

THIS CONTRACT, entered into this 4th day of January, 2024

BY AND BETWEEN

THE TOWNSHIP OF MARLBORO, a Municipal Corporation of the State of New Jersey, with offices located at 1979 Township Drive, Marlboro, New Jersey 07746 (hereinafter "Marlboro" or "Township"); and

- and -

LOUIS N RAINONE, ESQ., an Attorney at Law of the State of New Jersey, and the firm of Rainone Coughlin Minchello, LLC, with offices located at 555 U.S. Highway One South, Suite 440, Iselin, New Jersey 08830 (hereinafter collectively referred to as the "Township Attorney").

W I T N E S S E T H:

WHEREAS, Marlboro requires a Township Attorney to undertake general legal and labor counsel services pertaining to the representation and operation of the Township; and

WHEREAS, the Township Attorney is willing to perform such services for the Township of Marlboro.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. This Contract shall constitute a Professional Services Contract for the provision of services involving general legal services pertaining to the representation and operation of the municipality as may be assigned to him or her and he or she shall do, perform and carry out in a satisfactory manner all such legal services.
2. Louis N. Rainone, Esq. and the law firm of Rainone Coughlin Minchello, LLC shall hereinafter be referred to in this Contract collectively as the "Township Attorney".
3. **SCOPE OF SERVICES.** For calendar year 2024, the Township Attorney agrees to perform all of the necessary services as required and as may be assigned to the Township Attorney as described in the Township's RFQ solicitation dated October 9, 2023 and pursuant to the authorization of the Township Council (Resolution #2024-007). The Township Attorney shall do, perform and carry out in a satisfactory and proper manner all such legal services. To the extent the Township Attorney or others in his law firm perform services or activities as an attorney at law on behalf of his client, his or her services

shall be deemed to be as an independent professional contractor under the Professional Services Contract with Marlboro. The Township Attorney shall have the authority to delegate, from time to time, the aforescribed work to other attorneys within his firm and under his direction. The Township Attorney may also, from time to time, delegate the aforescribed work to para-professionals and law clerks under his supervision and direction (which work is within their competence to perform).

- (a) The preparation of, and/or, the review and approval of (as to form and legality), all resolutions and ordinances to be passed, adopted or executed by the Township Council, and for the drafting of any executive orders to be executed by the Mayor, and for the review and interpretation, upon the Mayor's and/or the Township Council's request, of any and all materials as to form and legality requiring Township Council's approval before the Council's approval thereof, for the attendance at meetings of the Township Council.
- (b) Labor counsel services.
- (c) Litigation pertaining to Affordable Housing issues.
- (d) Representation of the Township in matters of litigation in the courts or administrative tribunals of this State and of the United States and other matters as may be assigned to the Township Attorney by the Mayor and/or Township Council for which separate items of appropriation have been approved.

4. COMPENSATION.

- (a) For all of the services detailed in this agreement the Township Attorney and his or her designees shall be compensated at \$175.00 per hour. Para-professionals and law clerks shall be compensated at \$75.00 per hour. Compensation to be paid pursuant to this agreement shall not exceed **THREE HUNDRED THOUSAND DOLLARS AND 00/100** (\$300,000.00) including affordable housing litigation except for special assignments for which separate items of appropriation have been approved. The not to exceed for such shall be established at the time of assignment.
- (b) The Township Attorney shall be reimbursed at cost for expenses incurred for duplication, filing fees, court reporters and other reasonable out-of-pocket expenses advanced and/or incurred by the Township Attorney in accordance with the Appendix E1 submitted with their proposal dated November 16, 2023. The Township Attorney shall be reimbursed for direct charges including disbursements that

are actual expenses incurred by the Professional and/or his associated firm in connection with such legal services, and include, but are not limited to:

- (1) Telegrams, faxes and long distance (Out-of-State) telephone calls.
- (2) Payment of filing, application fees, review fees and similar charges.
- (3) Computer expenses including time and proprietary program charges.
- (4) Outside printing, reproduction, binding, collating and other graphic services.
- (5) Messenger service, postage and handling of drawings and specifications, reports, contracts and other bulky items.

