

AGREEMENT FOR SERVICES OF THE TOWNSHIP ATTORNEY

THIS AGREEMENT made and entered into effective the 1st day of January, 2020, by and between the **TOWNSHIP OF WEST ORANGE**, a municipal corporation of the State of New Jersey, located at Town Hall, 66 Main Street, West Orange, County of Essex and State of New Jersey, hereinafter called the "TOWNSHIP", and **McMANIMON, SCOTLAND AND BAUMAN, LLC**, with a principal place of business at 75 Livingston Avenue, Suite 201, Roseland, NJ 07068, hereinafter referred to as "COUNSEL", and for a term concurrent with that of the Mayor appointing him to expire December 31, 2022.

WITNESSETH THAT:

WHEREAS, the Township of West Orange is a Faulkner Act Mayor-Council Form of government with a Law Department established by Ordinance, the Director of which is the Township Attorney; and

WHEREAS, the Mayor has appointed RICHARD D. TRENK, Esq., an Attorney at Law of the State of New Jersey ("TRENK") to the position of Township Attorney subject to advice and consent of the Township Council, which has approved of the Mayor's appointment; and

WHEREAS, *N.J.S.A.* 40:69A-43, a section of the Faulkner Act, provides that "each department head shall serve during the term of office of the mayor appointing him, and until the appointment and qualification of his successor", which takes precedence over *N.J.S.A.* 40A:9-139, requiring that the appointment of municipal attorneys be limited to a term of one year, and

WHEREAS, Section 2-9.1 of the Township's Revised General Ordinances provides that the Township Attorney "shall serve during the term of office of the Mayor appointing him"; and

WHEREAS, the TOWNSHIP provides for payment of the Township Attorney at the rate of \$ 42,500.00 per year, as set by the Township's salary ordinance, which includes payment for

COUNSEL's representation of the TOWNSHIP in its general legal matters, but not for litigation, arbitrated or mediated matters, in which the Township has an adversary, and which are to be billed separately and by the hour at the rate provided in the TOWNSHIP's Attorney Billing Guidelines (currently \$125.00 per hour); and

WHEREAS, Richard D. Trenk, Esq. is a member at COUNSEL which shall be retained to assist Mr. Trenk in performance of his duties as Township Attorney.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. **Scope of Services.** The TOWNSHIP hereby retains the services of COUNSEL, to provide all general legal services on behalf of the TOWNSHIP as provided by State statutes, regulations and the Revised General Ordinances of the TOWNSHIP, including, but not limited to: (i) providing legal advice to the Mayor, Council, and Department Directors, in their day to day operation of the TOWNSHIP's government, including compliance with the Local Public Contracts Law, the Open Public Meetings Act, the Open Public Records Act, the Local Finance Law, Local Budget Law, Civil Service Law, etc.; (ii) legal research and drafting of legal opinions, contracts, agreements, resolutions and ordinances required for the effective and efficient operation of the TOWNSHIP's government; (iii) providing legal advice regarding policy initiatives and changes; (iv) representing the TOWNSHIP's interests in the purchase and sale of real property, and other property; (v) enforcement of licensing and regulatory ordinances of the TOWNSHIP, etc.; (vi) representation of the Township in any and all judicial and administrative proceedings, whether before a

Judge, Arbitrator, or Mediator, in which the Township, or any of its officers in their official capacity, may have an interest; and (vii) related matters.

The Scope of Services shall include matters of litigation, arbitration or mediation in which the TOWNSHIP has an adversary, but in all such matters, COUNSEL shall be paid at an hourly rate separate and apart from, and in addition to, the salary paid for representation of the TOWNSHIP in its general legal matters. Whenever the Township Attorney deems it appropriate and subject to governing body approval, whether due to potential conflict of interest, the need for more specialized or expert legal skills, or to handle particularly complex or specialized legal matters, special counsel may be hired by the Township Attorney subject to governing body approval and at a negotiated rate of compensation. COUNSEL shall review the invoices submitted by such special counsel to determine their accuracy and reasonableness under the Township's Billing Guidelines and shall manage their representation of the TOWNSHIP's interests to maximize the efficiency and effectiveness of their legal representation.

