authorized and empowered to appoint such additional arbitrator.

Notwithstanding the foregoing, either party may elect to pursue its claims in federal or state court where allegations of illegal or fraudulent conduct are asserted.

15. **Breach of Contract.** If a party breaches any material term of this Agreement and fails to remedy the breach within thirty (30) days of receipt of written notice from the non-breaching party, the non-breaching party may immediately terminate this Agreement for cause without penalty. Any other claims for damages resulting from the alleged breach must be handled through the dispute resolution process set forth in Paragraph 14 above.

16. **Effect of Termination.** In the event that this Agreement is terminated at the end of any Term of Appointment or renewal thereof, and upon BERKHEIMER's completion of its collections, no term, right, or duty imposed by this Agreement upon a party, with the exception of those rights contained in paragraphs 9, 13 and 14 pertaining to tax collection records, CLIENT's non-competition with BERKHEIMER and the dispute resolution process, shall be deemed or construed to survive the termination of the Agreement as a whole.

17. **Notices.** Any notice given hereunder by either party to the other shall in writing and shall be deemed given when delivered personally or three (3) days after being sent by certified mail, return receipt requested, as follows

If to the CLIENT:

Marc Lieberson
Finance Director
8230 Old York Rd
Elkins Park, PA 19027

With a Copy to:

Wisler Pearlstine, LLP
Attn: Cheltenham Township Solicitor
460 Norristown Road, Suite 110
Blue Bell, PA 19422

If to BERKHEIMER:

50 North Seventh Street
Bangor, PA 18013
Attention: Client Services Department

18. **Miscellaneous.** In the event that any phrase, clause, sentence or paragraph of this Agreement is declared invalid by any court of competent jurisdiction, this Agreement shall survive such declaration of invalidity as regards all portions of the Agreement not specifically declared invalid. The headings contained in this Agreement are for the convenience of the parties only. This Agreement shall be deemed to have been made under and shall be governed by the laws of the Commonwealth of Pennsylvania. This Agreement represents the entire Agreement between the parties and any modification of same must be in writing to be valid. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year as above written.

H.A. BERKHEIMER, INC.

CHELTENHAM TOWNSHIP,
MONTGOMERY COUNTY

BY: Patricia A. McNamara
Patricia A. McNamara, President

BY: _____

ATTEST:

BY: Henry U. Sandt, Jr.
Henry U. Sandt, Jr.,
Secretary/Treasurer

BY: _____



RESOLUTION NO. _____

A RESOLUTION OF THE GOVERNING BOARD OF CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICERS OF THE GOVERNING BOARD TO APPOINT BERKHEIMER AS ITS LOCAL SERVICES TAX HEARING OFFICER UNDER AND PURSUANT TO THE LOCAL TAXPAYERS BILL OF RIGHTS FOR THE EXPRESS PURPOSE OF ADJUDICATING APPEALS THEREUNDER.

WHEREAS, the Local Tax Enabling Act ("LTEA") authorizes certain political subdivisions, including **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, to levy, assess and collect certain local taxes on taxpayers, for general revenue producing measures; and

WHEREAS, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, by Resolution and/or Ordinance, has levied, assessed and provided for the collection of the **Local Services Tax**; and

WHEREAS, the LTEA specifies that any such political subdivision may provide for the creation of such bureaus or the appointment and compensation of such officers, clerks, collectors and other assistants and employees as may be deemed necessary for the assessment and collection of taxes imposed under the authority of that Act; and

WHEREAS, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, has appointed Berkheimer to collect the aforementioned taxes levied by it; and

WHEREAS, Act 50 of the 1998 General Assembly of the Commonwealth of Pennsylvania, enacted May 5, 1998, and effective, in part, January 1, 1999, known as the "Local Taxpayers Bill of Rights," requires political subdivisions levying, collecting and assessing taxes of the nature and kind aforementioned to establish an administrative process to receive and make determinations on petitions from taxpayers relating to the assessment, determination or refund of such tax, including without limitation, the appointment of a Tax Hearing Officer by a political subdivision to hear and decide such an appeal; and

WHEREAS, under Section 8432 of such Act of 1998, a political subdivision shall adopt regulations governing practice and procedure under the Local Taxpayers Bill of Rights;

THEREFORE, BE IT RESOLVED, CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, hereby **appoints Berkheimer** as its **Local Services Tax Hearing Officer** and further, adopts and incorporates the Act 50 Regulations as promulgated by Berkheimer in their entirety.