(c) Consistent with current practice, monthly invoices shall be submitted detailing all of the services that are performed, including all services performed by other attorneys within the Township Attorney's firm and services provided by para-professionals and law clerks.

5. **TIME AND PERFORMANCE.** Services of the Township Attorney under this Contract shall be performed for the period commencing January 1, 2024 and ending December 31, 2024. The billing for payment under this Contract shall be made by the submission of Monthly invoices specifically detailing the hours of services rendered, with a detailed description of same in accordance with the attached attorney billing guidelines. Payment shall be in accordance with the specified hourly rate(s) and approved vouchers.

6. **INDEMNIFICATION.** The Firm shall: (a) indemnify and hold harmless Marlboro, its elected officials, administration, agents, and employees from and against any and all claims, demands, liabilities, judgments, damages of every kind and nature, including, but not limited to, death or injury to persons or property damage, losses, costs, charges, fees and any and all expenses (including, but not limited to, attorney's fees, court costs and/or arbitration fees) that Marlboro may incur or be subject to as a consequence directly or indirectly, from any breach, non-performance, act, omission, negligence or misconduct by the Township Attorney and/or the associated Firm in connection with such performance or non-performance of his/its obligations under this Contract; and (b) shall reimburse Marlboro for any and all losses, costs, awards for damages of every kind and nature, charges, and expenses (including attorney's fees, court costs and/or arbitration fees) that Marlboro may incur or be subject to as a consequence, directly or indirectly, of involvement in any legal proceedings or action relating to the foregoing.

7. **RFQ SOLICITATION, RFQ RESPONSE AND RESOLUTION OF AWARD
INCORPORATED HEREIN.**

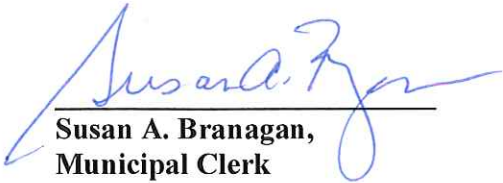
The Township's RFQ Solicitation, the Township Attorney's response to the RFQ Solicitation and the Township Council resolution of award are incorporated herein by reference.

8. **PART II - TERMS AND CONDITIONS INCORPORATED HEREIN.** Part II, Terms and Conditions, attached hereto and made a part hereof, is incorporated into and made part of this Contract, except to the extent inconsistent with the terms and provisions herein, or any Marlboro Ordinance, or any law of the State of New Jersey.

IN WITNESS WHEREOF, the parties hereto set their hands and seals as of the date first above written.

ATTEST:

**TOWNSHIP OF MARLBORO, a Municipal
Corporation of the State of New Jersey**

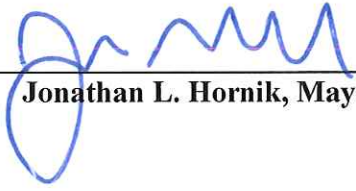


Susan A. Branagan,
Municipal Clerk

Resolution #2024-007

DATED: January 4, 2024

By: _____


Jonathan L. Hornik, Mayor

WITNESS:

**RAINONE COUGHLIN MINCHELLO, LLC
A New Jersey Limited Liability Company**



By: _____


Louis N. Rainone, Esq.