2. **Salary and Hourly Rate.** For representation of the Township in its general legal matters, TRENK shall be paid a salary as set forth in the current salary ordinance for the TOWNSHIP, currently \$ 42,500.00 per year. For matters of litigation, arbitration or mediation in which COUNSEL performs legal services for the TOWNSHIP, COUNSEL shall be paid at the hourly rate provided in the TOWNSHIP's Attorney Billing Guidelines (currently \$125.00 per hour) for those legal services reasonably necessary to provide competent and adequate representation of the TOWNSHIP's interests, payment for all such services to be subject to governing body approval.

3. **Submission and Content of Invoices.** COUNSEL shall be entitled to payment for services rendered in adversarial matters upon submission of invoices to the TOWNSHIP on a monthly basis. The invoices shall set forth in detail the time expended each day and description of the services rendered. All invoices shall, at a minimum, set forth: (i) the name of the matter; (ii) date(s) of services rendered; (iii) the attorney's name, initials, or other such identification; (iv) the attorney's hourly rate; (v) total charge for the task or billing entry; (vi) detailed description of the service rendered; and (vii) the amount of time spent on the particular task. COUNSEL shall not block bill for any services rendered. For purposes of this Agreement, "block billing" shall refer to the practice of grouping together multiple activities or tasks under one (1) time entry.

4. **Reimbursement for Expenses.** COUNSEL may seek reimbursement for actual expenses reasonably incurred, such as postage, copying, mileage, meals, parking, court reporters or delivery of documents in accordance with the TOWNSHIP's Billing Guidelines. The amounts for such expenses shall be itemized on the monthly invoices provided to the TOWNSHIP.

5. **Administrative Work, Secretarial Services and Multiple Attorney Billing.** COUNSEL shall not bill the TOWNSHIP for office overhead expenses such as secretarial or administrative support staff and billing for multiple attorneys for internal conferences or attendance at outside meetings and events should be discouraged and minimized.

6. **Billing for Travel Time.** COUNSEL may bill the TOWNSHIP for

travel time to and from any destinations in connection with matters of litigation, arbitration or mediation which COUNSEL is handling for the TOWNSHIP at one-half of the normal hourly rate for such matters.

7. Coordination of Representation. COUNSEL shall coordinate and regularly communicate with the appropriate TOWNSHIP officials, department heads, TOWNSHIP employees and any others involved, regarding the status of various matters and the need for information and cooperation on their part.

8. Professional Liability Coverage Required. At all times during COUNSEL's retention by the TOWNSHIP, COUNSEL shall comply with the applicable New Jersey Court Rules requirements for professional liability coverage. COUNSEL shall maintain in good standing one or more policies of lawyers' professional liability insurance which shall insure COUNSEL's firm against liability imposed upon it by law for damages resulting from any claim made against it by its clients arising out of the performance of professional services by attorneys employed by the firm in their capacities as attorneys.

9. Township Representations. COUNSEL is hereby placed on notice that no Department Head, individual member of the Governing Body, or any agent, servant or employee of the TOWNSHIP possesses any lawful authority to: (a) engage on behalf of the Township the provision of legal services; (b) authorize the continuation of services or work beyond the amount specifically approved in the Resolution and Certificate of Funds; or (c) represent that future funds will be available as compensation for current services. Any such acts shall be deemed ultra vires and beyond the scope of any authority that individual may possess.

10. **Applicability of Laws.** The provisions of this agreement are subject to the limitations of provisions of the New Jersey Tort Claim Act, N.J.S.A. 59:2-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

11. **Choice of Law.** This agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflict of laws. All contract claims under this agreement shall be subject to and governed by the provisions of the New Jersey Contractual Liability Act (N.J.S.A. 59:13-1 et seq.).

IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

ATTEST:

KAREN I. CARNEVALE, R.M.C.

TOWNSHIP OF WEST ORANGE

By: ROBERT D. PARISI, MAYOR

WITNESS:

Christine L. Delzalis

**McMANIMON, SCOTLAND, and
BAUMANN, LLC.**

By: RICHARD D. TRENK, ESQ.