ENACTED into a Resolution this _____ day of _____, _____.

BY: _____

ATTEST:

RESOLUTION No. _____

A RESOLUTION OF THE GOVERNING BOARD OF CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING AND EMPOWERING ITS LOCAL TAX COLLECTOR, BERKHEIMER, TO IMPOSE AND RETAIN COSTS OF COLLECTION ON DELINQUENT TAXES.

WHEREAS, CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, by Resolution and/or Ordinance, has levied, assessed and provided for the collection of certain local taxes under and pursuant to the authority of the Pennsylvania Local Tax Enabling Act ("LTEA"), as amended; and

WHEREAS, CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, has hired Berkheimer to collect said taxes levied by the **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY,** including taxes that are or may become delinquent; and

WHEREAS, pursuant to Act 192 of the 2003-2004 General Assembly of the Commonwealth of Pennsylvania, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY,** has the right to impose a cost of collection on taxes that become delinquent and/or that remain due and unpaid;

NOW, THEREFORE, BE IT RESOLVED that

CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, approves and adopts the Cost of Collection Schedule attached hereto and made apart of this Resolution to be imposed by BERKHEIMER upon any taxpayer whose local services taxes are or become delinquent and/or remain due and unpaid.

BERKHEIMER is authorized to retain said costs of collection set forth in the attached schedule incurred in recovering delinquent local services taxes and assessed to the delinquent taxpayer as allowed by law.

Any resolution or part thereof conflicting with the provisions of this resolution are hereby repealed to the extent of such conflict.

ENACTED into a RESOLUTION this _____ day of _____, _____.

BY: _____

ATTEST:

RESOLUTION

A RESOLUTION OF THE GOVERNING BOARD OF CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICERS OF THE GOVERNING BOARD TO APPOINT A LIAISON BETWEEN IT AND BERKHEIMER, THE DULY APPOINTED COLLECTOR OF LOCAL SERVICES TAX FOR THE TOWNSHIP, FOR THE EXPRESS PURPOSE OF SHARING CONFIDENTIAL TAX INFORMATION WITH THE TOWNSHIP FOR OFFICIAL PURPOSES.

WHEREAS, the Pennsylvania Local Tax Enabling Act (“LTEA”) authorizes certain political subdivisions, including **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, to provide for the creation of such bureaus or the appointment and compensation of such officers, clerks, collectors and other assistants and employees as may be deemed necessary for the assessment and collection of taxes imposed under the authority of that Act; and

WHEREAS, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, has entered into contractual agreement with **BERKHEIMER** of Bangor, Pennsylvania, whereby and whereunder **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, appointed Berkheimer to collect **Local Services Tax**; and

WHEREAS, the LTEA specifically mandates that any information gained by the appointed tax officer, his agents or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the taxing municipality's ordinance or resolution, be kept confidential, except for official purposes; and

WHEREAS, any person who divulges any information which is confidential under the provisions of any ordinance or resolution, upon conviction may be subject to fines and/or imprisonment, upon conviction, and dismissal from office or discharge from employment; and

WHEREAS, Berkheimer requires passage of a resolution by the governing body of **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, specifying that said confidential information is needed for official purposes and absolving Berkheimer from certain liability in connection with the release of said confidential information;

NOW, THEREFORE, BE IT RESOLVED that:

1. **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, hereby **appoints MARC LIEBERSON** as its **authorized representative to make requests** upon and receive any and all tax information and records **from Berkheimer**, relative to the collection of local services taxes for **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, as desired and deemed necessary by **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, to be used for official purposes only; and

2. Berkheimer is hereby directed to provide and/or transmit any and all local services tax information and records, or any portion thereof, relating to the collection of local services taxes for **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, upon request, to **MARC LIEBERSON** as the authorized contact representative for it.