TOWNSHIP OF MARLBORO
CONTRACT FOR PROFESSIONAL SERVICES
PART II
TERMS AND CONDITIONS

1. TERMINATION OF CONTRACT.

Notwithstanding the term of this contract or any other provisions, Marlboro may terminate this contract at any time by a notice in writing from Marlboro to the Township Attorney (hereinafter sometimes referred to as the "Consultant"). Termination may be for cause or for the convenience of Marlboro; no reason for termination is required or need be cited by Marlboro, which reserves the right and option to terminate this contract at any time. In the event of termination, all unfinished or finished documents, data, studies, legal research, files and reports prepared by the Consultant under this Contract or prior Contracts for the same or similar services to Marlboro, shall, at the option of Marlboro, become its property and shall be delivered to Marlboro upon Marlboro's request. Subsequent to the delivery of the foregoing, the Consultant shall be entitled to receive just and equitable compensation for all satisfactory work completed by the Consultant at the rate and to the maximum amount specified in Part I of this Contract. Notwithstanding the above, the Consultant shall not be relieved of liability to Marlboro by virtue of any breach of the Contract by the Consultant for the purpose of set-off until such time as the exact amount of damages or other losses due Marlboro from the Consultant is determined. The Consultant shall have no right to retain or withhold any documents, data, studies, reports, etc., prepared by the Consultant for or on behalf of Marlboro, regardless of whether payment has been made therefor, and the Consultant waives any lien he or she may have to the same. The Consultant's rights and claims shall be limited to monetary compensation as specified in this contract.

2. CHANGES AND AMENDMENTS.

Marlboro may, from time to time, request changes or amendments in the scope of the services of the Consultant to be performed hereunder. Such changes or amendments, including changes in the amount of the Consultant's compensation, which are mutually agreed upon by and between Marlboro and the Consultant, shall be incorporated into written amendments to this Contract and submitted to Marlboro for approval. No change or amendment which enlarges the scope of the services or changes the amount of the Consultant's compensation shall be valid or binding upon Marlboro until duly authorized by formal action of the governing body.

3. PERSONNEL.

Consultant represents that he or she has or will secure at his or her own expense all personnel, equipment, materials, books, secretarial services, utilities and other materials in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with Marlboro. All services required hereunder will be performed by the Consultant or under his or her supervision. All trials, hearings and appearances, in the case of attorneys, shall be performed by the named Consultant unless otherwise authorized by the Marlboro Township Council.

4. CLAIMS AND DISPUTES PERTAINING TO COMPENSATION OR RATES.

Claims or disputes pertaining to rates or other compensation for the Consultant or any of his or her employees performing work under this Contract shall not delay or affect the continued performance of the Consultant hereunder. All or portions of payments requested in vouchers submitted by Consultant may be withheld by Marlboro, without liability and without affecting the progress of the work hereunder, until the claim or dispute has been satisfactorily resolved.

5. COMPLIANCE WITH THE LAWS.

Consultant shall comply with all applicable laws, ordinances and codes of the State and all other governmental agencies having jurisdiction and shall and does hereby agree to forever defend Marlboro with respect to full compliance therewith.

6. PROHIBITION ON CAMPAIGN CONTRIBUTIONS.

For any contract awarded pursuant to a non-fair and open process whose value exceeds \$17,500, the Attorney/consultant agrees, acknowledges and understands that pursuant to the terms of N.J.S.A. 19:44A-20.5 et seq., that it is prohibited from making a reportable campaign contribution during the term of the Contract to a municipal candidate, municipal candidate committee (individual or joint) or municipal political party committee in the Township of Marlboro if a member of that political party is in an elective public office of the municipality when the contract is awarded.

7. INSURANCE.

Consultant shall maintain such insurance as will protect him from claims under workers' compensation acts and any other claims for damages for personal injury, including death, and/or damage to property which may arise from operations under this contract, whether such operations be by himself or by subcontractor or anyone directly or indirectly employed by either of them, and including complete operations and products. The Township also shall be named as insured on all liability policies. **Certificates of such insurance will be requested and shall be filed with the Township.** Insurance certificates must provide for thirty (30) day notice of material change or cancelation.

The amounts of each insurance shall not be less than the following:

(a) Commercial General Liability (CGL): Coverage for all operations including, but not limited to, contractual, products and completed operations, and personal injury with limits no less than \$1,000,000 per occurrence/\$2,000,000 aggregate. The Township of Marlboro, its officers, officials, employees, agents and volunteers shall be included as an additional insured.

(b) Automobile Liability: Coverage for all owned, non-owned and hired vehicles with limits not less than \$1,000,000 per occurrence, combined single limits (CSL) or its equivalent.

(c) Workers Compensation: As required by the State of New Jersey and Employers Liability with limits not less than \$1,000,000 per accident for bodily injury or disease.

(d) Umbrella Liability not less than \$5,000,000 per occurrence/aggregate.