3. **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, hereby saves harmless, indemnifies and/or absolves Berkheimer from and against any and all liability in connection with the release of said confidential information, unless due to the fraudulent, illegal, grossly negligent, or willful conduct of Berkheimer or its officers, employees, and/or agents.

RESOLVED, ENACTED AND ADOPTED at a meeting held on the _____ day of _____, _____.

BY: _____

ATTEST:

RESOLUTION NO. _____

A RESOLUTION OF THE GOVERNING BOARD OF CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA, AUTHORIZING, EMPOWERING AND DIRECTING THE PROPER OFFICERS OF THE GOVERNING BOARD TO EXECUTE AN AGREEMENT WITH BERKHEIMER WHEREUNDER BERKHEIMER IS RETAINED AS THE EXCLUSIVE LOCAL SERVICES TAX OFFICER FOR THE COLLECTION, ADMINISTRATION, RECEIPT AND ENFORCEMENT OF THE PROVISIONS OF THE RESPECTIVE TAX ENACTMENT OF THE GOVERNING BOARD LEVYING AND ASSESSING THE LOCAL SERVICES TAX FOR THE TERM HEREIN DEFINED, TOGETHER WITH SUCH EXTENSIONS AS MAY BE AGREED UPON, SAID TAX ENACTMENT HAVING BEEN ADOPTED UNDER AND PURSUANT TO THE AUTHORITY OF THE PENNSYLVANIA LOCAL TAX ENABLING ACT (ACT 511, P.L. 1257); AND APPROVING AND ADOPTING THE RULES AND REGULATIONS PREPARED BY BERKHEIMER TO ADMINISTER AND ENFORCE THE LOCAL SERVICES TAX.

WHEREAS, Act No. 511 of the 1965 General Assembly of the Commonwealth of Pennsylvania, enacted December 31, 1965, and effective January 1, 1966, authorizes certain political subdivisions, including, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, to levy, assess and collect a tax on salaries, wages, commissions, compensation and **LOCAL SERVICES** of individuals, as therein with more particularity specified, generally and hereinafter referred to as the **LOCAL SERVICES TAX**; and

WHEREAS, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, by Resolution and/or Ordinance, has levied, assessed and provided for the collection of such **LOCAL SERVICES TAX**; and

WHEREAS, Section 10 of said Act of 1965, specifies that any such political subdivision may provide for the creation of such bureaus or the appointment and compensation of such officers, clerks, collectors and other assistants and employees as may be deemed necessary for the assessment and collection of taxes imposed under the authority of that Act; and

WHEREAS, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, and Berkheimer have negotiated an Agreement whereby and whereunder it will hire Berkheimer to collect the **LOCAL SERVICES TAX** levied by the **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, and

WHEREAS, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, recognizes the legal obligation and practical necessity for Berkheimer to establish and maintain consistent rules and regulations to be used in the efficient administration and collection of said taxes;

THEREFORE, BE IT RESOLVED that

1. **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, hereby **appoints BERKHEIMER** as its exclusive collector of its **LOCAL SERVICES TAXES** for the initial term commencing **January 1, 2022, and ending December 31, 2023**, said initial term is to include all quarterly and annual collections pertinent to the tax years therein. This appointment resolution shall be deemed to encompass any terms agreed upon by the parties without further reenactment of this resolution or re-appointment.

2. And further, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, **APPROVES AND ADOPTS** the Agreement negotiated with Berkheimer for the collection of the **LOCAL SERVICES TAX**.

3. And further, **CHELTENHAM TOWNSHIP, MONTGOMERY COUNTY**, adopts and incorporates any applicable tax rules and regulations as promulgated by Berkheimer, in their entirety..

4. Any resolution or part thereof conflicting with the provisions of this resolution are hereby repealed to the extent of such conflict.

ENACTED into a **RESOLUTION** this _____ day of _____, _____.

BY: _____

ATTEST:

MEMORANDUM AGREEMENT

To: Cheltenham Township Board of Commissioners
From: Edward Diasio, Esq.
Cc: Mr. Robert Zienkowski, Township Manager
Date: March 19, 2022
Re: Solicitor Services

Dear Members of the Board of Commissioners:

Thank you for the tremendous opportunity you have extended to me to serve as the Solicitor for Cheltenham Township. I look forward a productive and long-term relationship and am excited for the work that lies ahead and the opportunity to continue working with you.

The following paragraphs detail and memorialize the terms of our agreement.

Term: The initial term of this Agreement is from April 1, 2022 through January 2, 2024. By mutual agreement of the parties, this Agreement may be extended or renewed upon terms mutually agreeable to the parties. The Township reserves the right to terminate this Agreement at any time upon written notice. The Township shall pay for all services requested and provided through the date of cancellation, unless otherwise negotiated and agreed to by the parties.

Scope of Services: The Scope of Services, as outlined in the Township's Request for Proposals for Township Solicitor (Issued September 28, 2021) are hereby incorporated by reference.

Compensation:

A. Retainer Fee: A monthly retainer fee of \$1,250 per month shall be charged. The services included in the retainer fee are as follows:

1. Attending one (1) monthly meeting of the Board of Commissioners;
2. Attending executive sessions of the Board of Commissioners, upon request;
3. Attending committee meetings of the Board of Commissioners one (1) evening per month, upon request;
4. Conferring with the Board President and/or Township Manager or Assistant to the Township Manager regarding the agenda and/or meeting procedures for any public meeting of the Board of Commissioners; and

5. Preparation of a monthly Legal Affairs Update memorandum advising of the Board of Commissioners and Township staff of developments/updates on outstanding legal matters.

B. Hourly Rates: Non-retainer services rendered to the Township shall be billed in accordance with the follow rate schedule. These rates are fixed, and not subject to increase at any time during initial term of this Agreement.

Individual	Hourly Rate*
Attorneys (All Matters, Unless Specified Otherwise Below)	\$170
Tax Assessment Appeals	\$200**
Paralegals	\$100
Administrative Assistants	No Charge

* All time is recorded in increments of tenths of an hour.

** For so long as Wisler Pearlstine continues to represent Cheltenham School District and Cheltenham Township on tax assessment appeal matters, the Township will pay 15% of the fees and costs related to assessment appeal work, whereas Cheltenham School District will pay 85%, as has been the longstanding practice based on the respective millage rates of the parties.

Detailed invoices will be submitted to the Township on a monthly basis; payment is due thirty (30) days thereafter.

Because Wisler Pearlstine values its relationship with the Township so highly, it is important that the Township consistently feels it is receiving quality service in return for the compensation contemplated herein. Therefore, if at any time you believe a charge on any of our bills is incorrect or appears disproportionately high in relation to the services rendered, please feel free to call or email me for an explanation, or, if you prefer, simply strike the charge and do not pay that portion of the bill.

C. Costs: The Township will not be charged for clerical time or routine office expenses such as office supplies, in-house copying, routine first class mailings, staff overtime, or computerized research. The Township will also not be charged for mileage, tolls, meal expenses, or any other travel expenses. Reimbursable expenses include filing fees, court reporter fees, and messenger and delivery services, which are billed at cost, without markup to the Township.

Document Retention: The Township is entitled, upon written request, to those papers in Wisler Pearlstine's possession related to the legal services performed by us for you, excluding certain internal accounting records and other documents not reasonably necessary to your representation (subject to our right to make copies of any such files). Under our document retention policy, we normally destroy files six (6) years after a matter is closed, unless other arrangements have been made in writing. If such arrangements have not been made, you authorize us to destroy the contents of your file after the normal six (6) year period from the conclusion of a matter.

Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

If you have any questions regarding this Agreement, please do not hesitate to contact me. If the terms outlined herein meet with your approval, please sign and return this Agreement to me at your earliest convenience. Thank you for the opportunity to continue to represent Cheltenham Township!

Sincerely,

Edward A. Diasio

EDWARD A. DIASIO

AGREED TO AND ACCEPTED BY:

Cheltenham Township

By: _____
Daniel B. Norris, President

Date: _____