(e) Professional Liability or Errors and Omissions or Malpractice with limits not less than \$1,000,000 per claim/\$2,000,000 aggregate.

8. PERSONAL SERVICE CONTRACT.

This is a personal service contract with the Consultant and neither he/she nor their firm, may assign, sublet or transfer this Contract, nor any interest herein, nor any of the services required to be performed hereby, without the written consent of Marlboro.

9. DIRECTIONS AND AUTHORIZATION.

All work hereunder shall be performed at the direction of and under the supervision of the director of the department of the Township for which the services are being performed; the Township Attorney's services shall be in accordance with his responsibilities under the Township Code, this Contract and the applicable law. In addition, Consultant agrees to accept direction only from the Business Administrator, the Mayor, or by formal action of the governing body; performing services at the request of any other agency, official, or employee shall constitute a violation of this contract and shall not in any way bind Marlboro.

10. EVENTS OF DEFAULT BY COMPANY.

The following shall constitute events of default on the part of the Company, and shall entitle the Township to terminate this Professional Services Agreement upon prior written notice to the Company of such termination and specifying the effective date therefore; provided, however, that no notice shall be required for termination on the occurrence of an event of default under (b)(1) of this Section:

(a) (1) the Company being deemed or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property; or

(2) a bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding instituted by the Company under the laws of any jurisdiction or against the Company if the Company does not take appropriate action to dismiss said proceedings within thirty (30) days of the institution of such proceedings; or

(3) any action or answer by the Company or the approving of, consenting to, or acquiescing in, any such proceeding; or

(4) the levy of any distress, execution or attachment upon the property of the Company that shall substantially interfere with its performance hereunder.

(b) (1) since the Township may accept performance under this Professional Services Agreement only from the Company, and only the Company may render performance under this Professional Services Agreement, this Professional Services Agreement may not be assigned and any assignment or attempted assignment by the Company of this Professional Services Agreement without the prior written consent of the Township shall be an event of default. Any request by the Company to assign this Professional Services Agreement and such assignment, upon the consent of the Township, shall be in writing and shall be reasonably satisfactory to the Township as to form and content. At the time of such an assignment, the Township and the Company shall modify this Professional Services Agreement, to the extent required, in order to clearly delineate the respective obligations of the Township, the Company and the assignee.

11. ORAL MODIFICATION.

This Contract may not be modified or changed orally.

12. AFFIRMATIVE ACTION.

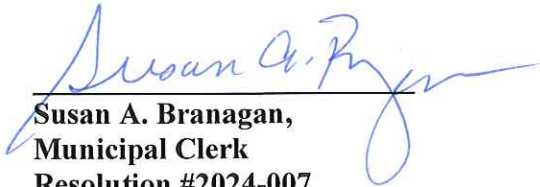
The Township Attorney agrees to submit within seven (7) days of this contract one of the following:

- (a) A photocopy of its Federal Letter of Affirmative Action Plan Approval, or
- (b) A photocopy of its Certificate of Employees Information Report, or
- (c) A completed Affirmative Action Employee Information Report (AA- 302).

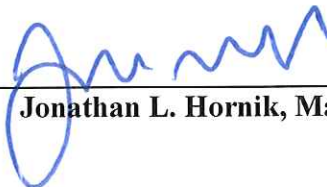
The Township Attorney further agrees to comply with the mandatory requirements set forth in Exhibit "A" attached hereto and made a part hereof.

ATTEST:

**TOWNSHIP OF MARLBORO, a Municipal
Corporation of the State of New Jersey**



**Susan A. Branagan,
Municipal Clerk
Resolution #2024-007
DATED: January 4, 2024**

By: 

Jonathan L. Hornik, Mayor

WITNESS:

**RAINONE COUGHLIN MINCHELLO, LLC
A New Jersey Limited Liability Company**



By: 

Louis N. Rainone, Esq.

EXHIBIT "A"

Mandatory Equal Employment Opportunity Language
N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127
N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

(1) Letter of Federal Affirmative Action Plan Approval

(2) Certificate of Employee Information Report

(3) Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at www.state.nj.us/treasury/contract_compliance)

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**